BELGIAN CENTRE FOR ARBITRATION AND MEDIATION

Decision of the Third-Party decider

Crea nv / Domain Manager Limited

Case No. 44354: <creaprinting.be> and <creacommunication.be>

1) The Parties

Complainant is **Crea nv**, with its main office at Diksmuidsesteenweg 388, B-8800 Roeselare, Belgium, represented by its President of the Board, Benedict Cosaert.

Respondent is **Domain Manager Limited**, with its main office at 438 Green Lanes, N13 4BS London, United Kingdom, not represented.

2) Domain Name

The domain names at issue are <creaprinting.be>, registered by Respondent on 15 June 2014, and <creacommunication.be>, registered by Respondent on 16 July 2014, hereinafter referred to as the "Disputed Domain Names".

3) Procedural History

On 18 July 2014, Complainant filed a Complaint with Cepani requesting that the Disputed Domain Names be transferred.

On 8 September 2014, Cepani appointed Flip Petillion as Third-Party Decider. On 15 September 2014, the deliberations have been closed. No response was received.

In the absence of a Response, the Third-Party Decider shall render his decision based on the Complaint, Article 10 of the "Terms and conditions of domain name registrations under the ".be" domain operated by DNS", entitled "Dispute resolution policy" (the "Policy"), and the Rules.

4) Elements of Fact

Complainant is a Belgian company active in the printing business.

Prior to the registration of the Disputed Domain Names by Respondent, the Disputed Domain Names were used to advertise the services of Complainant.

The Disputed Domain Names refer to a parking page containing sponsored links. The Disputed Domain Names are offered for sale on the website linked to <domainname.de>.

Complainant initiated administrative proceedings with Cepani. Respondent did not reply to the complaint.

5) Parties Contentions

a) Complainant

In summary, Complainant requests that the Disputed Domain Names be transferred. Complainant argues that it is the previous holder of the Disputed Domain Names and that these domain name registrations were non-willfully dropped. Complainant claims that the domain names were picked up by an anonymous domain trader, who is offering the Disputed Domain Names for sale. Complainant also contends that emails to the Respondent remained unanswered.

b) Respondent

Respondent did not reply.

6) Discussion and Findings

a) Analysis of the Complaint

Article 15.1 of the Rules instructs the Third-Party Decider as to the principles the Third-Party Decider is to use in determining the dispute: "*The Third-Party Decider shall decide following the parties views and in accordance with dispute resolution policy, the registration agreement and following the provisions of the present Rules.*"

By virtue of Article 10, b, 1, of the Policy Complainant must prove each of the following:

- "the domain name holder's domain name is identical or confusingly similar to a trademark, a trade name, a social name or corporation name, a geographical designation, a name of origin, a designation of source, a personal name or name of a geographical entity in which Complainant has rights; and
- the domain name holder has no rights or legitimate interests in the domain name; and
- the domain name holder's domain name has been registered or is being used in bad faith."

i) Identity

The Complainant invokes no rights in the Disputed Domain Names, other than the fact that it allegedly was the previous holder of the domain names. The Complainant does not show that it was indeed the previous holder of the Disputed Domain Names, but merely refers to archived pages showing that the Disputed Domain Names contained company information referring to the Complainant and its services.

The Third-Party Decider considers it therefore likely that the Complainant was the previous holder of the Disputed Domain Name. However, the previous holding of the Disputed Domain Names does not create any legal rights with regard to the domain names.

Nevertheless, the Third-Party Decider notes that Complainant's corporation name is 'CREA'. The Disputed Domain Names differ from Complainant's corporation name through the addition of the suffix ".be" and the words "printing" and "communication" respectively.

The addition of generic words as well as the presence of the suffix ".be" is insufficient to remove the confusing similarity with Complainant's corporation name (Cepani Case No 44099, 10 April 2007 <oracleconsulting.be>; Cepanin Case No 44302, 5 June 2013 <belfius-service.be>).

For the above reasons, the Third-Party Decider considers that the Disputed Domain Names are confusingly similar to the Complainants corporate name and that the first element of the Policy has been met.

ii) Rights or legitimate interests

It is established case law that it is sufficient for the Complainant to make it plausible that the Respondent has no rights or legitimate interests in the Disputed Domain Names to shift the burden of proof to Respondent.

In the instant case, the Complainant does not argue that the Respondent has no rights or legitimate interests in the Disputed Domain Names.

However, the facts indicate that the Disputed Domain Names refer to parking pages with sponsored links and there are no indications that the Respondent is commonly known by the Disputed Domain Names. This, in combination with the fact that the Respondent did not reply to the Complaint makes it probable that the Respondent did not have rights or legitimate interests in the Disputed Domain Names.

As a result, the Third-Party Decider considers the second element of the Policy to be met.

iii) Registration or use in bad faith

Pursuant to article 10, b, 2 of the Cepani Rules, registration or use in bad faith can be demonstrated by, amongst others, the following circumstances:

"- the domain name was registered or acquired primarily for the purpose of selling, renting, or otherwise transferring the domain name to the complainant who is the owner of the trademark, trade name, registered name or company name, geographical designation, name of origin, designation of source, personal name or name of the geographical entity, or to a competitor of the complainant, for a price that exceeds the costs directly related to the acquisition of the domain name; or
- the domain name was registered in order to prevent the owner of a trademark, a trade name, a registered name or a company name, a geographical designation, a name of origin, a designation of source, a personal name or a name of a geographical entity to use the domain name and that the registrant has engaged in a pattern of such conduct;
- the domain name was registered primarily for the purpose of disrupting the business of a competitor; or
- the domain name was intentionally used to attract, for commercial gain, Internet users to the registrant's web site or other on-line location, by creating confusion with the complainant's trademark, trade name, registered name or company name, geographical designation, name of origin, designation of source, personal name or name of a geographical entity as to the source, sponsorship, affiliation, or endorsement of the registrant's web site or location or of a product or service on his web site or location".

The Complainant argues that the Disputed Domain Names have been registered by the Respondent with the intention to make quick money by trading the Disputed Domain Names.

The Complainant indeed shows that the Respondent has offered the Disputed Domain Names for sale. This is indicative of Respondent's bad faith, when seen in combination with Respondent's failure to reply to the Complaint and Respondent's use of the Disputed Domain Names for a parking page containing sponsored links, typically aimed at generating pay-per-click advertising revenues.

For the above reasons, the Third-Party Decider is of the view that Complainant has proven that Respondent registered or used the Disputed Domain Names in bad faith.

7) Decision

Pursuant to Article 10, e, of the Policy, the Third-Party Decider grants the request of Complainant that the registration of the Domain Names <craprinting.be> and <creacommunication.be> be transferred to Complainant.

Brussels, 29 September 2014

Flip Petillion
Third-Party Decider