# Decision for dispute CAC-UDRP-106500

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| Case number | CAC-UDRP-106500 |
| Time of filing | 2024-05-03 09:18:35 |
| Domain names | our-rescue.org |

## Case administrator

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

## Complainant

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| Organization | Operation Underground Railroad Inc. |

## Complainant representative

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| Organization | Convey srl |

## Respondent

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| Name | Moses Oyewole |

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

The Complainant is the owner, amongst others, of the following trademark registrations:

1) OUR (device) US TM no. 4850725 registered on November 10, 2015 in classes 36 and 39;

2) OUR (device) International registration no. 1614271 registered on July 21, 2021 in classes 25, 36 and 39.

FACTUAL BACKGROUND

The Complainant (Operation Underground Railroad Inc.) is a U.S. based nonprofit organization founded by Mr. Tim Ballard dedicated since the year 2013 to combatting child sexual exploitation and human trafficking.

The Complainant informs that Operation Underground Railroad Inc. is globally assisting law enforcement agencies in rescue efforts and help through providing aftercare to all those affected by human trafficking. The Complainant offers vital resources to authorities around the world and works tirelessly to raise awareness and meet survivors on their healing journey. The Complainant also provides evidence as appropriate to assist law enforcement agencies with prosecution. The Complainant declares to be involved in more than 4.000 operations, with more than 7.000 impacted lives and more than 6.500 arrests.

The Complainant invites customers to donate money in favour of its cause as donations play a pivotal role in Complainant's mission to combat child sexual exploitation and human trafficking. From funding future operations to providing essential aftercare services for survivors, every contribution propels the Complainant closer to its goal of eradicating this crime.

The Complainant has proved to be the owner of numerous international and U.S. Trademark registrations, which either consist of or contain the denomination “OUR”. Furthermore, the Complainant has registered and is using several domain names, including <ourrescue.org> which is connected to the Complainant's official website.

The disputed domain name <our-rescue.org> was registered on August 16, 2023.

According to the Complainant, the disputed domain name is confusingly similar to the Complainant's "OUR" trademark since the disputed domain name incorporates the whole of the Complainant’s trademark "OUR".

Furthermore, in the Complainant's view, the Respondent has no rights or legitimate interests in respect of the disputed domain name since it is not a licensee nor an authorized agent of the Complainant; the Respondent, according to the Complainant, has been never authorized to use "OUR" trademark. The Complainant also states that the Respondent is not commonly known by the domain name in dispute and that its family name does not correspond to "OUR" or to the disputed domain name.

The Complainant also notes that the disputed domain name has been registered and is being used by the Respondent in bad faith since it is connected to a website similar to the Complainant's one and in which appears also the Complainant's trademark. In consideration of the above, the Complainant insists that the disputed domain name has been registered and is being used by the Respondent with the only purpose of attracting innocent visitors and Internet users and soliciting donations bearing Complainant’s trademarks and passing off as the Complainant.

Finally, the Complainant informs that the Respondent never answered to a cease-and-desist letter sent by the Complainant on April 3, 2024, and requesting the transfer of the ownership of the domain name <our-rescue.org>.

## PARTIES CONTENTIONS

Complainant´s contentions are summarized above.

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

## 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 4(a) of the Policy provides that to obtain the transfer of the disputed domain name, the Complainant must prove that each of the following elements is present:

(i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;

(ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and

(iii) the disputed domain name has been registered and is being used in bad faith.

1) The Complainant has demonstrated its rights in its registered trademark “OUR”. The Complainant has also registered the domain name <ourrescue.org> among others. The disputed domain name incorporates the Complainant’s established trademark in its entirety and adds a hyphen (obviously not considerable in the present comparison) and a common generic term. Concerning the addition of the term "rescue", the addition of this generic term, clearly associated to the Complainant's business (as also demonstrated by the fact that the Complainant's official webite is connected to the domain name <ourrescue.org>), enhances the confusing similarity (see RCN Corporation, RCN Telecom Services, Inc. v. RCN Networks, LLC, WIPO Case No. D2006-0927). In general, it is well established that the addition of a common generic term to an established trademark in a domain name does not create a new trademark or avoid confusion. (see, among others, America Online, Inc. v. Yeteck Communication, Inc., WIPO Case No. D2001-0055 and Microsoft Corporation v. StepWeb, WIPO Case No. D2000-1500). Finally, in accordance with the consensus view of past UDRP panels, the Panel finds that the Top-Level domain (".ORG" in this case) is not sufficient to exclude the likelihood of confusion since it is a mere technical requirement included in all domain names. The Complainant therefore succeeds on the first element of the Policy.

2) The Complainant has long standing rights in the mark "OUR". The Complainant provided prima facie evidence that the Respondent does not have rights or legitimate interests in respect of the disputed domain name as it is not commonly known under the disputed domain name and as the Respondent was never authorized to use the domain name by the Complainant. The Respondent, in the absence of any response, has not shown any facts or element to justify prior rights or legitimate interests in the disputed domain name. The Complainant has not licenced or otherwise permitted the Respondent to use the Complainant's mark in the disputed domain name. On the basis of the evidence submitted, and in the absence of a response, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant therefore succeeds on the second element of the Policy.

3) Paragraph 4(a)(iii) of the Policy provides that the Complainant must establish that the Respondent registered and subsequently used the disputed domain name in bad faith. In the present circumstances, the fact that the disputed domain name resolves to a website which impersonates the Complainant leads the Panel to conclude that the registration and use of the disputed domain name are in bad faith. Visitors to the Respondent’s website are likely to be misled into assuming that the website is operated by or associated with the Complainant. The Respondent appears to use the disputed domain name as part of a fraudulent scheme to obtain donations destinated to the Complainant. The Respondent’s conduct demonstrates the Respondent’s knowledge of the Complainant and its trademark at the time of the disputed domain name's registration. Furthermore, the fact that the Respondent uses the disputed domain to impersonate the Complainant, suggesting to the public that the Respondent is in fact the Complainant, when it is not, it is manifestly evidence of bad faith (see, among others, Australia and New Zealand Banking Group Limited v. Bashar Ltd, WIPO Case No. D2007-0031, Regal Funds Management Pty Limited v. WhoisGuard Protected, WhoisGuard, Inc. / John Clerk, WIPO CASE No. D2020-2773 and Farmland Reserve UK Limited v. Privacy Administrator, Anonymize, Inc. WIPO Case No. D2021-1392). The bad faith is particularly evident in the case at hand especially because the domain name chosen by the Respondent to impersonate the Complainant is almost identical to the one used by the Complainant in connection with its official website (the only difference being the additional hyphen in the disputed domain name). This circumstance clearly demonstrate that the Respondent has deliberately chosen, registered and used the domain name <our-rescue.org> in the hope of confusing people and capturing donations destinated to the Complainant (see T3 Micro, Inc. v. Wenxi Lin WIPO Case No. D2023-1254). Finally, the Respondent has ignored Complainant's attempt to resolve this dispute outside of this administrative proceeding by refusing to answer the cease-and-desist letter. Past UDRP panels have held that failure to respond to a cease-and-desist letter may properly be considered a factor in finding bad faith (see, for instance, Encyclopedia Britannica v. John Zuccarini and The Cupcake Patrol a/ka Country Walk a/k/a Cupcake Party, WIPO Case No. D2000-0330 and RRI Financial, Inc., v. Chen, WIPO Case No. D2001-1242). The Panel, therefore, concludes that the Respondent registered and is using the disputed domain names in bad faith pursuant to the paragraph 4(a)(iii) of the Policy. The Complainant therefore succeeds also on the third element of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **our-rescue.org**: Transferred

## PANELLISTS

| Name | **Guido Maffei** |
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DATE OF PANEL DECISION 2024-06-06

Publish the Decision