CPR INSTITUTE FOR DISPUTE RESOLUTION

File: CPR-05-22
Domain Name: www.muddoc.com
Registrar: Intercosmos Media Group, Inc. d/b/a Directnic.com

COMPLAINANT

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

v.

RESPONDENT

Strickland Drilling Fluids
720 FM 256
Woodville, TX 75979

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 received on January 4, 2006. Complainant's Reply to the Response was received on January 6, 2006. 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).

CONTROLLING UDRP PROVISIONS

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

(i) the domain name at issue is 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 at issue; and

(iii) the domain name at issue has 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.

Respondent's domain name at issue, www.muddoc.com, is clearly not identical with the domain name of Complainant. Respondent's domain name does not contain a word or letters similar to the word "Jeans", which is a part of Complainant's domain name. However, the letters "oc" after "mudd" don't convey a clear meaning that would avoid confusion with the trademark MUDD and the domain name MUDDJEANS.

The Panel finds that Respondent's domain name is confusingly similar to that of Complainant.

RIGHTS AND LEGITIMATE INTERESTS

Complainant alleges that Respondent is not making a legitimate or fair use the domain name at issue, but rather that Respondent's intent is to enhance its commercial gain by misleadingly diverting consumers and/or tarnishing Complainant's MUDD trademark.

Respondent states in its Response that Respondent provides professional services related to the oil industry, including advice, information and services regarding drilling fluids and oil field operations. Respondent also states in its Response that as of the date of the Response its website had not been built, but under construction. In that Response Respondent further claims that Complainant had not conducted its search on Respondent's website but on a default site for registered domain names that do not have constructed websites.

In its Reply to the Response, Complainant states that the domain name at issue takes internet users to a website that contains links to other products advertised, marketed and sold by Complainant's competitors, including "Doc Martens". Complainant further argues

that, as the registrant of record of the website in question, Respondent is responsible for the placement of the links to Complainant's competitors.

The Panel accordingly finds that the use by Respondent of this supposedly interim site creates rights and interests which are not legitimate.

BAD FAITH

The foregoing establishes that Respondents are using in bad faith a website they have registered, a website which assists competitors of Complainant in marketing goods competitive to those bearing the MUDD trademark. It may not be the website itself which causes this exercise of bad faith, but the links which are provided on the website are the responsibility of Respondents.

The Panel finds that the record supports a conclusion that the domain name at issue has been registered and is being used in bad faith.

CONCLUSION

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

REMEDY

The remedies available to a Complainant's pursuant to any proceeding before an Administrative Panel are limited to the cancellation of the domain name or the transfer to of registration to the Complainant. UDRP Paragraph 4.i. Paragraph 4.k establishes a waiting period of ten business days after being informed of the Panel's decision before implementing the decision. Perhaps this period will be sufficient for construction of the Respondent's website or at least the removal of the offensive links to competitors of Complainant, and the use of a name not confusingly similar to Complainant's mark MUDD.

The Administrative Panel, however, has no authority to order any action other than cancellation or transfer of Respondent's domain name. Accordingly, and as requested by Complainant, transfer of domain name www.muddoc.com to Complainant is hereby ordered.

January 17, 2006

Signature of Administrative Panel