Decision for dispute CAC-UDRP-106494

Case number	**CAC-UDRP-106494**
Time of filing	**2024-05-22 10:09:18**
Domain names	**liquidline.com**

Case administrator

Name	**Olga Slanařová (Case admin)**

Complainant

Organization	**Liquidline Ltd**

Respondent

Name	**Mr Justin James**

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

For purposes of the present UDRP proceeding, the Complainant relies on United Kingdom Trade Mark No. UK00002472369, LIQUIDLINE (stylized), registered on 18 April 2008.

FACTUAL BACKGROUND

The Complainant was incorporated on 14 June 2010, and claims to have been in business since 2003. The Complainant is engaged in the provision of coffee, water and juice vending machines, with operations in Ireland, Italy, and the United Kingdom.

The Complainant's holding company, Holywells Holdings Limited, is the owner of the trade mark LIQUIDLINE, the details of which are provided in the "Rights" section above.

The WhoIs record for the disputed domain name lists a creation date of 7 February 2002. A review of the historic screen captures available via Archive.org shows that from as early as July 2006, the disputed domain name resolved to a website that appeared to be that of a graphic design agency. The "About Us" section of the 2006 website stated:

> "We are a Arizona-based design studio serving all of North America. The studio was launched in 2001 by Justin James, a multimedia designer with a background in Architecture, Marketing and Graphic Design. With over seven years of design and marketing experience, Liquid Line can create a product that has it's own unique and creative look.
>
> The goal of our business is to work with you in creating meaningful and specialized graphics that reflect your business or special occasion. We consult with you on your project with specific design elements, such as colors and theme. Alternatively, if you have a general idea we can help you focus, or if you would like ideas, we can assist as well. We will create with you a quality product that is both personal and creative as a marketing tool for your business or to make your event memorable."

The disputed domain name appears to have continued to point to a website displaying information about the Respondent's design business until approximately February 2020. It appears that from approximately February 2021, the disputed domain name began resolving to a parking page. At the time of this decision, the disputed domain name resolves to a parking page provided by the Registrar.

Between January 2021 and February 2024, the Complainant made 11 attempts to contact the Respondent with a view to purchasing the disputed domain name. The Respondent did not reply to the Complainant's communications, either to the Complainant directly or to those sent via domain agents.

PARTIES CONTENTIONS

Complainant

The Complainant asserts rights in the trade mark LIQUIDLINE. The Complainant submits that the disputed domain name is identical or confusingly similar to its trade mark.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant states that there is no affiliation between the Parties, nor has the Respondent been authorized to make use of the Complainant's trade mark or to register the disputed domain name.

The Complainant submits that the Respondent registered and is using the disputed domain name in bad faith. The Complainant explains that it is seeking to extend its business presence into the Americas and that it wishes to use the disputed domain name to facilitate its international expansion efforts. The Complainant submits that customers attempting to place orders with the Complainant have mistakenly accessed the disputed domain name, causing confusion regarding the Complainant's operational status and resulting in loss of business. The Complainant notes that the disputed domain name is parked at an IP address that has been blacklisted by certain ISPs. The Complainant notes that it has made many efforts to contact the Respondent, who has not replied to the Complainant's communications.

The Complainant requests transfer of the disputed domain name.

Respondent

The Respondent did not file a Response to the Complaint.

RIGHTS

The Panel notes that the registered owner of the abovementioned LIQUIDLINE trade mark is Holywells Holdings Limited. The Panel notes that on 7 October 2019, the trade mark underwent assignment from the Complainant company to Holywells Holdings Limited. The Panel further notes that, according to relevant United Kingdom Companies House records, Holywells Holdings Limited owns 75 percent or more of the shares in the Complainant company. The Complainant appears to be a subsidiary of Holywells Holdings Limited. As noted in WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), section 1.4, a trade mark owner's affiliate such as a subsidiary of a parent or of a holding company is considered to have rights in a trade mark under the UDRP for purposes of standing to file a Complaint.

The Panel finds that the Complainant enjoys rights in the LIQUIDLINE trade mark registration referred to above for purposes of the present UDRP Complaint.

The disputed domain name comprises the textual elements of the LIQUIDLINE trade mark, under the generic Top-Level Domain ("gTLD") ".com". As noted in WIPO Overview 3.0, section 1.10, Panel assessment of identity or confusing similarity involves comparing the (alpha-numeric) domain name and the textual components of the relevant mark. To the extent that design (or figurative/stylized) elements would be incapable of representation in domain names, these elements are largely disregarded for purposes of assessing identity or confusing similarity under the first element. The generic Top-Level Domain ".com" may be disregarded for purposes of comparison under the first element.

The Panel finds the disputed domain name to be identical to the textual elements of the LIQUIDLINE trade mark in which the Complainant has rights. The Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

NO RIGHTS OR LEGITIMATE INTERESTS

In light of the Panel's findings under the third element, the Panel does not consider it necessary to enter a finding under paragraph 4(a)(ii) of the Policy.

BAD FAITH

It is well established that where a respondent registers a domain name before the complainant's trade mark rights accrue, UDRP panels will not normally find bad faith on the part of the respondent. In certain limited circumstances where the facts of the case

establish that the respondent's intent in registering the domain name was to unfairly capitalize on the complainant's nascent (typically as yet unregistered) trade mark rights, panels have been prepared to find that the respondent has acted in bad faith. Such scenarios include registration of a domain name: (i) shortly before or after announcement of a corporate merger, (ii) further to the respondent's insider knowledge (e.g., a former employee), (iii) further to significant media attention (e.g., in connection with a product launch or prominent event), or (iv) following the complainant's filing of a trade mark application; see WIPO Overview 3.0, section 3.8.2.

The disputed domain name was registered on 7 February 2002. The Complainant claims to have been in business since 2003. From at least 2006, the disputed domain name resolved to a website displaying content related to a United States-based graphic design agency. The LIQUIDLINE trade mark was filed on 15 November 2007, and was registered on 18 April 2008. The Complainant company was incorporated on 13 June 2010.

In light of the timing of the events as set out above, the Panel is of the view that the Respondent could not have been aware of the Complainant when registering the disputed domain name. Critically, the disputed domain name was registered approximately prior to the date at which the Complainant claims to have commenced its business operations. There is no evidence to suggest that that Respondent has sought to target the Complainant in any way through its registration or subsequent use of the disputed domain name. None of the scenarios contemplated by WIPO Overview 3.0, section 3.8.2 appears to apply.

The Panel finds that the Complainant has failed to establish that the disputed domain name was registered in bad faith. The Complainant has not satisfied the requirements 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

The Complainant has established rights in the trade mark LIQUIDLINE for purposes of the first element of the UDRP. The disputed domain name is identical to the textual elements of the LIQUIDLINE trade mark.

In light of the outcome of the proceeding under the third element of the UDRP, it was unnecessary to enter a finding under the second element.

In light of the timing of the registration of the disputed domain name, prior to the first establishment of the Complainant's business, the Panel could not reasonably conclude that the disputed domain name was registered in bad faith. The Complainant failed to satisfy the requirements of paragraph 4(a)(iii) of the UDRP.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Rejected

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

1. **liquidline.com**: Remaining with the Respondent

PANELLISTS

Name	**Jane Seager**

DATE OF PANEL DECISION 2024-06-26

Publish the Decision