

CANADIAN INTERNET REGISTRATION AUTHORITY

DOMAIN NAME DISPUTE RESOLUTION POLICY

DECISION

Domain Name: bridor.ca
Complainant: Le Duff Industries
Registrant: Oliver Twist Domains Inc.
Registrar: Rebel.ca Corp.
Service Provider: Resolution Canada Inc.
Panel: Peter C. Cooke

THE PARTIES

The Complainant is Le Duff Industries (the “Complainant”) with an address at Zone Artisanale Des Olivet, 35530 Servon Sur Vilaine, France.

The Registrant is Oliver Twist Domains Inc. of 1568 Merivale Rd., Suite 424, Ottawa, ON, K2G5Y7, Canada.

THE DOMAIN NAME AND REGISTRAR

The subject of this proceeding is the Domain Name bridor.ca registered on December 28, 2016. The Registrar of the Domain Name is Go Daddy Domains Canada, Inc.

PROCEDURAL HISTORY

This is an administrative dispute resolution proceeding pursuant to the Canadian Internet Registration Authority (“CIRA”) *Domain Name Dispute Resolution Policy* (version 1.3) (the “Policy”) and the CIRA *Domain Name Dispute Resolution Rules* (version 1.5) (the “Rules”). By registration of the Domain Name with the Registrar, the Registrant agreed to the resolution of this dispute pursuant to the Policy and the Rules.

According to the information provided by Resolution Canada Inc., the dispute resolution service provider, the history of the proceeding is as follows:

The Complainant filed a complaint (the "Complaint") dated December 18, 2019 with Resolution Canada Inc., requesting that the Domain Name registration be transferred from the Registrant to the Complainant. After having determined that the Complaint was in administrative compliance with the requirements of the Policy and the Rules, Resolution Canada Inc. commenced the dispute resolution process and served notice of the Complaint on the Registrant (as required by paragraph 4.3 of the Rules) by email on January 15, 2020. No response was received from the Registrant.

The Complainant elected to proceed before a panel consisting of one panelist. The Panel can act impartially and independently in this matter per Paragraph 7 of the *Rules*, as there are no circumstances known to them that would prevent them from so acting.

ELIGIBILITY OF COMPLAINANT

The Complainant is an eligible complainant under Paragraph 1.4 of the Policy, as the Complaint relates to the Complainant's registered Canadian trademarks for BRIDOR, Reg. No. TMA 343,771 and BRIDOR, Reg. No. TMA652,524 (the "BRIDOR Registrations").

OVERVIEW OF THE POLICY

Paragraph 4.1 of the Policy sets forth the Complainant's burden of proof in order to succeed in the proceeding. The onus is on the Complainant to prove, on a balance of probabilities that:

The Registrant's dot-ca domain name is Confusingly Similar to a Mark in which the Complainant had Rights prior to the date of registration of the domain name and continues to have such Rights; and

The Registrant has registered the domain name in bad faith as described in paragraph 3.5;

And the Complainant must provide some evidence that:

The Registrant has no legitimate interest in the domain name as described in paragraph 3.4.

COMPLAINANT'S POSITION

The Complainant contends that BRIDOR is the Complainant's trademark, used in Canada by the Complainant or a predecessor since at least as early as 1985, and that these rights precede the date of registration of the Domain Name, namely, December 28, 2016.

The Complainant further contends that the Registrant registered and is using the Domain Name in bad faith. The Complainant submits that the Registrant has engaged in a pattern of registering domain names that contain trademarks to which the Registrant is not entitled to, and has prevented the Complainant from registering the Domain Name. The Complainant also contends that the Registrant registered or acquired the Domain Name primarily for the purpose of fraud and for attracting, for commercial gain, Internet users to the Registrant's websites by creating a likelihood of confusion with the Complainant as to source or sponsorship.

The Complainant alleges that the Registrant has no legitimate interest in the Domain Name. The Complainant has provided evidence that it is the owner of the BRIDOR Registrations which have been registered and used in Canada prior to the registration of the Domain Name. The Complainant has also reviewed the paragraphs set out under 3.4 of the Policy and contends that the Registrant has no legitimate interest in the Domain Name.

REGISTRANT'S POSITION

The Registrant did not file a Response to the Complaint.

DISCUSSIONS AND FINDINGS

Confusing Similarity between Domain Name and Complainant's Mark

The Complainant has demonstrated that it is the owner in Canada of the BRIDOR Registrations as well as other registrations for BRIDOR formative marks. The Complainant, and its predecessors, have used the BRIDOR trademark in Canada since at least as early as 1985. The Complainant's rights in the trademark precede the December 28, 2016 registration date of the Domain Name, and the Complainant submits that the Domain Name is "confusingly similar" with the trademark.

A domain name is confusingly similar to a mark if the domain name so nearly resembles the mark in appearance sound or ideas suggested by the mark as to be likely to be mistaken for the mark, as per paragraph 3.3 of the Policy.

In applying this definition, it is important to note paragraph 1.2 of the Policy which stipulates that:

For the purposes of this Policy, “domain name” means the domain name excluding the dot-ca suffix...”

The Panel concludes that the Domain Name bridor.ca so nearly resembles the Complainant’s trademark BRIDOR so as to be likely to be mistaken for it.

The Panel is therefore of the view that the Complainant has succeeded in establishing confusing similarity under paragraph 4.1(a) of the Policy.

Bad Faith Registration

The Complainant must show, on a balance of probabilities, that the Domain Name was registered in bad faith pursuant to paragraph 3.5 of the Policy. The Complainant need only demonstrate bad faith under one of the grounds provided by the Policy.

The Complainant submits that the Registrant has engaged in a pattern of registering domain names that contain trademarks that the Registrant is not entitled to contrary to Paragraph 3.5(b) of the Policy that states:

(b) the Registrant registered the domain name or acquired the Registration in order to prevent the Complainant, or the Complainant’s licensor or licensee of the Mark, from registering the Mark as a domain name, provided that the Registrant, alone or in concert with one or more additional persons has engaged in a pattern of registering domain names in order to prevent persons who have Rights in Marks from registering the Marks as domain names;

The Complainant has submitted evidence that the Registrant is the owner of over 1,500 domains, 65 of which the Complainant submits are confusing with third party trademarks to which the Registrant does not appear entitled. These domains include:

addidas.ca	cbcthenational.ca	maxtel.ca
aeppi.ca	cessna.ca	mcdonaldscoupons.ca
airbnbmortgage.ca	colinjames.ca	medicaid.ca
allwaters.ca	crisco.ca	mlssearch.ca
alstate.ca	delo.ca	monvisalus.ca
americanitunes.ca	epxia.ca	motts.ca
arcterra.ca	exxon.ca	photoshop.ca
arrowecs.ca	famousplayer.ca	ralstonpurina.ca
astonmartin.ca	fordmotorcompany.ca	rbcdominionsecurities.ca
autocad.ca	fosterpontiac.ca	remaxhomes.ca
avda.ca	gmcdealer.ca	senstv.ca
babar.ca	googleearth.ca	smurf.ca
barbet.ca	googoe.ca	telusplanet.ca
batman.ca	greycuptour.ca	toocows.ca
blurays.ca	greyhoundcanada.ca	torontobluejays.ca
bmws.ca	harryrosen.ca	torontoraptors.ca
bridor.ca	hoola.ca	travelchannel.ca
bwbank.ca	jobzilla.ca	torontobluejays.ca
casis.ca	kwrealty.ca	twocows.ca
catwoman.ca	macdonalds.ca	ubeeer.ca
cbcnorth.ca	markburnett.ca	viacanada.ca

The evidence demonstrates that the Registrant has engaged in pattern of registering trademarks and the names of others as domain names, and that the registration of the Domain Name, which is identical to the trademarks covered by the BRIDOR Registrations, has prevented the Complainant from registering bridor.ca. The Registrant's behaviour in engaging in the foregoing pattern of domain name registrations has similarly been found by other Panels to constitute bad faith (see Exxon Mobile Corporation v Oliver Twist, CIRA-00414, General Motors LLC v Oliver Twist, CIRA-00413, Home Depot International, Inc. et al v Oliver Twist Domains Inc, CIRA-00390, and Queen's University at Kingston v Oliver Twist Domains Inc, CIRA-00353). As such, the Panel is satisfied that the Complainant has established that the Registrant registered the Domain Name in bad faith pursuant to paragraph 3.5(b) of the Policy.

Bad faith being established, the Panel need not consider the submissions of the Complainant as they relate to paragraph 3.5(d) of the Policy.

No Legitimate Interest in the Domain Name

Paragraph 3.4 of the Policy provides a non-exhaustive list of criteria that the Panel may rely on to find that a Registrant has a legitimate interest in the Domain Name. Paragraph 4.1 (c) of the Policy requires that the Complainant provide *some evidence* that the Registrant has no legitimate interest in the Domain Name.

The Complainant has submitted that the Registrant has no legitimate interest in the Domain Name. In particular, the Complainant submits:

1. The Registrant has never been licensed, or otherwise authorized to register or use the BRIDOR trademarks by the Complainant;
2. The Registrant is a cybersquatter having engaged in a pattern of acquiring numerous domain name registrations for the trademarks and names of others;
3. A claim of rights in the Domain Name by the Registrant falsely suggests a connection with the Complainant;
4. The Registrant appears to be using the Domain Name as an instrument of fraud;
5. The Registrant has not used bridor.ca in good faith in association with any wares, services or business, and the Domain Name is not clearly descriptive;
6. Bridor.ca is not generic of any wares, services or business, nor has the Domain Name been used in good faith or for a bona fide purpose;
7. The Registrant has never used the Domain Name in association with a non-commercial activity; and
8. The BRIDOR trademark is not a legal name, surname, or other reference, by which the Registrant is commonly identified.

In addition to the evidence establishing that the Registrant had engaged in a pattern of registering trademarks and the names of others as domains, the Complainant provided evidence that the Domain Name redirects to a survey website located at contestandgiveaways.xyz. The website offers visitors a free phone for filling out a survey and submitting their credit card

information to claim the phone. The evidence suggests the Registrant's use of the Domain Name is likely to obtain consumers' credit card information under false pretenses.

The Panel is satisfied that the Complainant has met its onus in providing some evidence that the Registrant has no legitimate interest in the Domain Name. It therefore becomes incumbent on the Registrant to provide evidence that it has a legitimate interest in the Domain Name. Since the Registrant has failed to provide a Response to the Complaint, the Registrant has failed to meet its onus.

CONCLUSION AND DECISION

The Complainant has proven, on a balance of probabilities, that the Domain Name is confusingly similar to a Mark in which the Complainant had rights prior to the date of registration of the Domain Name and in which the Complainant continues to have such Rights.

The Complainant has proven, on a balance of probabilities, that the Registrant registered the Domain Name in bad faith.

The Complainant has adduced some evidence that the Registrant has no legitimate interest in the Domain Name.

The Registrant did not file a Response disputing the Complainant's submissions, or justifying its registration of the Domain Name.

For these reasons the Complaint regarding the Domain Name is successful and the panel orders, pursuant to paragraph 4.3 of the Policy, that the registration of the Domain Name be transferred to the Complainant.

Dated March 6, 2020



Peter C. Cooke