

CPR Institute for Dispute Resolution

COMPLAINANT:

GLOBAL RESOURCE CORPORATION

Address:	Authorized Representative,	<u>File No.</u>	CPR 0202
Address:	Stephanie J. Shulman, Esq.	<u>Date of Commencement:</u>	1/17/02
Address:	18101 Von Karman Ave., #440	<u>Domain Names:</u>	GLOBALRESOURCE.COM
Address:	Irvine, CA 92612		GLOBALRESOURCES.COM
Telephone:	(949) 724-1711	<u>Registrar:</u>	IARegistry.com
FAX:	(949) 724-1754		
E-mail:	stephanie.shulman@globalresource.com	<u>Arbitrator:</u>	Hon. Sherman G. Finesilver of Denver, Colorado

-vs-

RESPONDENT:

LEIGH JO ANZURES

Address: P.O. Box 25544
Address: Albuquerque, NM 87125
Telephone: (505) 836-5220
FAX: (509) 472-4287
E-mail: MrAnzures@aol.com

ADMINISTRATIVE PANEL DECISION

PROCEDURAL HISTORY

The Complaint by Global Resource Corporation (hereinafter “Complainant” or “Complainant GRC”) was filed with CPR on January 17, 2002, and after review for administrative compliance, was served on the Respondent Leigh Jo Anzures (hereinafter “Respondent” or “Respondent Anzures”). The Respondent filed a timely response and the Complainant filed a timely reply to the response. I 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).

Upon the written submitted record, including the Complaint (with exhibits), First and Second Amendments to the Complaint, Response of Respondent, and Complainant’s Reply to Respondent Anzures’ Response to Complaint, I find as follows:

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FINDINGS

The domain designation by Respondent is “GLOBALRESOURCES.COM”. The mark of Complainant is “GLOBALRESOURCE.COM”. The domain name that is the subject of this dispute is “GLOBALRESOURCES.COM”.

Respondent Anzures’ registered domain name, “GLOBALRESOURCES.COM”, was registered with IARegistry.com on November 13, 1998. Complainant GRC first used the mark “GLOBALRESOURCE.COM” on October 10, 1995.

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 the three findings must be made in order for a complainant to prevail:

- i. Respondent’s domain 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.

Upon careful study and analysis, the Arbitrator finds that Complainant has carried its burden of proof, and all requisites have been established for Complainant to prevail.

IDENTITY/CONFUSING SIMILARITY:

The domain name of “GLOBALRESOURCE.COM” is the trademark of Complainant GRC, which applies to Complainant’s activity in technological development, including development of integration of Microsoft® technology and further technological innovations in business applications.

As noted, the subject of the dispute is Respondent Anzures’ recorded domain name “GLOBALRESOURCES.COM.” Complainant alleges that “GLOBALRESOURCES.COM” is identical or confusingly similar to Complainant’s trademark “GLOBALRESOURCE.COM.”

Complainant GRC is a corporation organized under the laws of California and does business under the name “GLOBALRESOURCE.COM.” Complainant GRC registered its trademark with the California Secretary of State in September, 1996. The logo of Complainant appears on publicity and brochures of the Complainant, including “WWW.GLOBALRESOURCE.COM.”

Respondent Anzures is an individual residing in New Mexico, and does business under the names of “Anzures LLC” and “WEBDESIGNRESOURCES.COM.” Anzures LLC is incorporated in the State of Delaware as a limited liability company. The domain name “GLOBAL RESOURCES.COM” was created by Respondent Anzures on September 5, 2001. In its Response to the Complaint, Respondent Anzures contends that it has been developing websites for clients and combines a variety of business and personal resources into a network so that on-line visitors can utilize the products, services and information as a useful resource; also for visitors that come to the site to communicate with other visitors. Respondent contends that goods and services offered by Anzures LLC are not identical with the goods and services offered by Global Resources Corporation, and that the name is much too generic to be afforded trademark or other protection.

The activity of Complainant to publicize and protect its name has not been refuted in the record by Respondent Anzures. Complainant was the initial publisher of the name “GLOBALRESOURCE.COM” and has the protected property right to the name and mark. Significant commerce and goodwill have been developed in the marketplace by Complainant GRC with its use of the name and the services it offers. Complainant has expended time, effort and money to legitimately use the name in commercial activity.

Respondent Anzures apparently uses the name in the hope that it will attract a purchaser through the name. The name has not been used by Respondent as a bona fide offering of goods or services, but acquires domain names and publicizes their availability, thus not offering them for use but for sale to interested parties. The Arbitrator has considered and rejects the contention of Respondent Anzures that the name “Global Resource(s)” is too generic to be protected and the services and goods offered by Respondent Anzures were not identical with those offered by Complainant GRC. The words “global” and “resource” may have individual meanings, but taken in concert, “Global Resource” (the name used by Complainant) has significant and descriptive meaning. The name is used by Complainant to communicate some aspect of the services it provides. There is no legitimate protection in Respondent’s use of the domain name and Respondent has merely added an “s” to the protective mark of Complainant. It may be described as an approach by Respondent to utilize the name that has been a bona fide business activity in the marketplace by Complainant three years prior to the domain registration by Respondent.

The modification of one word from singular to plural does not afford Respondent Anzures protected rights under domain principles. It also appears from the contentions of the Complainant that Respondent Anzures has evinced a pattern of creating and registering confusingly similar names and websites, and then advertising the modified site for sale.

It is clear that Respondent Anzures is an interloper and improperly seeks to take the name and identity of “GLOBALRESOURCE.COM”. Simply stated, Respondent Anzures is a copycat in the development of the name for purposes of parlaying the name for commercial purposes and services and goods not utilized and associated with the domain name.

From representations in the Complaint, it appears that significant business development has been undertaken by Complainant GRC. It is alleged and non-refuted that Complainant GRC has taken significant steps to implement protection of the trademark “GLOBALRESOURCE.COM” and consistently used that mark.

1. The mark “GLOBALRESOURCE.COM” is used by Complainant GRC to advertise its products and services, i.e., the mark is used on software and publicity materials.

2. Considerable activity is utilized by Complainant GRC in its website “WWW.GLOBALRESOURCE.COM”.

3. The service mark “GLOBALRESOURCE.COM” was registered with the Secretary of State of California on September 6, 1996. It is there stated that the mark was first used on October 10, 1995.

4. Complainant GRC filed application for a federal service mark on October 10, 2001, with the first date of use of October 10, 1995. The listing of services and goods was information technology, software consulting and personal employment service.

5. Complainant GRC filed an application for a federal trademark on October 10, 2001, claiming the date of first use of October 10, 1995, and the date of first use in commerce of January 1, 2000.

6. Complainant GRC first used the “GLOBALRESOURCE.COM” mark on October 10, 1995.

The Arbitrator therefore concludes that the registered domain name of “GLOBALRESOURCES.COM” used by Respondent Anzures is identical or confusingly similar to Complainants GRC’s protected mark of “GLOBALRESOURCE.COM.”

RIGHTS AND LEGITIMATE INTERESTS:

Complainant alleges that Respondent has no rights or legitimate interests with respect to the domain name at issue.

Respondent, on the other hand, notes that it has protected rights under domain registration.

The contentions of the parties as to rights and legitimate interests are outlined above.

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.

From the submissions, it appears that Respondent has no legitimate rights or interests in the domain name, and Respondent is not making legitimate noncommercial or fair use of the domain name; further that, for commercial gain, Respondent is misleading customers to use trademark and service mark at issue. It clearly appears that Respondent Anzures has not had any activity associated with the domain name and the name itself is used as a potential sales object. Thus, there is no legitimate interest in the domain name and it is not being used in connection with a bona fide offering of goods or services. I therefore conclude that Respondent Anzures does not have rights or legitimate interests with respect to the trade name at issue.

BAD FAITH:

Paragraph 4(b) of the UDRP provides that indications of bad faith include: (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) registration for the primary purpose of disrupting the business of a competitor; or (c) an intentional attempt to attract, for commercial gain, Internet users to Respondent's website by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation or endorsement of Respondent's website or location, or of a product or service on Respondent's website or location.

Here, there was an intentional attempt to attract for commercial gain and entice users to Respondent's website by creating a likeness of confusing similarity. It is emphasized that the mark of Complainant is similar to that of the domain name.

The Arbitrator finds and concludes that Respondent Anzures' registration is in bad faith and it is apparent from the contentions of the Complainant that the Respondent is in the business of the sale of domain names, as present here, and Respondent capitalized on Complainant GRC's recognized Internet presence. The contentions of Complainant carry with it a ring of credibility, and arguments of Respondent are not strong enough to dissipate the strong showing of bad faith.

From the contentions of the Complainant, it appears that Respondent has utilized a similar approach to copy existing similar names and developing them into self-proclaimed protected interests. The bona fides of this approach are lacking and support the claim of bad faith.

The "copying" activity by Respondent Anzures has not been refuted in the record. It is apparent that Complainant has consistently displayed efforts to protect its mark in its bona fide commercial and business undertakings. This commercial activity is lacking in the corporate existence of Respondent.

The Arbitrator finds and concludes that the two domain names create significant confusion in the marketplace to the detriment of Complainant and potential customers, and their use of the domain name. The two names – so much alike – are misleading as to the identity of their intended vendor or supplier. This detriment to commerce and business activity, and confusion in the marketplace, must lie at the hands of Respondent.

The Arbitrator therefore concludes that Respondent Anzures did register and use the domain name in bad faith, as that term is defined in the ICANN Policy.

On a further note, the signature certification of the principal attorney signing the Complaint carries with it the imprimatur that the action is well-founded, appropriate inquiry of law and fact has been made, and there is a basis in fact and law for the action or relief requested. Further, the signature of the attorney signing the pleadings also carries with it the spirit and mandate of Rule 11, Fed. R. Civ. Proc., as it deals with the signature of the attorney in a formal document such as the Complaint signed herein. The Arbitrator has followed these principles in evaluating the respective contentions and submissions by the parties.

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 Complainant and against the Respondent.*

REMEDY

Complainant's request to transfer the domain name "GLOBALRESOURCES.COM" is hereby granted. The domain name shall be transferred from Respondent to Complainant.

/ s / Sherman G. Finesilver

25 February 2002

Hon. Sherman G. Finesilver, Arbitrator

Date

Law Office of Judge Sherman G. Finesilver (Ret.)

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