



NATIONAL ARBITRATION FORUM

DECISION

Sonic-Clear Lake Volkswagen, L.P. v. DOMIBOT
Claim Number: FA0606000736438

PARTIES

Complainant is **Sonic-Clear Lake Volkswagen, L.P.** ("Complainant"), represented by **Ashley M. Long**, Three Wachovia Center, 401 South Tryon Street, Suite 3000, Charlotte, NC 28202. Respondent is **DOMIBOT** ("Respondent"), Avenida Caroni 5478, Colinas Monte, Caracas Venezuela.

REGISTRAR AND DISPUTED DOMAIN NAME

The domain name at issue is <**clearlakevw.com**>, registered with **Belgiumdomains, Llc**.

PANEL

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

Houston Putnam Lowry, Chartered Arbitrator, as Panelist.

PROCEDURAL HISTORY

Complainant submitted a Complaint to the National Arbitration Forum electronically on June 20, 2006; the National Arbitration Forum received a hard copy of the Complaint on June 22, 2006.

On June 22, 2006, Belgiumdomains, Llc confirmed by e-mail to the National Arbitration Forum that the <**clearlakevw.com**> domain name is registered with Belgiumdomains, Llc and that Respondent is the current registrant of the name. Belgiumdomains, Llc has verified that Respondent is bound by the Belgiumdomains, Llc 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 June 23, 2006, a Notification of Complaint and Commencement of Administrative Proceeding (the "Commencement Notification"), setting a deadline of July 13, 2006 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@clearlakevw.com by e-mail.

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

On July 19, 2006, pursuant to Complainant's request to have the dispute decided by a single-member Panel, the National Arbitration Forum appointed Houston Putnam Lowry, Chartered Arbitrator, 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 name be transferred from Respondent to Complainant.

PARTIES' CONTENTIONS

A. Complainant makes the following assertions:

This Complaint is based on the following factual and legal grounds:

The domain name is identical or confusingly similar to a trademark in which Complainant has rights.

(1) Complainant has rights in the name "Clear Lake Volkswagen." Complainant, Sonic – Clear Lake Volkswagen, L.P., has operated a Volkswagen motor vehicle dealership since May 27, 2003 in the Clear Lake area of Houston, Texas. Complainant uses the name "Clear Lake Volkswagen" to promote this dealership. Complainant has continuously used this trade name since it has owned and operated the dealership. Complainant also registered the name "Clear Lake Volkswagen" as an assumed name with the Texas Secretary of State on August 19, 2003 and with the County Clerk of Harris County, Texas on August 28, 2003.

Texas law provides that the prior user of a tradename has a property right in that name, which is protected from imitation. *See Jud Plumbing Shop on Wheels, Inc. v. Jud Plumbing & Heating Co., Inc.*, 695 S.W.2d 75. Complainant's registration of its tradename "Clear Lake Volkswagen" reinforces its exclusive right to the name. *See Tex. Bus. Corp. Act Art. 2.05; see also Tex. Admin. Code §79.37* (prohibiting the registration of a business name which is "deceptively similar" to a business name already on file).

Although Complainant has not filed for a federal trademark, that does not undermine its exclusive rights to the tradename "Clear Lake Volkswagen." Pursuant to

Texas law, common law tradenames are given the same protection as registered trademarks. *See, e.g., Union Nat'l Bank of Tex., Laredo, Tex. v. Union Nat'l Bank of Tex., Austin, Tex.*, 909 F.2d 839, 842 (5th Cir. 1990) (stating that “[o]wnership of trademarks is established by use, not by registration”); *Zapata Corp. v. Zapata Trading Int'l, Inc.*, 841 S.W.2d 45, 47-48 (Tex. App. 1992) (recognizing rights in an unregistered tradename). Additionally, the ICANN dispute resolution policy does not require governmental trademark or service mark registration for the complainant to have rights in that name. *See Florentine Caffe, Inc. v. Pfeffer*, FA 465152 (Nat. Arb. Forum June 3, 2005) (citing *McCarthy on Trademarks and Unfair Competition* § 25:74.2).

As recognized by the arbitration panel in *Sonic-Crest Cadillac, LLC v. Hayes*, FA 212652 (Nat. Arb. Forum Jan. 14, 2004), a motor vehicle dealership that “has established source identifying, secondary meaning” associated with its mark within its geographic area has common law rights to that mark. In *Hayes*, the panel found that the complainant had common law rights in the names Crest Hummer, Hummer of Nashville, and Cadillac of Nashville at least in the Nashville, Tennessee area, since it had operated dealerships by these names in Nashville, Tennessee since 2002. In this case, Complainant, since 2003, has operated and promoted a motor vehicle dealership in the Clear Lake area of Houston, Texas under the name “Clear Lake Volkswagen.” Therefore, as in *Hayes*, the mark “Clear Lake Volkswagen” has source identifying, secondary meaning, at least within the geographic area around the Clear Lake area of Houston, Texas, entitling it to common law trademark rights in that name. *See also Zapata Corp., supra*, 841 S.W.2d at 48 (recognizing a geographical name as a tradename).

(2) Respondent’s domain name “clearlakevw.com” is confusingly similar to Complainant’s trade name. The disputed domain name suggests that it connects to a website that is directly related to Complainant because it fully incorporates Complainant’s tradename by simply abbreviating the word “volkswagen” to “vw.” As recognized by the panel in *Volkswagen Aktiengesellschaft v. SPNC*, WIPO D2003-1036 (Mar. 9, 2004), “VW” is a common abbreviation for Volkswagen. Complainant commonly refers to its own trade name as “Clear Lake VW”, as well as “Clear Lake Volkswagen.” In fact, Complainant has registered and uses the domain name “clearlakevw.net” to promote its dealership.

In a case with similar facts, *Knight Transportation Inc. v. LaPorte Holdings, Inc.*, No. D2004-1022 (WIPO March 8, 2005), the panel found that a domain name containing a word shortened from the complainant’s trademark was confusingly similar to that mark, particularly in a situation where the complainant utilizes a “similar shortening in its domain name.” In *Knight Transportation*, the complainant, who operated under the name Knight Transportation, was using “knighttrans.com” to host a website promoting its services. The respondent registered the domain name “knightrans.com.” The panel, transferring the domain name to the complainant, stated that “confusion will occur here whenever an Internet user is seeking the official website of [the complainant]” since the complainant utilizes the same abbreviation in its own website’s domain name and the respondent’s domain name is confusingly similar. In this case, confusion will occur whenever Internet users, seeking Complainant’s official website “clearlakevw.net”, type

“.com” instead of “.net” and end up at Respondent’s “clearlakevw.com” website. Accordingly, just as in *Knight Transportation*, here the shortening of the word “volkswagen” to “vw” does not distinguish Respondent’s domain name from Complainant’s tradename and the two are confusingly similar.

Further, under ICANN, the addition of a top-level domain (TLD), such as “.com”, does not distinguish the domain name from a confusingly similar tradename. For example, in *Aldahan Automotive Group, Inc. v. Stewart*, FA 98416 (Nat. Arb. Forum Sept. 4, 2001), the arbitration panel found that “metrochevrolet.com” was identical and confusingly similar to the trade name “Metro Chevrolet” regardless of the addition of a TLD in the form of “.com.” In this case, “clearlakevw.com” is confusingly similar to the tradename “Clear Lake Volkswagen” despite the addition of “.com”, and, therefore, is confusingly similar to Complainant’s tradename.

Respondent has no rights or legitimate interests in respect of the domain name that is the subject of this Complaint.

Respondent has no rights to or legitimate interest in the domain name <clearlakevw.com>. Complainant has not licensed or otherwise authorized Respondent to use the “Clear Lake Volkswagen” mark or any variation thereof. Respondent registered the disputed domain name on February 6, 2006, more than two and a half years after Complainant first used the trade name “Clear Lake Volkswagen.”

Under ICANN Policy, when a complainant demonstrates rights in a domain name, the burden shifts to the respondent to prove that he has rights in the name. ICANN Policy ¶4(c)(i)–(iii) provides three situations under which a respondent would have rights in a domain name:

- (i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connections with a bona fide offering of goods or services; or**
- (ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or**
- (iii) you are making a 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.**

Respondent cannot establish any of these situations and, therefore, cannot demonstrate any rights or legitimate interests in the domain name.

Respondent has never used the domain name or the name “Clear Lake Volkswagen” in connection with a *bona fide* offering of goods or services, nor has it made a legitimate non-commercial or fair use of the domain name. Instead, Respondent is using the disputed domain name to redirect Internet traffic to a search engine website. The website has a search box at the top of the page and a list of various links below. **Respondent’s use of the confusingly similar domain name to misdirect Internet users to a search engine website featuring links to other websites is not a bona fide offering of goods or services or a legitimate non-commercial or fair use of the domain name.** See *Yahoo! Inc. et al. v. Chan*, FA 162050 (Nat. Arb. Forum July 16, 2003); *Anheuser-Busch Inc. v. BargainName.com c/o Domain Admin*, FA 338434 (Nat. Arb. Forum Nov. 29, 2004). In both *Yahoo!* and *Anheuser-Busch*, the respondents were using domain names confusingly similar to the complainants’ various marks to redirect Internet traffic to general search engine websites. In each case, the administrative panel found that the respondent’s use of the complainant’s marks in such a way was not a bona fide offering of goods or services or a legitimate noncommercial or fair use.

Further, Respondent has never been commonly known by the name “Clear Lake VW”. Respondent does not now use and has never used the name in connection with a legitimate business. Respondent registered the domain name under the name Domibot, which has no apparent relation to the name “clearlakevw.com” name. This is evidence that Respondent is not commonly known by the name. See *Nike, Inc. v. BargainName.com*, FA 496731 (Nat. Arb. Forum August 2, 2005) (pointing out that the respondent registered the domain name <nikezone.com> under the name “BargainName.com” and finding that, where the Whois contact information has no relation to the domain name, one can infer that the respondent is not commonly known by the name).

In fact, Respondent’s own website <domibot.com> states: “Domibot registers expiring and previously registered domains using an automated process. No humans are involved in selecting domains.” On March 24, 2006 and April 3, 2006, Counsel for Complainant sent Respondent a letter and an email, respectively, requesting the transfer of the domain name. Respondent responded on April 4, 2006, stating that it was “really sorry” and that it would delete the domain name the next week. Two months have passed and Respondent has failed to delete its registration of the domain name. This correspondence is further evidence that Respondent has no interest in the domain name and in fact, Respondent admits it has no interest in the name.

The domain name was registered and is being used in bad faith.

ICANN Policy ¶4(b) provides, without limitation, four factors that demonstrate that the registration and use of a domain name was and is in bad faith. Respondent’s bad faith in this case falls under the fourth factor:

- iv. By using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other on-line location, by creating a

likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your website or location.

With respect to the fourth factor, **Respondent's reliance on the goodwill surrounding Complainant's mark to redirect Internet users to a search engine website with various commercial links unrelated to Complainant for its own commercial gain equates to bad faith use and registration of the domain name.** See, e.g., *Anheuser-Busch Inc. v. BargainName.com c/o Domain Admin*, FA 338434 (Nat. Arb. Forum Nov. 29, 2004); *Yahoo! Inc., supra*, FA 162050; *Kmart v. Kahn*, FA 127708 (Nat. Arb. Forum Nov. 22, 2002). In *Anheuser-Busch*, the respondent was using a domain name confusingly similar to the complainant's mark to divert Internet users to a website featuring a generic search engine and various commercial links. The panel found that the respondent acted in bad faith under Policy ¶4(b)(iv) because the respondent was likely generating revenue from the redirection of Internet users through pay-per-click fees. In *Kmart*, the respondent was using a domain name identical to the complainant's mark to divert Internet users to a website displaying links to various other websites. The panel, stating that "[i]t can be inferred that Respondent makes a profit from the amount of Internet traffic it diverts to these websites," found that the respondent was acting in bad faith by commercially benefiting from the likelihood of confusion it created by using the complainant's mark.

As in *Anheuser-Busch* and *Kmart*, Respondent in this case is exploiting Complainant's goodwill by using a domain name confusingly similar to Complainant's mark to attract users to a search engine website with commercial links. As discussed above, the infringing domain name links to a website that displays a large search box at the top and contains a number of commercial links. Respondent's use of the domain name in such a way can be inferred to be for commercial gain because Respondent is likely receiving revenues for any searches conducted or links followed by misdirected Internet traffic. The domain name incorporates Complainant's mark in such a way that it is likely Internet users will be confused as to the sponsorship or affiliation of the website. In fact, the domain name is identical to the domain name Complainant uses to operate its website, except for the top level domain ".net." For these reasons, Respondent's registration and use of the domain name constitutes bad faith under ¶4(b)(iv).

As discussed above, Respondent was informed of Complainant's rights in the domain name "clearlakevw.com" and Respondent admitted that it has no rights in the domain name. In fact, Respondent told Complainant's attorney that it was "sorry" about the registration and that it would delete the domain name the next week. Yet, Respondent has failed to delete its registration of the domain name and instead, has continued to use to link to a search engine website. Respondent is clearly attempting to take advantage of Complainant's mark, despite the fact that Respondent has actual knowledge of Complainant's rights.

For all of the above reasons, Respondent's registration and use of the domain name "clearlakevw.com" was and continues to be in bad faith.

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

FINDINGS

Complainant, Sonic-Clear Lake Volkswagen, L.P., has operated a Volkswagen motor vehicle dealership since May 27, 2003 in the Clear Lake area of Houston, Texas. Complainant uses the CLEAR LAKE VOLKSWAGEN mark for this dealership, and registered "Clear Lake Volkswagen" as an assumed name with the Texas Secretary of State on August 19, 2003 and with the County Clerk of Harris County, Texas, on August 28, 2003. Complainant has used the CLEAR LAKE VOLKSWAGEN mark continuously since opening on May 27, 2003, and operates a website at <clearlakevw.net>.

Respondent registered the <clearlakevw.com> domain name on February 6, 2006. Respondent's disputed domain name resolves to a website that displays links to unrelated third-party websites.

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 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 is not required to own a trademark registration to establish rights in the CLEAR LAKE VOLKSWAGEN mark under Policy ¶4(a)(i). *See Great Plains Metromall, LLC v. Creach*, FA 97044 (Nat. Arb. Forum May 18, 2001) (“The Policy does not require that a trademark be registered by a governmental authority for such rights to exist.”); *see also 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).

Complainant has established common law rights in the CLEAR LAKE VOLKSWAGEN mark through continuous and extensive use of the mark in connection with its car dealership business since 2003. Complainant has officially registered the CLEAR LAKE VOLKSWAGEN mark as an assumed name with both the State of Texas and Harris County, Texas. Complainant has also registered the <clearlakevw.net> domain name. Complainant has done business under this name for years. Therefore, the Panel finds Complainant's CLEAR LAKE VOLKSWAGEN mark has acquired secondary meaning sufficient to establish both common law and statutory rights in the mark. *See Tuxedos By Rose v. Nunez*, FA 95248 (Nat. Arb. Forum Aug. 17, 2000) (finding common law rights in a mark where its use was continuous and ongoing, and secondary meaning was established); *see also Nat'l Ass'n of Prof'l Baseball Leagues v. Zuccarini*, D2002-1011 (WIPO Jan. 21, 2003) (finding that the complainant had provided evidence that it had valuable goodwill in the <minorleaguebaseball.com> domain name, establishing common law rights in the MINOR LEAGUE BASEBALL mark).

Respondent's <clearlakevw.com> domain name is confusingly similar to Complainant's CLEAR LAKE VOLKSWAGEN mark under Policy ¶4(a)(i) as it shortens one element of the mark, “Volkswagen” to a common abbreviation for the term, “vw”. In *Microsoft Corp. v. Montrose Corp.*, D2000-1568 (WIPO Jan. 25, 2001), the panel found that the domain name <ms-office-2000.com> was confusingly similar to the complainant's mark, even though the mark MICROSOFT was abbreviated. *See Modern Props, Inc. v. Wallis*, FA 152458 (Nat. Arb. Forum June 2, 2003) (“Notwithstanding the analysis by Respondent, ‘modprops’ is a contraction or shorthand for ‘Modern Props.’ ‘Mod’ connotes [sic] ‘modern’ regardless of any other dictionary meanings, so the names are substantially similar in meaning.”). Consequently, the Panel finds the disputed domain name is confusingly similar to Complainant's mark under Policy ¶4(a)(i).

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

Rights or Legitimate Interests

Complainant has alleged Respondent lacks rights and legitimate interests in the <clearlakevw.com> domain name. Complainant has the initial burden of proof in establishing Respondent lacks rights or legitimate interests in the domain name. Once Complainant makes a *prima facie* case in support of its allegations, the burden then shifts

to Respondent to show it does have rights or legitimate interests pursuant to Policy ¶4(a)(ii). *See Do The Hustle, LLC v. Tropic Web*, D2000-0624 (WIPO Aug. 21, 2000) (holding that, where the complainant has asserted that the respondent has no rights or legitimate interests with respect to the domain name, it is incumbent on the respondent to come forward with concrete evidence rebutting this assertion because this information is “uniquely within the knowledge and control of the respondent”); *see also Compagnie Generale des Matieres Nucleaires v. Greenpeace Int’l*, D2001-0376 (WIPO May 14, 2001) (“Proving that the Respondent has no rights or legitimate interests in respect of the Domain Name requires the Complainant to prove a negative. For the purposes of this sub paragraph, however, it is sufficient for the Complainant to show a prima facie case and the burden of proof is then shifted on to the shoulders of Respondent. In those circumstances, the common approach is for respondents to seek to bring themselves within one of the examples of paragraph 4(c) or put forward some other reason why they can fairly be said to have a relevant right or legitimate interests in respect of the domain name in question.”).

Respondent’s failure to respond to the Complaint raises a presumption Respondent has no rights or legitimate interests in the <clearlakevw.com> domain name. *See Talk City, Inc. v. Robertson*, D2000-0009 (WIPO Feb. 29, 2000) (“Given Respondent’s failure to submit a substantive answer in a timely fashion, the Panel accepts as true all of the allegations of the complaint.”); *see also Desotec N.V. v. Jacobi Carbons AB*, D2000-1398 (WIPO Dec. 21, 2000) (finding that failing to respond allows a presumption that the complainant’s allegations are true unless clearly contradicted by the evidence). However, the Panel will now examine the record to determine if Respondent has rights or legitimate interests in the disputed domain name under Policy ¶4(c).

Respondent’s WHOIS information does not suggest Respondent is commonly known by the disputed domain name. There is also no evidence in the record to suggest that Respondent is or has ever been known by the disputed domain name. In *Ian Schragger Hotels, L.L.C. v. Taylor*, FA 173369 (Nat. Arb. Forum Sept. 25, 2003), the panel found that without demonstrable evidence to support the assertion that a respondent is commonly known by a domain name, the assertion must be rejected. *See Gallup, Inc. v. Amish Country Store*, FA 96209 (Nat. Arb. Forum Jan. 23, 2001) (finding that the respondent does not have rights in a domain name when the respondent is not known by the mark). The Panel accordingly finds Respondent is not commonly known by the disputed domain name under Policy ¶4(c)(ii).

Respondent’s <clearlakevw.com> domain name resolves to a website that displays links to unrelated third-party websites. The Panel presumes Respondent is operating the disputed domain name and corresponding website for its own commercial gain by receiving click-through fees for the links displayed on its website. In *Disney Enters., Inc. v. Dot Stop*, FA 145227 (Nat. Arb. Forum Mar. 17, 2003), the panel found that the respondent’s diversionary use of the complainant’s mark to attract Internet users to its own website, which contained a series of hyperlinks to unrelated websites, was neither a *bona fide* offering of goods or services nor a legitimate noncommercial or fair use of the

disputed domain names. *See Black & Decker Corp. v. Clinical Evaluations*, FA 112629 (Nat. Arb. Forum June 24, 2002) (holding that the respondent's use of the disputed domain name to redirect Internet users to commercial websites, unrelated to the complainant and presumably with the purpose of earning a commission or pay-per-click referral fee did not evidence rights or legitimate interests in the domain name). The Panel finds Respondent's use of the disputed domain name does not qualify as a *bona fide* offering of goods or services under Policy ¶4(c)(i) or a legitimate noncommercial or fair use under Policy ¶4(c)(iii).

When it was brought to Respondent's attention on March 24, 2006 it was infringing on Complainant's mark, Respondent apologized and promised to delete the domain name. Despite some passage of time, Respondent has failed to do this.

The Panel finds Policy ¶4(a)(ii) satisfied.

Registration and Use in Bad Faith

Based on the uncontested evidence presented by Complainant, the Panel infers Respondent receives click-through fees for diverting Internet users to a website that displays links which resolve to third-party websites. Respondent's domain name using an abbreviated form of Complainant's CLEAR LAKE VOLKSWAGEN mark is capable of creating confusion as to Complainant's affiliation with the <clearlakevw.com> domain name and resulting website. The Panel finds such use of the disputed domain name constitutes bad faith registration and use under Policy ¶4(b)(iv). *See Kmart v. Khan*, FA 127708 (Nat. Arb. Forum Nov. 22, 2002) (finding that if the respondent profits from its diversionary use of the complainant's mark when the domain name resolves to commercial websites and the respondent fails to contest the complaint, it may be concluded that the respondent is using the domain name in bad faith pursuant to Policy ¶4(b)(iv)); *see also Hancock Fabrics, Inc. v. Active Advantage, Inc.*, FA 204111 (Nat. Arb. Forum Dec. 4, 2003) ("Respondent's use of the <hancockfabric.com> domain name, a domain name confusingly similar to Complainant's HANCOCK FABRICS mark, to redirect Internet traffic to a website that provides a selection of jokes demonstrates Respondent's bad faith use of the disputed domain name because Respondent has created a likelihood of confusion as to the source, sponsorship, affiliation or endorsement of Respondent's website, which evidences bad faith registration and use under Policy ¶4(b)(iv).").

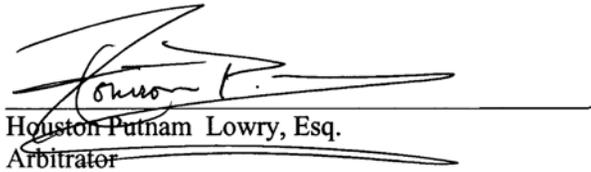
Promising on April 4, 2006 to delete the domain name, but failing to do so, is further evidence of Respondent's bad faith.

The Panel finds that Policy ¶4(a)(iii) has been satisfied.

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 <clearlakevw.com> domain name be **TRANSFERRED** from Respondent to Complainant.



Houston Putnam Lowry, Esq.
Arbitrator

Houston Putnam Lowry, Chartered Arbitrator, Panelist
Dated: August 2, 2006