

Decision for dispute CAC-UDRP-103910

Case number	CAC-UDRP-103910
Time of filing	2021-07-01 15:06:32
Domain names	renessans-broker.com

Case administrator

Organization	Denisa Bilík (CAC) (Case admin)
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Complainant

Organization	Renaissance Financial Holdings Limited and Renaissance Broker Limited
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Respondent

Name	Vasya Pupkin
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OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

RENAISSANCE CAPITAL GROUP (here also as a "Group") consists of investment bank Renaissance Financial Holdings Limited and brokerage Renaissance Broker Limited, the Complainants. The First Complainant is Renaissance Financial Holdings Ltd, trading as RENAISSANCE CAPITAL. This is the parent and holding company of the Group. It is currently incorporated in Bermuda. The Group is a leading financial institution with offices in London, New York and Moscow, of a strong reputation and substantial business activity in Africa and emerging markets. The Second Complainant is its Russian brokerage subsidiary, Renaissance Broker Limited.

The Group has been trading for 25 years and its name and marks are well-known marks or marks with a reputation. It has unregistered rights enforceable in the law of passing off in common law jurisdictions. Due to extensive use and the revenue associated with its trademarks worldwide, the Complainants enjoy a high degree of renown around the world and particularly in the financial sector.

The Group offers investment banking and brokerage services. Together, the Group offer full investment banking services in debt and equity capital markets, M&A, equity and equity derivatives, fixed income, FX and FX derivatives, commodities, prime brokerage, research, as well as REPO and financing.

As of 30 June 2020, the Group's total assets and equity amounted to \$3.7bn and \$445mn. The reported net profit was \$14.4m based on annual results (<https://www.rencap.com/> and <https://www.rencap.com/>).

The Group was industry awarded as follows:

- The Banker magazine's annual Investment Banking Awards 2020: Investment Bank of the Year for Emerging Markets in Europe and Independent Investment Bank of the Year for Sustainability.

- The Eurobond issue led by Renaissance Capital for Ardshinbank in January 2020 named by The Banker as the most outstanding in its category in Europe.
- The Banker magazine's annual Investment Banking Awards 2019: Most Innovative Investment Bank from CEE.
- The Banker magazine's annual Investment Banking Awards 2018: Most Innovative Investment Bank for Emerging Markets.
- Euromoney Awards for Excellence 2019: Best Investment Bank in Russia in 2018
- Global Finance awards: Best Debt Bank in Central and Eastern Europe 2020 and Best Investment Bank in Frontier Markets 2018.
- GlobalCapital 2018: #1 Most Impressive Local Bank for CEE Bonds and Top-3 Most Impressive Sales and Trading Team for EM.
- DealMakers Africa 2018: General Corporate Finance: Financial Advisors East Africa – by Transaction Flow & Transaction Value.
- Cbonds Awards 2019: Debut of the Year – the debut rouble bond issue for Eurotorg
- Financial Mail awards 2020.

The Complainants Renaissance Financial Holdings Limited and Renaissance Broker Limited rely on the senior trade name and mark, RENAISSANCE CAPITAL (registered as mark no. EUTM 005523287) and as abbreviated, RENCAP (EUTM 018173094). They also rely on the trade name and junior marks, used by the Second Complainant, with the licence and consent of the registered proprietor, the First Complainant, the registered national mark, RENAISSANCE BROKER (registered in Russia as TM 391367) and RENAISSANCE BROKERAGE (registered in Russia as TM 391364).

The registered marks of the Group include:

1. RENAISSANCE CAPITAL EUTM granted on 22 November 2006 in classes 16, 35, 36, 41;
2. RENCAP EUTM granted on 01 January 2020 in class 36;
3. RENAISSANCE BROKER national mark registered in Russia as TM 391367 in class 36 on 02 June 2016;
4. RENAISSANCE BROKERAGE national mark also registered in Russia, as TM 391364 in class 36 on 09 June 2016.

The senior mark of the Group is RENAISSANCE CAPITAL or RENCAP and both are registered in approximately 35 nations, including the EU.

The Group also has a substantial international portfolio of national registered marks. Currently, there are registered marks in approximately 35 countries. Prior to 2013, that portfolio was roughly double the current size but was reduced for various reasons. The registered marks are all owned by the First Complainant.

The Group has two main websites at <https://www.rencap.com> and <https://renbroker.ru>. The main Group domain/ website is at <https://www.rencap.com> it also has a dedicated site and domain for its brokerage operations at <https://renbroker.ru>.

The Complainants enjoy a strong online presence by the official website and social media.

The disputed domain name <<https://renessans-broker.com>> was registered on 23 November 2020 by the Respondent. There is a privacy service to be found. The owner of the disputed domain name is an individual resident in Kiev, Ukraine by the name of Vasya Pupkin.

FACTUAL BACKGROUND

i. THE DISPUTED DOMAIN NAMES ARE IDENTICAL OR CONFUSINGLY SIMILAR TO A TRADEMARK OR SERVICE MARK IN WHICH THE COMPLAINANT HAS RIGHTS

The Second Complainant is known by the name Renaissance Broker/Brokerage. The First Complainant owns the two national trademarks registered in Russia on 25 May 2006 (TM No. 391364) for RENAISSANCE BROKERAGE and on 25 August 2006 (TM 391367) for RENAISSANCE BROKER. These marks significantly precede the date of creation of the disputed domain name on 23 November 2020.

The disputed domain name <<https://renessans-broker.com>> is confusingly similar to the Second Complainants' name and mark "RENAISSANCE BROKER". In fact, the disputed domain name <renessans-broker.com> incorporates a misspelled form of the

name and mark, RENAISSANCE BROKER. The Complainants' name and trademark, RENAISSANCE BROKER, is spelled with the letters "a" instead of an "e" as in the Disputed Domain Name. Furthermore, the Disputed Domain name has omitted the "i" and has simply replaced the letters "ce" with an "s". This is classic typosquatting the Complainants' name and trademark has been misspelled on purpose in order to capitalize on errors (in typing or reading) made by Internet users searching for, or trying to communicate with, the Complainant on Internet. The RENAISSANCE BROKER trademarks are clearly recognizable in the disputed domain name <<https://renessans-broker.com>>.

The Complainant recalled:

- WIPO Case No. D2015-1679 LinkedIn Corporation v. Daphne Reynolds;
- Forum Claim No. 149187 Marriott International, Inc. v. Seocho;
- WIPO Case No. D2006-1095 Edmunds.com, Inc v. Triple E Holdings Limited;
- CAC Case No. 102345 Credit Mutuel Arkea v. Domain Administration;
- CAC Case No. 102161 ArcelorMittal S.A v. James.

ii. THE RESPONDENT HAS NO RIGHTS OR LEGITIMATE INTERESTS IN RESPECT OF THE DISPUTED DOMAIN NAMES

The Complainants' burden under this limb of the Policy is to make a prima facie case for the Respondent to rebut.

The Complainants have not licensed or authorized the Respondent to register or use the disputed domain name nor is the Respondent affiliated to the Complainants in any form or has endorsed or sponsored the Respondent or the Respondent's website. There is no evidence that the Respondent is known by the disputed domain name. The Respondent is not commonly known by a disputed domain name because the WHOIS information are not similar to the disputed domain name. There is also no evidence that the Respondent engages in, or has engaged in any activity or work, i.e., legitimate or fair use of the disputed domain name, that demonstrates a legitimate interest in the disputed domain name. The disputed domain name was first registered on 23 November 2020, nearly 15 years after the first registrations of the Complainants' trademarks.

The Complainant recalled:

- Forum Case No. FA 1781783, Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II v. Chad Moston / Elite Media Group;
- WIPO Case No. D2003-0455 Croatia Airlines d.d. v. Modern Empire Internet Ltd.;
- WIPO Case No. DCO2017-0012 Bolloré v. Tywonina W Hill.

The Respondent is an individual with no connection to the Complainants. The identity of the Respondent is hidden behind a privacy service. The Google site at the disputed domain name impersonates the Complainants and by holding itself out as based at the address of the Group. The Respondent has had a chance to address all respective questions as the Complainants gave notice to it and also filed a formal Abuse Report to the Registrar, Internet Domain Service BS Corp on 10 February 2021. It can be assumed that notice was forwarded. Whois Privacy Corp is the Registrant and Internet Domain Service BS Corp. is the Registrar. Furthermore, the Complainants sought disclosure of the individual or company owner of the site and domain and asked for immediate suspension of this site. No action or investigation has resulted. The Complainants have not received any response from the Respondent.

The Respondent has therefore been granted an opportunity to come forward and answer or present compelling arguments that it has rights or legitimate interests in the disputed domain name but has failed to do so. There is no evidence that the Respondent has made a bona fide offering or use or that it holds any financial services license or is regulated by any recognized regulator or the non-commercial uses of the disputed domain names based on their home-pages or otherwise. On the contrary, there is a clear evidence on those pages that the Respondent's offering is not bona fide, not least is the fact that its website gives the Complainants' address as its place of business and refers to the original licenses of Renaissance Broker Limited without any permission.

iii. THE DISPUTED DOMAIN NAMES WERE REGISTERED AND ARE USED IN BAD FAITH

The Respondent registered the disputed domain name in 2020 and deliberately targets Russia by language and contact

information and elsewhere. The website to which the disputed domain name resolves with address information and note is the Second Complainant's address in Moscow and a copy of its license. Some clients of the Complainants have been cheated of their savings. The Complainant believes that the Respondent registered the disputed domain names with the express intent and purpose of "phishing" in order to induce and divert the Complainants' legitimate customers to its website to steal their money. Under the Policy, use of a domain name for illegal activity including phishing and fraud can never confer rights or legitimate interests on a Respondent.

Had the Respondent conducted a simple online search regarding the confusingly similar term "RENESSANS BROKER" before the registration of the disputed domain name, it would have inevitably seen many of the same results pointing directly to the Complainants' websites and marks. Moreover, the related search that is offered is "RENAISSANCE CAPITAL" – the name of the Complainants' Group. There can be no doubt that the Respondent registered the disputed domain name and is using it to attract, for commercial gain, Internet users to its website.

The Complainants have been inundated with complaints from people who have been swindled by the phishing of the site at the disputed domain and this correspondence clearly show that the disputed domain name was used for fraudulent and unlawful behavior. The Respondent was given a chance to answer for its conduct when the Complainants' wrote to it, but it did not. The Respondent chose not to reply to the cease-and-desist letter sent by the Complainants. Such conduct qualifies as 'bad faith' within the meaning of the Policy.

The Complainant recalled:

- CAC Case No. 102396 Intesa Sanpaolo S.p.A. v. Abayomi Ajileye;
 - WIPO Case No. D2015-1922 Accenture Global services Limited v. Vistaprint Tenchologies Ltd.;
 - WIPO Case No. D2000-0003 Telstra Corporation Limited v. Nuclear Marshmallows;
 - WIPO Case No. D2004-0615, Comerica Inc. v. Horoshiy, Inc.;
 - WIPO Case No. D2004-0237 Halifax plc v. Sontaja Sanduci;
 - WIPO Case No. D2018-2201 International Business Machines Corporation v. Adam Stevenson, Global Domain Services;
 - WIPO case No. D2016-1695; Carrefour v. PERFECT PRIVACY, LLC / Milen Radumilo.
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PARTIES CONTENTIONS

No administratively compliant Response has been filed.

Therefore, in the absence of a response, it is appropriate to accept as true all allegations of the Complainant.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

Paragraph 15(a) of the Rules for the UDRP ('the Policy') instructs the Panel to "decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

Paragraph 4(a) of the Policy requires that complainant must prove each of the following three elements to obtain an order that a domain name should be cancelled or transferred:

- (i) the domain name registered by respondent is identical or confusingly similar to a trademark or service mark in which complainant has rights; and
- (ii) respondent has no rights or legitimate interests in respect of the domain name; and
- (iii) the domain name has been registered and is being used in bad faith.

The Panel shall decide this administrative proceeding on the basis of the Complainant's undisputed representations pursuant to paragraphs 5(f), 14(a) and 15(a) of the Rules and draw such inferences it considers appropriate pursuant to paragraph 14(b) of the Rules because of the Respondent's failure to submit a response.

The Panel finds that the Complainants Renaissance Financial Holdings Limited and Renaissance Broker Limited have rights in the senior trade name and mark, RENAISSANCE CAPITAL (registered as mark no. EUTM 005523287 on 22 November 2006) and as abbreviated RENCAP (EUTM 018173094 on 1 January 2020) and on the trade name and junior marks, used by the Second Complainant, the registered national mark, RENAISSANCE BROKER (TM 391367 on 2 June 2016) and RENAISSANCE BROKERAGE (TM 391364 on 9 June 2016).

Panel finds that only the senior trade name RENAISSANCE CAPITAL and trade marks, RENAISSANCE CAPITAL (EUTM 005523287) and (abbreviated) RENCAP (EUTM 018173094) sufficiently establish the required rights in the mark for purposes of the Policy. All the trademarks of the Complainants are distinctive and well-known international trademarks. The notoriety and the actually distinctive nature of the trademarks is confirmed by their widespread and use and reputation in the field of the Complainants business areas i.e. investment banking and brokerage services, more specifically full investment banking services in debt and equity capital markets, M&A, equity and equity derivatives, fixed income, FX and FX derivatives, commodities, prime brokerage, research, as well as REPO and financing since at least 25 years.

- (i) The disputed domain name is confusingly similar to trademarks in which Complainants have rights

The Second Complainant is known by the name Renaissance Broker/Brokerage. Its marks significantly precede the date of creation of the disputed domain name on 23 November 2020. The disputed domain name <<https://renessans-broker.com>> is confusingly similar, to the Complainants' name and mark "RENAISSANCE BROKER". In fact, the disputed domain name <renessans-broker.com> incorporates a misspelled form of the name and mark, RENAISSANCE BROKER. The Complainants' name and trademark, RENAISSANCE BROKER, is spelled with the letters "A" instead of an "E" as in the Disputed Domain Name. Furthermore, the disputed domain name has omitted the "I" and has simply replaced the letters "CE" with an "S". The Panels finds that the RENAISSANCE BROKER trademarks are clearly recognizable in the disputed domain name <<https://renessans-broker.com>>.

The Panel concludes that this is classic typosquatting when the Complainants' name and trademark has been misspelled on purpose in order to capitalize on errors (in typing or reading) made by Internet users searching for, or trying to communicate with, the Complainants on Internet. Thus, any minor alterations cannot prevent a finding of confusing similarity between the trademark and the domain name. The disputed domain name is conceptually, aurally and visually similar to the distinctive name and registered marks of the Complainants. Furthermore, the generic Top-Level Domain ".com" in the second-level portion is a standard registration requirement and should be disregarded when assessing whether a disputed domain name is confusingly similar to the trademark in which the Complainants have rights.

Thus, the Complainants have, to the satisfaction of the Panel, shown the disputed domain name is confusingly similar to the trademarks in which the Complainants have rights (within the meaning of paragraph 4(a)(i) of the Policy).

- (ii) The Respondent has no rights or legitimate interests in respect of the disputed domain names

The Panel finds in accordance with a widely accepted conclusion by the UDRP Panels that the Complainants are required to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such prima facie case is made, a Respondent carries the burden of demonstrating rights or legitimate interests in the disputed domain name. If the Respondent fails to do so, it is deemed to have no rights or legitimate interests in respect of the disputed domain name. The Respondent remains silent as to the evidence of the contrary.

The Panel finds as undisputed that the Complainants have not licensed or authorized the Respondent to register or use the disputed domain name nor is the Respondent affiliated to any of the Complainants in any form or has endorsed or sponsored the Respondent or the Respondent's website. There is no evidence that the Respondent is known by the disputed domain name. The identity of the Respondent is hidden behind a privacy service, as the WHOIS shows. There is no evidence that the Respondent engages in any legitimate or fair use of the disputed domain name that can demonstrate a legitimate interest in the disputed domain name. Nor the Respondent has made a bona fide offering or use or that it holds any financial services licence or is regulated by any recognized regulator. The Respondent did not serve its chance to address these questions as the Complainants gave notice to it and also filed a formal Abuse Report to the Registrar, Internet Domain Service BS Corp on 10 February 2021.

The Panel finds as undisputed that the Complainants sought disclosure of the owner of the web site and the disputed domain name and had asked for immediate suspension of this site. The initiated disclosure remains without response or other action from the part of the Respondent until now. The Respondent has not any rights or legitimate interests in the disputed domain name even though the Respondent has been granted opportunity to come forward and answer or present compelling arguments because it fails to do so.

The Panel finds that there is no fair or non-commercial use of the disputed domain name based on its home-page or otherwise. On the contrary, the Panel finds that the Respondent's offering on the respective page is not bona fide, not least due the fact that its website gives the Complainants' address as its place of business and refers to the original licenses of Renaissance Broker Limited without any permission. The disputed domain name resolves with address information and note this is the Second Complainant's address in Moscow and a copy of its license. It is obvious that the disputed domain name is used for illegal activity including phishing and fraud.

The Panel finds that the Respondent is not identified in the Whois database under the disputed domain name and it is not commonly known by the disputed domain name because the WHOIS information is not similar to the disputed domain name. The name of the Respondent is "Vasya Pupkin" that it clearly shows the absence of a prima facie link between its name and the trademarks of the Complainants.

Thus, the Complainants have, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

(iii) The domain name has been registered and is being used in bad faith

The Group of the Complainants is a leading financial institution. Due to extensive use and the revenue associated with its trademarks worldwide, the Complainants enjoy a high degree of renown around the world particularly in the financial sector. The Group offers investment banking and brokerage services with strong reputation and substantial business activity worldwide. The Respondent registered the disputed domain name in 2020 and deliberately targets Russia by language and contact information and elsewhere. The website to which the disputed domain name resolves with address information and note is the Second Complainant's address in Moscow and its license.

The Panel finds undisputed that some clients of the Complainants have been cheated of their savings which cannot but lead to the conclusion that the Respondent registered the disputed domain name with the express intent and purpose of "phishing" in order to induce and divert the Complainants' legitimate customers to its website to steal their money. Such a practice of the Respondent by possible attracting the customers to a web page which imitates the real page of the bank can come to the conclusion that such activity of phishing and fraud can never confer rights or legitimate interests on a Respondent. Even

excluding any “phishing” purposes or other illicit use of the domain name in the present case, the Panel finds no other possible legitimate use of the disputed domain name. The only reason of the registration of the dispute domain name by the Respondent is the registration and use in bad faith.

The senior trade name RENAISSANCE CAPITAL and trade marks, RENAISSANCE CAPITAL and RENCAP are well-known. The Panel finds that the notoriety of the Complainants trademarks is done because of their very distinctive nature and the widespread and longstanding use and reputation in the relevant field. Thus, it is inconceivable that the Respondent registered the disputed domain name by being aware of the Complainants legal rights. The Panel infers that the Respondent had the Complainants trademarks in mind when registering the disputed domain name so that it chose to register the disputed domain name to create a confusion with the domain names of the Complainants.

Had the Respondent conducted a simple online search regarding the confusingly similar term “RENESSANS BROKER” before the registration of the disputed domain name, it would have inevitably seen many of the same results pointing directly to the Complainants’ websites and marks. The Respondent would have definitely learnt about the Complainants, as all top results point to the Complainants. It is therefore inconceivable that the Respondent was unaware of the existence of the Complainants when it registered the disputed domain name. Furthermore, this raises a clear inference of knowledge of the Complainants name and trademarks on the part of the Respondent. Consequently, it is more than very likely that the Respondent has registered the disputed domain name having the Complainants in mind. By registering the disputed domain name which is very similar in its structure to the Complainants’ trademarks and trade name, the Respondent’s intent was likely to free-ride on the Complainants reputation and goodwill and confuse and deceive the public. There can be no doubt that the Respondent registered the disputed domain name and is using it to attract, for commercial gain, Internet users to its website. The evidence also establishes the Respondent must have been aware of the Complainant’s rights at the time of registration; indeed, those rights are the reason for having chosen the disputed domain name for typosquatting purposes.

The registration and passive holding of a disputed domain name which has no other legitimate use and clearly refers to the Complainant’s trademark may constitute registration and use in bad faith.

The Panel holds as undisputed the Complainants have been inundated with complaints from people who have been swindled by the phishing of the site at the disputed domain name and this correspondence clearly show that the disputed domain name was used for fraudulent and unlawful behavior.

The Panel interferes that the Respondent was given a chance to answer for its conduct when the Complainants wrote to it, but it did not and that it chose not to reply to the cease-and-desist letter sent by the Complainants which infers bad faith.

The Panel finds that the disputed domain name resolves to a parking page with commercial links. The Panel comes to the conclusion that the Respondent has attempted to attract Internet users for commercial gain to his own websites thanks to the Complainants’ trademarks by creating a likelihood of confusion with the Complainants’ trademarks as to the source, affiliation, or endorsement of the Respondent’s website to which the disputed domain name resolves. This is a clear evidence of bad faith.

Thus, the Complainants have, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **RENESSANS-BROKER.COM**: Transferred

PANELLISTS

Name	JUDr. Vojtěch Trapl
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DATE OF PANEL DECISION 2021-08-01

Publish the Decision