



CPR Institute for Dispute Resolution

CARS 4 CAUSES and ROSE LEE
2535 Ventura Boulevard
Oxnard, CA 93030
Telephone: (800) 766-2273
Fax: (805) 988-9203
E-mail: C4C@cars4causes.net

File Number: 0321

Date of Commencement: October 22, 2003

Domain Name(s): cars4causes.com

Registrar: eNom, Inc.

Arbitrator: Paul C. Van Slyke

vs.

BIRGIT KLOSTERMAN
A31, 5F World Trade Centre, Building N.29
Dongdu Road NINGBO, 00000
CHINA
Telephone: 86.57489366555
Fax: 86.57487368773
E-mail: domain999@hotmail.com

Before Paul C. Van Slyke, Arbitrator

PROCEDURAL HISTORY

The Complaint was filed with CPR on October 22, 2003 and, after review for administrative compliance, served on the Respondent on October 22, 2003. The Respondent did not file a Response on or before November 11, 2003. I was appointed Arbitrator pursuant to the Uniform Domain Name Dispute Resolution Policy (“UDRP”) and Rules promulgated by the Internet Corporation for Domain Names and Numbers (ICANN). Upon the written submitted record consisting solely of the complainant’s Complaint, I find as follows:

FINDINGS

Respondent’s registered domain name, <cars4causes.com> (“the domain name”), was registered with eNom on June 11, 2003. In registering the name, Respondent agreed to submit to this forum to resolve any dispute concerning the domain name, pursuant to the UDRP.

The UDRP provides, at Paragraph 4(a), that each of three findings must be made in order for a Complainant to prevail:

- i. Respondent's domain name 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. Respondent's domain name has been registered and is being used in bad faith.

IDENTITY/CONFUSING SIMILARITY: Complainants allege that <cars4causes.com> is identical or confusingly similar to Complainants' service mark, CARS 4 CAUSES, which applies to charitable fund raising for donor designated charities, namely, soliciting, repairing, and selling donated vehicles for charitable fund raising purposes directed to said designated charity.

Complainant ROSE LEE is the owner and Complainant CARS 4 CAUSES is the exclusive licensee of United States Reg. No. 2,643,105, issued on October 29, 2002 for the service mark CARS 4 CAUSES. The domain name and Complainants' registered service mark are identical except for the insignificant difference that the service mark includes spaces between the terms "CARS", "4", and "CAUSES" while the domain name omits the spaces between the terms.

I therefore conclude that the registered domain name is identical or confusingly similar to Complainants' protected mark.

RIGHTS AND LEGITIMATE INTERESTS: Complainants allege that Respondent has no rights or legitimate interests with respect to the domain name at issue. In support of this allegation, Complainants note that they are unaware of any use of the domain name <cars4causes.com> or the term "cars 4 causes" by the Respondent prior to Complainants' first use of their service mark. Complainants also note that, upon information and belief, the Respondent has not been commonly known as "cars4causes.com" or "Cars 4 Causes" as an individual business or other organization.

UDRP Paragraph 4(c) provides that Respondent's rights or legitimate interests in a domain name may be demonstrated, without limitation, by showing that (a) before notice to Respondent of the dispute, Respondent has used, or made demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or (b) Respondent has been commonly known by the domain name; or (c) Respondent is making 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.

Respondent has made no such showing. In fact, Respondent has not submitted any response to Complainants' contentions. Nor has Respondent replied to two separate e-mail messages sent by Complainants on July 3, 2003 and September 15, 2003. In their e-mail messages to Respondent, Complainants notify Respondent of their registered service mark and request that Respondent cooperate in transferring the domain name to Complainants.

Because the Respondent has defaulted in providing a response to the allegations of the Complaint, I am directed to decide this administrative proceeding on the basis of the Complaint alone, and am permitted to draw any appropriate inferences from the Respondent's default. See Rules, ¶14; *Alcoholics Anonymous World Services, Inc. v. Raymond*, WIPO Arbitration and Mediation Center, Administrative Panel Decision, Case No. D2000-0007, March 6, 2000. In accordance with the Rules and established precedent, Respondent's failure to respond allows the inference that the evidence relating to rights and legitimate interests in the domain name would not have been favorable to Respondent.

I therefore conclude that Respondent does not have rights or legitimate interests with respect to the domain name at issue.

BAD FAITH: In support of the contention of Respondent's bad faith registration and use, Complainants allege that Respondent registered the domain name without the knowledge or authorization of Complainants. Complainants further allege that the Respondent's web site operated at the domain name <cars4causes.com> is a search engine that directs potential customers of Complainants to numerous competing car donation web sites which offer charitable vehicle donation services that are identical or similar to those offered by Complainants under the service mark CARS 4 CAUSES.

Complainants allege that the Respondent has registered the domain name <cars4causes.com> in order to prevent Complainants from reflecting their service mark in a corresponding domain name. Complainants also allege that Respondent has registered the domain name primarily for the purpose of disrupting the business of Complainant CARS 4 CAUSES. Furthermore, Complainants allege that Respondent has registered and is using the domain name in an intentional attempt to attract, for commercial gain, Internet users to Respondent's web site by creating a likelihood of confusion with Complainants' mark as to the source, sponsorship, affiliation or endorsement of Respondent's web site. Finally, Complainants allege that Respondent has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring same to Complainant CARS 4 CAUSES for a profit.

Paragraph 4(b) of the UDRP provides that indications of bad faith include, without limitation, (a) registration for the purposes of selling, renting or transferring the domain name to the Complainant for value in excess of Respondent's cost; (b) a pattern of registration in order to prevent Complainant from reflecting the mark in a corresponding domain name; (c) registration for the primary purpose of disrupting the business of a competitor; or (d) an intentional attempt to attract, for commercial gain, Internet users to Respondent's web site by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation or endorsement of Respondent's web site or location, or of a product or service on Respondent's web site or location.

Respondent has failed to make any reply to Complainants' allegations. As noted above, Respondent's failure to reply allows the drawing of adverse inferences against Respondent. In further support of these inferences, I take notice that the domain name does now in fact resolve to a search engine displaying links to several "popular" car donation services. Complainant CARS 4 CAUSES is not one of the car donation services displayed by the search engine. Also, a series of pop-up advertisements appear when a user visits or leaves Respondent's web site, further indicating that the Respondent

receives commercial gain by attracting users to its web site. Thus, Respondent is using the domain name for commercial gain contrary to the strong implication of the plain meaning of the words signifying a charitable purpose in the domain name CARS4CAUSES. Therefore, the registration and use of the domain name is an intentional attempt to attract, for commercial gain, Internet users to Respondent's web site by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation or endorsement of Respondent's web site or location, or of a product or service on Respondent's web site or location.

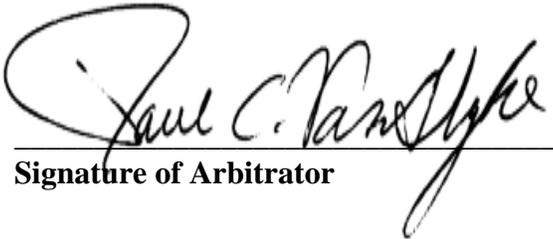
I therefore conclude that Respondent did register and use the domain name in bad faith, as that term is defined in the ICANN Policy.

CONCLUSION

In light of my findings above that (a) the registered domain name IS identical or confusingly similar to Complainant's protected mark; (b) Respondent DOES NOT have rights or legitimate interests with respect to the domain name at issue; and (c) Respondent DID register and use the domain name in bad faith, as that term is defined in the ICANN Policy, I find in favor of the COMPLAINANTS.

REMEDY

Complainants' request to transfer the domain name <cars4causes.com> is hereby GRANTED. The domain name shall be transferred to Complainants CARS 4 CAUSES and ROSE LEE.


Signature of Arbitrator

December 3, 2003
Date