



CPR Institute for Dispute Resolution

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SEARCH FAST, INC.,)	Domain Name Dispute
Complainant,)	Forum File No. CPR 05-12
v.)	
NATHAN EWING)	
Respondent)	
)	

Date of Commencement: August 19, 2005

Domain Name(s): searchfast.com

Registrar: Network Solutions, LLC

Administrative Panel: Edward C. Chiasson, Q.C.

THE PARTIES

1. The Complainant, Search Fast, Inc., is a corporation having its principal place of business in Huntington Beach, California.
2. The Respondent, Nathan Ewing, is a person whose address is in Brooklyn, New York.

PROCEDURAL HISTORY

3. The Complaint was filed with CPR on August 19, 2005 and, after review for administrative compliance, was served on the Respondent. A response was due on September 12, 2005. The Respondent failed to file a response.
4. The Administrative Panel was appointed pursuant to the Uniform Domain Name Dispute Resolution Policy (“UDRP”) and Rules promulgated by the Internet Corporation for Domain Names and Numbers (ICANN). The Administrative Panel reviewed and considered all of the material filed by the parties.
5. On September 30, 2005 the following directive of the Administrative Panel was issued:

“Apart from information in a March 30, 2005 application for the service mark ‘SEARCH FAST’ there is little information concerning the [Complainant’s] business or how well it is known. The subject domain name appears to have been registered on August 6, 2003.

The Administrative Panel invites the Complainant to provide any additional information it considers would be assistance to the Arbitral Tribunal to reach a conclusion that the Complainant has met [his] obligation of establishing the criteria required by the Rules.

Any additional material is to be delivered by October 7, 2005. If the Respondent were to want to comment, it must do so by October 14, 2005. The time for deliver[ing] a decision is extended to October 26, 2005.”

6. The Complainant provided some additional information. The Respondent did not respond. The Administrative Panel has taken into account the supplemental information.

7. The Respondent’s registered domain name, searchfast.com, was registered with Network Solutions, LLC. In registering the name, the Respondent agreed to submit to this forum to resolve any dispute concerning the domain name, pursuant to the UDRP.

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

- i. the Respondent’s domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- ii. the Respondent has no rights or legitimate interests in respect of the domain name; and
- iii. the Respondent’s domain name has been registered and is being used in bad faith.

BACKGROUND

9. The following information is derived from the Complaint.

10. The Complainant asks the Administrative Panel, “...to refer to Trademark documents enclosed” to establish that it has a trade or service mark. The document enclosed refers to a service mark application dated March 30, 2005.

11. When many of the Complainant's clients, "...look for our site they enter in the '.com' first. They get a page [that] cannot be displayed". The Complainant tells such clients, "...to enter in searchfast.com or searchfast.net". The clients ask, "...why don't you have the '.com'? We explain we are working on that."
12. The Complainant attempted by e-mail, letters and courier to contact the Respondent, but has been unable to do so.
13. The Internet site to which the subject domain name resolves has been inactive for two years.
14. The Complainant is a highly recognizable Search Engine <http://www.SearchFast.net> accommodating millions of searches monthly for the online community.
15. The Complainant advertises in all trade publications as is promoted throughout the Internet under the trademarked, copyright name of SearchFast.
16. SearchFast is a Pay Per Click Search Engine similar to Yahoo and Google in every way with hundreds of advertisers relying on SearchFast to deliver high quality traffic to the websites that advertisers promote *via* the SearchFast, PayPerClick management system (paid placement service).
17. SearchFast has become the search engine of choice for Click Fraud Technology and is becoming the source for clients such as Ameriquest Mortgage to VacationsToGo, as well as some of the largest media buying agencies online - Vendari Media / Avenue A, Razorfish.
18. SearchFast was established in 2003 and has since trademarked, copyrighted and branded all logos and text surrounding its domain names.
19. The Complainant is promoted online with all available resources, email campaigns, paid advertising and trade magazines. The company is present at tradeshow and industry functions *via* the advertisers network of Los Angeles.
20. The Complainant is also the national MS sponsor and continues to promote through the sponsoring of golf tournaments throughout the year.
21. The Respondent did not participate in this proceeding.

DISCUSSION

22. Although the Complainant's service mark application was not made until March 2005, it apparently has been in business since 2003. It is clear that the Complainant has rights to the word "searchfast". The subject domain name differs from that word only by the addition of .com, which is of no significance.

23. The Administrative Panel is satisfied that the Complainant has met the requirements of paragraph 4(a)(i) of the UDRP.

24. A Respondent is not obliged to participate in a domain name dispute proceeding, but if it were to fail to do so, it would be vulnerable to the inferences that flow from the not unreasonable assertions of fact of the Complainant.

25. There is no suggestion that the Respondent is known by the name "searchfast" or that it is authorized to use that name. No use is being made of the subject domain name.

26. The Administrative Panel is satisfied that the Complainant has met the requirements of paragraph 4(a)(ii) of the UDRP.

27. The information provided by the Complainant suggests that it is well known in the industry as a source of Internet inquiry. Registration of a domain name that uses the Complainant's name without alteration, in circumstances that suggest that the name likely was known to the Respondent, leads to an inference that the subject domain name was registered in bad faith. The absence of any use of the subject domain name by the Respondent and his failure to react to the Complainant's efforts to contact him reinforce that inference. The Respondent has provided no information to supplant the inference.

28. The Administrative Panel is satisfied that the Complainant has met the requirements of paragraph 4(a)(iii) of the UDRP.

CONCLUSION

29. Based on the information provided to it and on its conclusions of fact, the Administrative Panel concludes that the Complainant has established its case.

30. The Complainant asks that the subject domain name be transferred to it. The Administrative Panel so orders.

Signature of Administrative Panel

October 17, 2005