



NATIONAL ARBITRATION FORUM

DECISION

Centrum Force, LLC v. Diogenis Mavridis
Claim Number: FA0902001250002

PARTIES

Complainant is **Centrum Force, LLC** ("Complainant"), represented by **Craig A. Redlinger**, of **Young Basile**, Michigan, USA. Respondent is **Diogenis Mavridis** ("Respondent"), Georgia, USA.

REGISTRAR AND DISPUTED DOMAIN NAMES

The domain names at issue are <centrumforce.com>, <centrumforce.org>, <centrumforce.net>, <centrumforce.info>, <centrumforce.biz>, <centrimaxx.com>, <centrimaxx.org>, <centrimaxx.net>, <centrimaxx.info>, <centrimaxx.biz>, <centri-maxx.com>, <centri-maxx.org>, <centri-maxx.net>, <centri-maxx.info>, and <centri-maxx.biz>, registered with **Godaddy.com, Inc.**

PANEL

The undersigned certifies that he has acted independently and impartially and to the best of his knowledge has no known conflict in serving as Panelist in this proceeding.

James A. Carmody, Esq., as Panelist.

PROCEDURAL HISTORY

Complainant submitted a Complaint to the National Arbitration Forum electronically on February 27, 2009; the National Arbitration Forum received a hard copy of the Complaint on March 2, 2009.

On March 3, 2009, Godaddy.com, Inc. confirmed by e-mail to the National Arbitration Forum that the <centrumforce.com>, <centrumforce.org>, <centrumforce.net>, <centrumforce.info>, <centrumforce.biz>, <centrimaxx.com>, <centrimaxx.org>, <centrimaxx.net>, <centrimaxx.info>, <centrimaxx.biz>, <centri-maxx.com>, <centri-maxx.org>, <centri-maxx.net>, <centri-maxx.info>, and <centri-maxx.biz> domain names are registered with Godaddy.com, Inc. and that Respondent is the current registrant of the names. Godaddy.com, Inc. has verified that Respondent is bound by the Godaddy.com, Inc. registration agreement and has thereby agreed to resolve domain-name disputes brought by third parties in accordance with ICANN's Uniform Domain Name Dispute Resolution Policy (the "Policy").

On March 11, 2009, a Notification of Complaint and Commencement of Administrative Proceeding (the "Commencement Notification"), setting a deadline of March 31, 2009 by which Respondent could file a response to the Complaint, was transmitted to Respondent via e-mail, post and fax, to all entities and persons listed on Respondent's registration as

technical, administrative and billing contacts, and to postmaster@centrumforce.com, postmaster@centrumforce.org, postmaster@centrumforce.net, postmaster@centrumforce.info, postmaster@centrumforce.biz, postmaster@centrimaxx.com, postmaster@centrimaxx.org, postmaster@centrimaxx.net, postmaster@centrimaxx.info, postmaster@centrimaxx.biz, postmaster@centri-maxx.com, postmaster@centri-maxx.org, postmaster@centri-maxx.net, postmaster@centri-maxx.info, and postmaster@centri-maxx.biz by e-mail.

Having received no response from Respondent, the National Arbitration Forum transmitted to the parties a Notification of Respondent Default.

On April 7, 2009, pursuant to Complainant's request to have the dispute decided by a single-member Panel, the National Arbitration Forum appointed James A. Carmody, Esq., as Panelist.

Having reviewed the communications records, the Administrative Panel (the "Panel") finds that the National Arbitration Forum has discharged its responsibility under Paragraph 2(a) of the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules") "to employ reasonably available means calculated to achieve actual notice to Respondent." Therefore, the Panel may issue its decision based on the documents submitted and in accordance with the ICANN Policy, ICANN Rules, the National Arbitration Forum's Supplemental Rules and any rules and principles of law that the Panel deems applicable, without the benefit of any response from Respondent.

RELIEF SOUGHT

Complainant requests that the domain names be transferred from Respondent to Complainant.

PARTIES' CONTENTIONS

A. Complainant makes the following assertions:

1. Respondent's <centrumforce.com>, <centrumforce.org>, <centrumforce.net>, <centrumforce.info>, and <centrumforce.biz> domain names are identical to Complainant's CENTRUM FORCE mark.

Respondent's <centrimaxx.com>, <centrimaxx.org>, <centrimaxx.net>, <centrimaxx.info>, and <centrimaxx.biz>, domain names are confusingly similar to Complainant's CENTRI-MAXX mark.

Respondent's <centri-maxx.com>, <centri-maxx.org>, <centri-maxx.net>, <centri-maxx.info>, and <centri-maxx.biz> domain names are identical to Complainant's CENTRI-MAXX mark.

2. Respondent does not have any rights or legitimate interests in the <centrumforce.com>, <centrumforce.org>, <centrumforce.net>,

<centrumforce.info>, **<centrumforce.biz>**, **<centrimaxx.com>**,
<centrimaxx.org>, **<centrimaxx.net>**, **<centrimaxx.info>**,
<centrimaxx.biz>, **<centri-maxx.com>**, **<centri-maxx.org>**, **<centri-**
maxx.net>, **<centri-maxx.info>**, and **<centri-maxx.biz>** domain name.

3. Respondent registered and used the **<centrumforce.com>**,
<centrumforce.org>, **<centrumforce.net>**, **<centrumforce.info>**,
<centrumforce.biz>, **<centrimaxx.com>**, **<centrimaxx.org>**,
<centrimaxx.net>, **<centrimaxx.info>**, **<centrimaxx.biz>**, **<centri-**
maxx.com>, **<centri-maxx.org>**, **<centri-maxx.net>**, **<centri-maxx.info>**,
and **<centri-maxx.biz>** domain name in bad faith.

B. Respondent failed to submit a Response in this proceeding.

FINDINGS

Complainant, Centrum Force, LLC, was organized pursuant to Michigan state law on February 23, 2007 (ID No. D1547C). Complainant operates a business selling large area rug-cleaning machines to industrial customers. Complainant sells the CENTRI-MAXX rug cleaner under the business organization called CENTRUM FORCE. Complainant sold its first CENTRI-MAXX machine in February 2007. On March 22 through March 24, 2007, Thomas Monahan, representing Complainant, attended a master rug cleaner certification course attended by industry professionals. Complainant holds trademark registrations of the CENTRUM FORCE (Reg. No. 3,500,559 issued Sept. 16, 2008 filed Nov. 26, 2007) and CENTRI-MAXX (Reg. No. 3,503,432 issued Sept. 23, 2008 filed Nov. 26, 2007) marks with the United States Patent and Trademark Office (“USPTO”). Both USPTO registrations list the first use in commerce as February 21, 2007. Complainant has also advertised using the CENTRUM FORCE and CENTRI-MAXX marks since Complainant’s company began.

Respondent registered the disputed domain names on March 26, 2007. The **<centrumforce.com>** domain name redirects Internet users to the website resolving from the **<arearugcleaningequipment.com>** domain name. The remaining 14 disputed domain names redirect Internet users to the website resolving from the **<arearugcleaningequipment.com/products>** domain name. Both of the resolving websites appear to be for “Ron’s Area Rug Cleaning Equipment,” a company in direct competition with Complainant.

DISCUSSION

Paragraph 15(a) of the Rules instructs this Panel to "decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable."

In view of Respondent's failure to submit a response, the Panel shall decide this administrative proceeding on the basis of Complainant's undisputed representations pursuant to paragraphs 5(e), 14(a) and 15(a) of the Rules and draw such inferences it

considers appropriate pursuant to paragraph 14(b) of the Rules. The Panel is entitled to accept all reasonable allegations and inferences set forth in the Complaint as true unless the evidence is clearly contradictory. *See Vertical Solutions Mgmt., Inc. v. webnet-marketing, inc.*, FA 95095 (Nat. Arb. Forum July 31, 2000) (holding that the respondent's failure to respond allows all reasonable inferences of fact in the allegations of the complaint to be deemed true); *see also Talk City, Inc. v. Robertson*, D2000-0009 (WIPO Feb. 29, 2000) ("In the absence of a response, it is appropriate to accept as true all allegations of the Complaint.").

Paragraph 4(a) of the Policy requires that Complainant must prove each of the following three elements to obtain an order that a domain name should be cancelled or transferred:

- (1) the domain name registered by Respondent is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (2) Respondent has no rights or legitimate interests in respect of the domain name; and
- (3) the domain name has been registered and is being used in bad faith.

Identical and/or Confusingly Similar

Complainant must first establish that it has rights in the CENTRUM FORCE and CENTRI-MAXX marks under Policy ¶ 4(a)(i). Complainant submitted evidence of federal trademark registrations of the marks in September 2008. These registrations establish rights in the marks. *See Thermo Electron Corp. v. Xu*, FA 713851 (Nat. Arb. Forum July 12, 2006) (finding that the complainants had established rights in marks where the marks were registered with a trademark authority); *see also Trip Network Inc. v. Alviara*, FA 914943 (Nat. Arb. Forum Mar. 27, 2007) (finding that the complainant's federal trademark registrations for the CHEAPTICKETS and CHEAPTICKETS.COM marks were adequate to establish its rights in the mark pursuant to Policy ¶ 4(a)(i)). The Panel finds that Complainant may also choose to establish common law rights in its marks under Policy ¶ 4(a)(i). *See SeekAmerica Networks Inc. v. Masood*, D2000-0131 (WIPO Apr. 13, 2000) (finding that the Rules do not require that the complainant's trademark or service mark be registered by a government authority or agency for such rights to exist); *see also Goepfert v. Rogers*, FA 861124 (Nat. Arb. Forum Jan. 17, 2007) ("[T]here is no particular amount of evidence required in order to establish common law rights. The determination of what is sufficient is ad hoc based on the specific facts and circumstances involved, as is the scope of the rights once established.").

Complainant registered the CENTRUM FORCE mark as a trade name with the Michigan Department of Labor in February 2007. Beginning in February 2007, Complainant marketed its CENTRI-MAXX area rug cleaners under the business name CENTRUM FORCE. The USPTO registrations list the first use in commerce date of both marks as February 21, 2007. While the trademark registration was issued after the disputed domain names were registered, the issuance of the trademark supports the Panel's finding that Complainant has established rights in the marks pursuant to Policy ¶ 4(a)(i). The Panel finds that Complainant has established common law rights in the CENTRUM

FORCE and CENTRI-MAXX marks prior to Respondent's registration of the disputed domain name through its continuous use of the marks and pursuant to Policy ¶ 4(a)(i). *See Artistic Pursuit LLC v. calcuttawebdevelopers.com*, FA 894477 (Nat. Arb. Forum Mar. 8, 2007) (concluding that the complainant had established common law rights in the ARTISTIC PURSUIT mark by using the mark in commerce before Respondent registered the disputed domain name); *see also Bob Jones Univ. v. Kane*, FA 324692 (Nat. Arb. Forum Oct. 21, 2004) (finding that the complainant's listing of first use of the BOB JONES UNIVERSITY mark on its USPTO registration information establishes that the complainant had used the mark continuously and extensively since the time of first use, thereby establishing rights in the mark pursuant to Policy ¶ 4(a)(i)).

The <centrumforce.com>, <centrumforce.org>, <centrumforce.net>, <centrumforce.info>, and <centrumforce.biz> domain names consist of Complainant's CENTRUM FORCE mark, omitting the space between the two words of the mark and adding a generic top-level domain ("gTLD"). The Panel finds that the omission of a space and the addition of a gTLD is immaterial for an analysis under Policy ¶ 4(a)(i) and therefore the disputed domain names are identical to Complainant's CENTRUM FORCE mark. *See Hannover Ruckversicherungs-AG v. Ryu*, FA 102724 (Nat. Arb. Forum Jan. 7, 2001) (finding <hannoverre.com> to be identical to HANNOVER RE, "as spaces are impermissible in domain names and a generic top-level domain such as '.com' or '.net' is required in domain names"); *see also U.S. News & World Report, Inc. v. Zhongqi*, FA 917070 (Nat. Arb. Forum Apr. 9, 2007) ("Elimination of punctuation and the space between the words of Complainant's mark, as well as the addition of a gTLD does not sufficiently distinguish the disputed domain name from the mark pursuant to Policy ¶ 4(a)(i).").

The <centrimaxx.com>, <centrimaxx.org>, <centrimaxx.net>, <centrimaxx.info>, and <centrimaxx.biz>, domain names omit the hyphen from Complainant's CENTRI-MAXX mark and add a gTLD. The Panel finds that the omission of a hyphen and addition of a gTLD renders the disputed domain names confusingly similar pursuant to Policy ¶ 4(a)(i). *See Isleworth Land Co. v. Lost in Space, SA*, FA 117330 (Nat. Arb. Forum Sept. 27, 2002) ("[I]t is a well established principle that generic top-level domains are irrelevant when conducting a Policy ¶ 4(a)(i) analysis."); *see also Nat'l Cable Satellite Corp. v. Black Sun Surf Co.*, FA 94738 (Nat. Arb. Forum June 19, 2000) (holding that the domain name <cspan.net>, which omitted the hyphen from the trademark spelling, C-SPAN, is confusingly similar to the complainant's mark under Policy ¶ 4(a)(i)).

The <centri-maxx.com>, <centri-maxx.org>, <centri-maxx.net>, <centri-maxx.info>, and <centri-maxx.biz> domain names consist of Complainant's CENTRI-MAXX mark in its entirety with a gTLD added to the end. The Panel finds these five disputed domain names are identical to Complainant's CENTRI-MAXX mark pursuant to Policy ¶ 4(a)(i). *See Isleworth, supra*; *see also Sea World, Inc. v. JMXTRADE.com*, FA 872052 (Nat. Arb. Forum Feb. 12, 2007) ("[Since] [t]he top-level gTLD is merely a functional element

required of every domain name, the <shamu.org> domain name is identical to the SHAMU mark under a Policy ¶ 4(a)(i).”).

The Panel finds that Complainant has satisfied Policy ¶ 4(a)(i).

Rights or Legitimate Interests

Pursuant to Policy ¶ 4(a)(ii), Complainant must first establish a *prima facie* case that Respondent has no rights or legitimate interests in the disputed domain names. If the Panel finds that Complainant’s allegations establish such a *prima facie* case, the burden shifts to Respondent to show that it does indeed have rights or legitimate interests in the disputed domain names pursuant to the guidelines in Policy ¶ 4(c). The Panel finds that Complainant’s allegations are sufficient to establish a *prima facie* case that Respondent has no rights or legitimate interests in the disputed domain names pursuant to Policy ¶ 4(a)(ii). Since no response was submitted in this case, the Panel may presume that Respondent has no rights or legitimate interests in the disputed domain names. However, the Panel will still examine the record in consideration of the factors listed in Policy ¶ 4(c). *See Domtar, Inc. v. Theriault.*, FA 1089426 (Nat. Arb. Forum Jan. 4, 2008) (“It is well established that, once a complainant has made out a *prima facie* case in support of its allegations, the burden shifts to respondent to show that it does have rights or legitimate interests pursuant to paragraph 4(a)(ii) of the Policy.”); *see also G.D. Searle v. Martin Mktg.*, FA 118277 (Nat. Arb. Forum Oct. 1, 2002) (“Because Complainant’s Submission constitutes a *prima facie* case under the Policy, the burden effectively shifts to Respondent. Respondent’s failure to respond means that Respondent has not presented any circumstances that would promote its rights or legitimate interests in the subject domain name under Policy ¶ 4(a)(ii).”).

The Panel finds no evidence in the record suggesting that Respondent is commonly known by any of the disputed domain names. Complainant asserts that Respondent has no license or agreement with Complainant authorizing Respondent to use the CENTRUM FORCE or CENTRI-MAXX marks, and the WHOIS information identifies Respondent as “Diogenis Mavridis.” Thus, the Panel finds that Respondent has not established rights or legitimate interests in the disputed domain name under Policy ¶ 4(c)(ii). *See Tercent Inc. v. Lee Yi*, FA 139720 (Nat. Arb. Forum Feb. 10, 2003) (stating “nothing in Respondent’s WHOIS information implies that Respondent is ‘commonly known by’ the disputed domain name” as one factor in determining that Policy ¶ 4(c)(ii) does not apply); *see also Am. W. Airlines, Inc. v. Paik*, FA 206396 (Nat. Arb. Forum Dec. 22, 2003) (“Respondent has registered the domain name under the name ‘Ilyoup Paik a/k/a David Sanders.’ Given the WHOIS domain name registration information, Respondent is not commonly known by the [<awvacations.com>] domain name.”).

The disputed domain names resolve to websites that directly compete with Complainant in a highly specialized industry. The Panel infers that the resolving website either belongs to Respondent or the owner of the resolving websites is paying Respondent to direct Internet users from its direct competitor. Either way, the Panel finds that

Respondent is attempting to disrupt Complainant's business for financial gain. The Panel further finds Respondent's use is neither a *bona fide* offering of goods or services under Policy ¶ 4(c)(i) nor a legitimate noncommercial or fair use under Policy ¶ 4(c)(iii). See *Bank of Am. Corp. v. Nw. Free Cmty. Access*, FA 180704 (Nat. Arb. Forum Sept. 30, 2003) ("Respondent's demonstrated intent to divert Internet users seeking Complainant's website to a website of Respondent and for Respondent's benefit is not a bona fide offering of goods or services under Policy ¶ 4(c)(i) and it is not a legitimate noncommercial or fair use under Policy ¶ 4(c)(iii)."); see also *Coryn Group, Inc. v. Media Insight*, FA 198959 (Nat. Arb. Forum Dec. 5, 2003) (finding that the respondent was not using the domain names for a *bona fide* offering of goods or services under Policy ¶ 4(c)(i) nor a legitimate noncommercial or fair use under Policy ¶ 4(c)(iii) because the respondent used the names to divert Internet users to a website that offered services that competed with those offered by the complainant under its marks).

The Panel finds that Complainant has satisfies Policy ¶ 4(a)(ii).

Registration and Use in Bad Faith

Respondent registered the fifteen disputed domain names on the same day. The Panel finds that registering multiple infringing domain names within such a short period of time is evidence that Respondent wanted to prevent Complainant from reflecting its marks online. The Panel therefore finds Respondent registered and used the domain names in bad faith under Policy ¶ 4(b)(ii). See *Harcourt, Inc. v. Fadness*, FA 95247 (Nat. Arb. Forum Sept. 8, 2000) (finding that one instance of registration of several infringing domain names satisfies the burden imposed by the Policy ¶ 4(b)(ii)); see also *Caterpillar Inc. v. Miyar*, FA 95623 (Nat. Arb. Forum Dec. 14, 2000) (finding that registering multiple domain names in a short time frame indicates an intention to prevent the mark holder from using its mark and provides evidence of a pattern of conduct).

The disputed domain names all redirect Internet users to a website for Complainant's direct competitor. The Panel finds the by doing so, Respondent intended to disrupt Complainant's business by using Complainant's marks. The Panel finds this is evidence of bad faith registration and use pursuant to Policy ¶ 4(b)(iii). See *Surface Prot. Indus., Inc. v. Webposters*, D2000-1613 (WIPO Feb. 5, 2001) (finding that, given the competitive relationship between the complainant and the respondent, the respondent likely registered the contested domain name with the intent to disrupt the complainant's business and create user confusion); see also *EthnicGrocer.com, Inc. v. Latingrocer.com*, FA 94384 (Nat. Arb. Forum July 7, 2000) (finding bad faith under Policy ¶ 4(b)(iii) where the respondent's sites pass users through to the respondent's competing business)

Respondent is using the disputed domain names to redirect Internet users to Complainant's direct competitor. The Panel infers that Respondent is either the direct competitor, or is otherwise profiting from the redirection. Internet users entering any of the disputed domain names, which are identical or confusingly similar to Complainant's marks, would easily become confused as to Complainant's affiliation or sponsorship of

the resolving website. Respondent is seeking to profit from this confusion. The Panel finds this is further evidence of bad faith registration and use pursuant to Policy ¶ 4(b)(iv). *See Velv, LLC v. AAE*, FA 677922 (Nat. Arb. Forum May 25, 2006) (finding that the respondent's use of the <arizonashuttle.net> domain name, which contained the complainant's ARIZONA SHUTTLE mark, to attract Internet traffic to the respondent's website offering competing travel services violated Policy ¶ 4(b)(iv)); *see also Identigene, Inc. v. Genetest Labs.*, D2000-1100 (WIPO Nov. 30, 2000) (finding bad faith where the respondent's use of the domain name at issue to resolve to a website where similar services are offered to Internet users is likely to confuse the user into believing that the complainant is the source of or is sponsoring the services offered at the site).

Furthermore, the Panel finds that it may consider the totality of the circumstances when conducting a Policy ¶ 4(a)(iii) analysis, and that it is not limited to the enumerated factors in Policy ¶ 4(b). *See Do The Hustle, LLC v. Tropic Web*, D2000-0624 (WIPO Aug. 21, 2000) (“[T]he examples [of bad faith] in Paragraph 4(b) are intended to be illustrative, rather than exclusive.”).

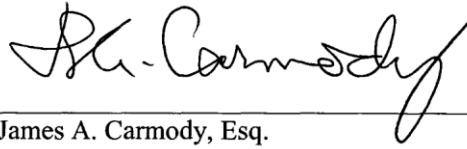
Respondent registered the disputed domain names on March 26, 2007, two days after Complainant's representative appeared at a conference of area rug cleaners under the CENTRUM FORCE name and advertising a area rug cleaning system using the CENTRI-MAXX mark. The Panel finds that the timing of Respondent's registration of the disputed domain names is evidence of opportunistic bad faith registration and use pursuant to Policy ¶ 4(a)(iii). *See Sota v. Waldron*, D2001-0351 (WIPO June 18, 2001) (finding that the respondent's registration of the <seveballesterostrophy.com> domain name at the time of the announcement of the Seve Ballesteros Trophy golf tournament “strongly indicates an opportunistic registration”); *see also Thermo Electron Corp. v. Xu*, FA 713851 (Nat. Arb. Forum July 12, 2006) (“If there had been any doubt as to bad faith, the fact that registration was on the same day the news leaked about the merger, which was put in evidence, is a compelling indication of bad faith that [the] respondent has to refute and which he has failed to do. The panel finds a negative inference from this.”)

The Panel finds that Complainant has satisfies Policy ¶ 4(a)(iii).

DECISION

Having established all three elements required under the ICANN Policy, the Panel concludes that relief shall be **GRANTED**.

Accordingly, it is Ordered that the <centrumforce.com>, <centrumforce.org>, <centrumforce.net>, <centrumforce.info>, <centrumforce.biz>, <centrimaxx.com>, <centrimaxx.org>, <centrimaxx.net>, <centrimaxx.info>, <centrimaxx.biz>, <centri-maxx.com>, <centri-maxx.org>, <centri-maxx.net>, <centri-maxx.info>, and <centri-maxx.biz> domain name be **TRANSFERRED** from Respondent to Complainant.



James A. Carmody, Esq.
Arbitrator

James A. Carmody, Esq., Panelist
Dated: April 16, 2009

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