

CPR INSTITUTE FOR DISPUTE RESOLUTION

File: CPR-05-18
Domain Names: www.muddcorp.com
www.muddllc.com
www.muddllp.com
www.bmudd.com
Registrar: Schlund+Partner AG

COMPLAINANT

MUDD (USA), LLC
1407 Broadway, Suite 2004
New York, NY 10018

v.

RESPONDENTS

Oneandone, Private Registration, 1&1 Internet, Inc.
701 Lee Road, Suite 300
Chesterbrook, PA 19087

Administrative Panel: John Fleming Kelly, Esq.

PROCEDURAL HISTORY

The Complaint in this matter was filed with CPR Institute for dispute Resolution ("CPR") on November 29, 2005. A Response was due on December 21, 2005; however, no response has been received. The Arbitrator was appointed on January 5, 2006 pursuant to the Uniform Domain Name Dispute Resolution Policy (UDRP) and the Rules for UDRP ("the Rules") promulgated by the Internet Corporation for Domain Names and Numbers (ICANN).

Paragraph 5 (e) of the Rules provides that if a Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the complaint. The Panel is not aware of the existence of any such exceptional circumstance, and therefore will decide the dispute in accordance with the Rule.

CONTROLLING UDRP PROVISIONS

Paragraph 4.a. of UDRP requires a complainant to prove that each of the following three elements is present:

- (i) the domain name(s) at issue are identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- (ii) the respondent has no rights or legitimate interests in respect of the domain name(s) at issue; and
- (iii) the domain name(s) at issue have been registered and are being used in bad faith.

Upon a careful study of the written record as filed by the parties, and consideration of UDRP and the Rules, the Arbitrator finds as follows:

THE ELEMENTS EXAMINED AGAINST THE RECORD

IDENTITY/CONFUSING SIMILARITY

Complainant's domain name is MUDDJEANS.COM. Complainant's trademark, MUDD, has been registered by Complainant or its predecessors in interest since 1995 in the United States and elsewhere in the world under a large number of Registrations in various international classes relating to a wide variety of women's and girls' apparel and accessories.

Respondents' domain names at issue, muddcorp.com, muddllc.com, muddllp.com, and bmudd.com, are clearly not identical with the domain name of Complainant. Nevertheless, these names are similar to MUDDJEANS.COM. Moreover, the additions to the word "mudd" which Respondent has added do not remove confusion from that similarity. The letters which Respondent has added in three instances, "corp", "llc" and "llp" are abbreviations for different forms of business entities authorized by law. These abbreviations tell the reader the type of structure of a business, but tell nothing about what the organization does. The MUDD trademark is so widely recognized that a person seeing one or more of these three domain names could easily be confused into thinking that MUDD had changed the form of its organization, but that the website would still sell MUDD jeans and other apparel. While to the knowledge of the Panel the addition of the letter "b" has no legal significance similar to the additions to the other three names, neither does the addition clear up any confusion.

In another dispute initiated by this same Complainant, Complainant secured the transfer of the domain name www.muddproducts.com because the Panel in that case held that the name was confusingly similar to Complainant's trademark. Mudd, USA, LLC v. Unasi, Inc., WIPO Case No. D2005-0591. pg. 4. Certainly the confusing similarity is all the more severe in this dispute, where only the legal symbols or the sole letter "b" has been added.

Panel finds that Respondents' domain names are confusingly similar.

RIGHTS AND LEGITIMATE INTERESTS

Complainant affirms that it has no relationship with Respondent and has never licensed or granted permission o Respondent to use the MUDD mark or domain name incorporating that mark or variations thereof. Complainant also states that to its knowledge Respondent has never been known by or operated a business under the MUDD mark or the domain names in question. Nor, Complainant asserts, is Respondent making a legitimate noncommercial or fair use of the domain names.

The Panel finds that the Respondent does not have any rights or legitimate interests with respect to the domain names at issue.

BAD FAITH

Complainant asserts that Respondent's unauthorized use of a confusingly similar variation of Complainant's trademark constitutes misappropriation of Complainant's trademark. Further, Complainant asserts that these activities lure consumers to an e-commerce site that does not sell Complainant's products, resulting in misrepresentation. Finally, Claimant asserts that Respondent's bad faith in registering the domain names in question is clearly evidenced by the use to which these names have been put.

The Panel finds that the domain names at issue have been registered and are being used in bad faith.

CONCLUSION

In view of the above findings, the Administrative Panel concludes that the Complainant has met the three elements required under Paragraph 4.a. of UDRP.

CPR-05-18
Arbitrator's Decision
Page 4.

REMEDY

Complainant's request that the domain names www.muddcorp.com, www.muddllc.com, www.muddllp.com and www.bmudd.com be transferred to Complainant is granted and so ordered.

January 13, 2006



Signature of Administrative Panel