

Decision for dispute CAC-UDRP-105811

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| Case number | CAC-UDRP-105811 |
| Time of filing | 2023-09-27 09:49:05 |
| Domain names | ritzrentalsandhospitality.info, ritzrentalsandhospitality.net, ritzrentalsandhospitality.org, ritzrentalshospitality.biz, ritzrentalshospitality.info, ritzrentalshospitality.mobi, ritzrentalshospitality.net, ritzrentalshospitality.org |

Case administrator

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| Organization | Iveta Špiclová (Czech Arbitration Court) (Case admin) |
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Complainant

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| Organization | The Ritz (London) Limited |
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Complainant representative

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| Organization | Stobbs IP |
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Respondent

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| Name | Keith Raybon |
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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 names.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of various RITZ trademark registrations worldwide, including the following:

- RITZ HOTEL (word mark), UK registration No.UK 00003051602, registered on 19 September 2014, for services in classes 35, 36, 39, 41, 43 and 44;
- RITZ LONDON (figurative), UK registration No. UK00002206920, registered on 28 July 2000, for services in classes 39, 41, 43 and 44;
- RITZ/THE RITZ (word mark), UK registration No. UK00001484069, registered on 28 July 1995, for services in class 42.

The Complainant is also the owner of the domain name <theritzlondon>, which resolves to the Complainant's main website.

FACTUAL BACKGROUND

The Complainant is a hotel and restaurant business based in London, UK. The Complainant was incorporated in 1899 and started its business in 1906 in London, where it established a luxury and prestigious hotel. The success of the Complainant's business is reflected through multiple awards. In the period 2014-2023, the Complainant has achieved four AA Rosettes, one Michelin Star, a Royal Warrant for Banqueting and Catering Services, and other important recognitions. In 1906, with Winston Churchill, Dwight Eisenhower and Charles de Gaulle met in the Marie Antoinette Suite of the Complainant's hotel during the Second World War. The Ritz hotel hosted other prestigious guests during the years, including Charlie Chaplin, Sir Roger Moor and various members of the Royal family.

All the disputed domain names were registered on 6 July 2022 and resolve to parked pages containing pay-per-click links generated by the Registrar and referring to the same services offered by the Complainant or to competing services.

PARTIES CONTENTIONS

Parties' contentions:

I. Complainant:

The Complainant maintains that the disputed domain names are confusingly similar to the Complainant's marks as they incorporate the trademark RITZ in its entirety and this trademark is recognizable within the disputed domain names. Moreover, the addition of other terms in the disputed domain names cannot prevent a finding of confusing similarity.

The Complainant further maintains that the Respondent lacks rights or legitimate interests in the disputed domain names. The Complainant has not granted authorization or license to the Respondent to use the RITZ mark in the disputed domain names or anywhere else. There is no business or other legal relationship between the Complainant and the Respondent. The Respondent is not commonly known by the disputed domain names. The Complainant is the only registered owner of the RITZ trademark and is the only one entitled to exercise its exclusive rights over this trademark and prevent third parties from using it.

According to the Complainant, the Respondent is not using the disputed domain names in connection with a bona fide offering of goods or services. The disputed domain names resolve to parked pages with click-through links to holiday rentals, corporate bookings and villa renting services, which are similar to and compete with the Complainant's services. The use of a domain name to host a parked page comprising pay-per-click links does not represent a bona fide offering, where such links compete with or capitalise on the reputation and goodwill of the Complainant's mark, or otherwise mislead Internet users. Moreover, the Complainant maintains that the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name. The Respondent's use of the disputed domain name permits the Respondent to monetise on any traffic generated as a result of unsuspecting Internet users clicking on the links. Bearing in mind the reputation of the Complainant's RITZ mark, there is no believable or realistic reason for registration or use of the disputed domain names other than to take advantage of the Complainant's rights.

Lastly, the Complainant states that the Respondent registered and is being using the disputed domain names in bad faith. The RITZ trademark is an invented word and enjoys reputation in the hospitality field. A basic Internet search using the keywords "ritz" and "ritz hospitality" show that all results are connected with the Complainant. Accordingly, the only logical conclusion is that the Respondent was aware of the Complainant's trademark RITZ before registering the disputed domain names and that the Respondent registered the disputed domain names in an effort to capitalise on the Complainant's goodwill and reputation of the RITZ mark. The use of parked pages with pay-per-click links relating to goods and services in which the Complainant operates suggests bad faith use. The Complainant maintains that the disputed domain names are being used with the sole purpose of creating an association with the Complainant, (which is further highlighted by the pay-per-click links), and profiting from this association. Moreover, the Complainant maintains that the disputed domain names were registered in order to prevent the Complainant from reflecting the RITZ mark in a corresponding domain name, and that it is not possible to conceive any plausible actual or contemplated active use of the disputed domain name by the Respondent that would not be illegitimate.

II. Respondent

No administratively Compliant Response has been filed.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain names are 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 names (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 names have been registered and are 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

1. Confusing similarity

The Panel agrees with the Complainant that the disputed domain names are confusingly similar to the Complainant's RITZ trademark as they include it entirely followed by the wordings "rentals and hospitality" or "rentals hospitality", whichever is the case. Previous UDRP panels have generally found that where the relevant trademark is recognizable within a disputed domain name, the addition of other terms, including descriptive terms, as those referred to above, would not prevent a finding of confusing similarity under the first element of the Policy. This general principle also applies in this case, where the Complainant's trademark is immediately recognizable within the disputed domain name despite the presence of other words.

In light of the above, the Panel is satisfied that the first condition under the Policy is met.

2. Rights or legitimate Interests

As also confirmed in the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), a complainant is required to make out a prima facie case that the respondent lacks rights or legitimate interests. Once such prima facie case is made, the burden of production shifts to the respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such appropriate allegations or evidence, a complainant is generally deemed to have satisfied paragraph 4(a)(ii) of the Policy. The Complainant states that it has no relation with the Respondent and that it never authorised the Respondent to register and use the disputed domain names.

The Respondent is not a licensee of the Complainant and there is no evidence in the case file that the Respondent is known by the names "ritzrentalsandhospitality" or "ritzrentalshospitality". The disputed domain names contain the trademark RITZ and two words "rentals" and "hospitality" that refer to the Complainant's activity. UDRP panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner.

The disputed domain names resolve to parked pages containing pay-per-click links generated by the Registrar and referring to activities in competition with those offered by the Complainant. The Respondent is likely to earn some profit from each click on these sponsored links. It is therefore clear that through the disputed domain names, that the Respondent is impersonating the Complainant to create the false impression to the Internet users that the disputed domain names originate from the Complainant or, at least, that the Complainant is sponsoring or endorsing the disputed domain names and their contents. Therefore, the use that the Respondent is making of the disputed domain names cannot amount to a bona fide offering of goods or services, or to a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

In light of the above, the Panel finds that the Complainant has discharged its burden of proof that the Respondent has no rights or legitimate interests in respect of the disputed domain names. The burden of production now shifts to the Respondent to demonstrate that he owns rights or legitimate interests in the disputed domain names. The Respondent has chosen not to file a Response and therefore has waived its right to contest the Complainant's allegations.

Accordingly, the Panel is satisfied that the second condition under the Policy is met.

3. Bad Faith

Under Paragraph 4(a)(iii) to succeed in a UDRP proceeding, the Complainant must prove that the disputed domain names have been registered and are being used in bad faith.

With respect to use in bad faith, the Complainant has stressed that the RITZ mark enjoys reputation and that the Respondent could not ignore its existence when it registered the disputed domain names. The Panel agrees that the Respondent knew the RITZ mark and the Complainant at the time of the registration of the disputed domain names. The RITZ trademark is certainly renowned in the

hospitality field. Moreover, all the disputed domain names contain the words “rentals” and “hospitality”, which refer to the Complainant’s activity. Therefore, it is clear that the Respondent had the Complainant and its well-known trademark in mind when it registered the disputed domain names. In light of the above, the Panel finds that the Respondent registered the disputed domain names in order to take advantage from the reputation and goodwill of the RITZ trademark. Furthermore, UDRP panels have consistently found that the incorporation of a well-known trademark into a domain name by an unaffiliated entity can by itself create a presumption of bad faith (see section 3.1.4 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“WIPO Overview 3.0”).

With respect to use in bad faith, the Panel notes that the disputed domain names resolve to parked pages containing sponsored links referring to businesses that are identical to or compete with the Complainant’s business. The Respondent is likely to earn some profit from each click on the sponsored links. The fact that the Registrar of the disputed domain names generated these links cannot by itself prevent a finding of bad faith. As a matter of fact, the Respondent cannot disclaim responsibility for links appearing on the parked pages associated with the disputed domain names when the Respondent did not take any measure to prevent the appearance of these links (see in this respect section 3.5 of the WIPO Overview 3.0). The Panel finds that the Respondent’s use of the disputed domain names incorporating the Complainant’s distinctive and renowned RITZ mark is intended to attract and confuse Internet users searching for the Complainant or for offers relating to the Complainant’s business, and to redirect them to the pay-per-click links at the relevant parked pages from which the Respondent most probably derives an income. This use of the disputed domain names amounts to use in bad faith. Moreover, the Respondent’s bad faith conduct is aggravated by the fact that the Respondent registered not one but as many as eight domain names reproducing the same pattern under various generic Top Level Domains (gTLDs), thus blocking the entire range of domain names available with that pattern under these gTLDs and increasing the chances of profit for the Respondent.

In light of the above, the Panel concludes that the third and last condition under the Policy is met.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ritzrentalsandhospitality.info**: Transferred
2. **ritzrentalsandhospitality.net**: Transferred
3. **ritzrentalsandhospitality.org**: Transferred
4. **ritzrentalshospitality.biz**: Transferred
5. **ritzrentalshospitality.info**: Transferred
6. **ritzrentalshospitality.mobi**: Transferred
7. **ritzrentalshospitality.net**: Transferred
8. **ritzrentalshospitality.org**: Transferred

PANELLISTS

| | |
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| Name | Angelica Lodigiani |
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DATE OF PANEL DECISION 2023-11-02

Publish the Decision
