



## NATIONAL ARBITRATION FORUM

### DECISION

Haas Automation, Inc. v Manila Industries  
Claim Number: FA0908001280229

#### PARTIES

Complainant is **Haas Automation, Inc.** ("Complainant"), represented by **Farah P. Bhatti**, of **Buchalter Nemer**, California, USA. Respondent is **Manila Industries** ("Respondent"), California, USA.

#### REGISTRAR AND DISPUTED DOMAIN NAMES

The domain names at issue are <**cnchass.com**> and <**haas-automation.com**>, registered with **Web Commerce Communications Limited** d/b/a **Webnic.cc**.

#### 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 August 18, 2009; the National Arbitration Forum received a hard copy of the Complaint on August 19, 2009.

On August 19, 2009, Web Commerce Communications Limited d/b/a Webnic.cc confirmed by e-mail to the National Arbitration Forum that the <**cnchass.com**> and <**haas-automation.com**> domain names are registered with Web Commerce Communications Limited d/b/a Webnic.cc and that Respondent is the current registrant of the names. Web Commerce Communications Limited d/b/a Webnic.cc has verified that Respondent is bound by the Web Commerce Communications Limited d/b/a Webnic.cc 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 August 24, 2009, a Notification of Complaint and Commencement of Administrative Proceeding (the "Commencement Notification"), setting a deadline of September 14, 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@cnchass.com and postmaster@haas-automation.com by e-mail.

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

On September 17, 2009, 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 names be transferred from Respondent to Complainant.

#### **PARTIES' CONTENTIONS**

A. Complainant makes the following assertions:

1. Haas enjoys very strong worldwide rights in and recognition of the mark HAAS and HAAS AUTOMATION. The HAAS and HAAS AUTOMATION marks have been associated with computer numerically controlled (or CNC) machines for over twenty-five (25) years. In addition to common law rights in the HAAS and HAAS AUTOMATION marks, Haas owns four (4) trademark registrations for goods and services relating to computer numerically

controlled machines for marks that incorporate the HAAS mark, including  (Reg. No. 2,573,776), HAAS AUTOMATION (Reg. No. 2,573,775), HAAS FACTORY OUTLET (Reg. No. 3,533,101) and HAAS FACTORY OUTLET (Reg. No. 3,514,894). Haas has developed substantial goodwill in its name, HAAS AUTOMATION and the other various HAAS marks, as well as its official domain name, *haascnc.com*.

2. Complainant has adopted and has continually used in commerce, since at least as early as 1983, marks incorporating the term HAAS and HAAS AUTOMATION in connection with computer numerically controlled machines and services related thereto. Complainant notes that its official domain name is *haascnc.com*. Haas considers itself a global leader in the production and manufacturing of computer numerically controlled machines and related services. In fact, Haas is the largest CNC machine tool builder in the Western World. Due to its success in the industry and amongst its competitors, Haas has achieved international recognition in the field of CNC machines and related services and has acquired distinctiveness. Haas zealously protects its HAAS marks and enforces its rights in the event the HAAS marks are infringed upon.

3. Complainant's marks are famous for use in connection with CNC Machines and related services and Complainant has invested substantial monies in these marks. As a result of this widespread, continuous and prominent use, the Complainant's Marks have acquired significant goodwill, public recognition, and international fame as a means by which the public identifies Complainant's CNC machines and related services. In addition, customers can view Complainant's products through Complainant's website at [www.haascnc.com](http://www.haascnc.com).

### **Factual and Legal Grounds on Which the Complaint is Made**

#### **A. The Domain Names Are Confusingly Similar to the Complainant's Marks and Official Domain**

4. The Domain Names are confusingly similar to Haas' valuable HAAS and HAAS AUTOMATION trademarks, as well as Haas' official domain, *haascnc.com*. Haas has been an industry leader and is well-known as a provider of CNC Machines and related services for several years and has been using the HAAS and HAAS AUTOMATION trademarks and company name for over 25 years. Haas registered and has used the domain name *haascnc.com* since 2001. The Domain Name's incorporation of a misspelling of Haas' name and the inversion of the name and the generic term CNC, namely, *cnchass.com* is likely to mislead and divert web users trying to locate legitimate information about Complainant's products, and Complainant's own website, *haascnc.com*. In this same regard, the Domain Name *haas-automation.com* is likely to mislead and divert web users who may use Complainant's trademark and company name to locate its official website.

5. Respondent's Domain Name, *cnchass.com* simply misspells the mark, adding a second "s" to the word and removing an "a" while inverting the generic term CNC so that it appears before the word HASS. As the Domain Name reflects Complainant's mark and its domain in its entirety, and the inversion and misspelling do not add any distinguishing characteristics, the overall impression of the Domain Name remains Complainant's HAAS and *haascnc* marks and domain. By registering a domain name that merely incorporates a misspelling in the famous mark HAAS and the domain *haascnc.com*, Respondent clearly creates a likelihood of confusion with Complainant's mark and domain as to the source, sponsorship, affiliation, or endorsement of the Domain Name and the web site to which it resolves. See *Victoria's Secret et al v. Atchinson Investments LTD*, FA 96464 (Nat. Arb. Forum Feb. 27, 2001) (finding <victoriasscreats.com> confusingly similar as a misspelling of the VICTORIA'S SECRET mark; the "additions of the letters "a" and "s" do not circumvent the Complainant's rights in the mark nor avoid the confusing similarity aspect under Policy 4(a)(i)"); *Victoria's Secret et al. v. Zuccarini*, FA 95762 (Nat. Arb. Forum Nov. 18, 2000) (finding "<victoriasecerets.com>", <victoriasecretes.com>, <victoreasecret.com>, <victoriasecerts.com>, and other misspelled variations of "Victoria's Secret" are confusingly similar to VICTORIA'S SECRET mark). As a result, it is highly unlikely – if not impossible – that Respondent's Domain Name *will not* cause confusion, mistake and misleadingly divert Internet users trying to locate Complainant's official site.

6. Respondent's Domain Name, *haas-automation.com*, incorporates Complainant's company name but includes a hyphen between the terms "HAAS" and "AUTOMATION." The Domain Name incorporates Complainant's mark in its entirety such that the domain is confusingly similar to Complainant's mark. See *iBiomatrics LLC v. The Domain Name You Have Entered Is For Sale*, FA0008000095429 (Nat. Arb Forum Sept. 20, 2000) ("The presence or absence of punctuation and the addition of ".com" are of no consequence when establishing the identity of marks."); See *Barney's Inc. v. BNY Bulletin Board*, D2000-0059 (WIPO Apr. 2, 2000); *General Electric Co. v. Bakhit*, D2000-0386 (WIPO June 22, 2000) (finding that placing a hyphen in domain name between "General" and "Electric" is confusingly similar to Complainant's mark).

**B. Respondent Has No Rights or Legitimate Interest in the Domain Names**

7. Complainant's Marks are not descriptive words in which the Respondent might have an interest. Complainant's Marks have acquired distinctiveness through their substantial, continuous and exclusive use for over twenty-five (25) years in connection with Complainant's computer numerically controlled machines and related services. Complainant's Marks have been used and known worldwide to identify Complainant's goods and services.

8. Complainant has not consented to Respondent's use of the Domain Names.

9. Respondent is not using the Domain Names in connection with a bona fide offering of goods or services. See Policy, Paragraph 4(c)(iii).

10. Respondent is not making a legitimate noncommercial fair use of the Domain Names. See Policy, Paragraph 4(c)(iii).

11. Respondent is using the Domain Names for a web site that promotes other commercial web sites. The Domain Names currently resolve to web sites that provide various sponsored click-through links, which direct Internet users to third party commercial websites offering goods competing with Complainant's goods.

12. The web sites located at the Domain Names are not owned, affiliated with, or endorsed by Complainant. Respondent is neither affiliated with, nor has it been licensed or permitted to use Complainant's HAAS or HAAS AUTOMATION marks or any domain names incorporating the marks. None of the linked websites are affiliated with, sponsored or endorsed by Complainant. Therefore, Respondent's Domain Names infringe upon Complainant's HAAS and HAAS AUTOMATION mark.

13. Respondent is using the Domain Names to divert internet traffic from the legitimate HAAS website, *haascnc.com*.

14. Moreover, Respondent's use of the Domain Names to run click-through links or to redirect users to sponsored web sites does not qualify as a bona fide offering of goods and services, and it is presumed that the registrant received compensation for each misdirected user. See, e.g. *Victoria's Secret Stores Brand Management, Inc. v. Wireless Marketing Enterprises, LLC*, FA0805001191372 (NAF July 2, 2008) (inferring that the use of a Domain Name to

display links to third-party websites which earn click-through fees is not a *bona fide* offering of goods or services. See Policy 4(c)(i).

15. On information and belief, Respondent is not commonly known by the Domain Names, either as a business, individual or other organization. See Policy 4(c)(ii). Nothing in the Respondent's WHOIS information implies that Respondent is "commonly known" by the Domain Names. 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). Additionally, Respondent registered the ***cnchass.com*** Domain Name almost twenty-two (22) years after Complainant began using its HAAS mark and registered its ***haas-automation.com*** domain name twenty-six (26) years after Complainant began using its HAAS AUTOMATION mark. Moreover, Respondent registered the ***cnchass.com*** domain name nine (9) years after Complainant had registered the domain name ***haascnc.com*** for its official website and registered ***haas-automation.com*** thirteen (13) years after Complainant registered its domain. *Charles Jourdan Holding AG v. AAIM*, D2000-0403 (WIPO June 27, 2000) (finding no rights or legitimate interests where (1) the respondent is not a licensee of the complainant; (2) the complainant's prior rights in the domain name precede the respondent's registration; and (3) the respondent is not commonly known by the domain name in question).

16. Respondent is not making a legitimate noncommercial or fair use of the Domain Names. On information and belief, the sole reason Respondent has chosen the ***cnchass.com*** and ***haas-automation.com*** domain names is to trade off the reputation and goodwill associated with Complainant's HAAS and HAAS AUTOMATION marks and ***haascnc.com*** domain and misleadingly divert Internet traffic from Complainant's website to Respondent's websites for commercial gain. See Policy 4(c)(iii).

### C. The Domain Names Were Registered in Bad Faith

17. Complainant notes that Respondent is the registrant of two (2) infringing domain names that are the subject of this Complaint. With regard to the ***cnchass.com*** domain, Complainant's counsel sent a letter via E-Mail to the previous named registrant of the domain on November 20, 2008, addressed to Texas International Property Associates. Complainant's counsel received a response from Texas International Property Associates on November 23, 2008 indicating that it would provide a response within fifteen (15) to twenty-one (21) days. Complainant's counsel did not receive a response from Texas International Property Associates within that time period and sent a follow up letter via email on February 18, 2009. Both letters were sent to the email address [texasipa@gmail.com](mailto:texasipa@gmail.com).

18. With regard to the ***haas-automation.com*** domain, Complainant's counsel sent a letter via e-mail to the current registrant on July 23, 2009 to the e-mail address [reg\\_536742@whoisprotection.cc](mailto:reg_536742@whoisprotection.cc) which was listed in the WHOIS information available at the time. No response was received.

19. On August 19, 2009, upon receiving the complaint filed in connection with the Domain Names, Respondent sent to Complainant an email stating that it would be willing to

transfer the domains to Complainant. Respondent's admission to transfer the domains upon receiving the complaint is a clear indication of Respondent's bad faith in registering the domains. *See Marcor Int'l v. Langevin*, FA 96317 (Nat. Arb. Forum Jan. 12, 2001) (Respondent's willingness to transfer the domain name indicates that it has no rights or legitimate interests in the domain name); *See also Colgate-Palmolive Co. v Domains for Sale*, FA 96248 (Nat. Arb. Forum Jan. 18, 2001).

20. Respondent is neither affiliated with, nor has it been licensed or permitted to use Complainant's HAAS or HAAS AUTOMATION marks or any domain names incorporating the marks.

21. Respondent is using the Domain Names to redirect Internet users to commercial websites where Respondent provides various sponsored click-through links which direct to commercial website offering goods in competition with Complainant's goods. Respondent registered the Domain Names with the intent to attract Internet users to its web sites for commercial gain by creating a likelihood of confusion with Complainant's marks as to the source, sponsorship, affiliation or endorsement of Respondent's websites, thereby misleadingly diverting Internet traffic from Complainant's web site to Respondent's websites for commercial gain. *See Policy 4(b)(iv)*.

22. Using Complainant's HAAS and HAAS AUTOMATION marks and its official domain name, **haascnc.com** in a domain name that resolves to a web page displaying various third party commercial links, many of whom offer products in direct competition with those offered under Complainant's mark, is recognized under the Policy as evidence of bad faith registration and use. *See Victoria's Secret Stores Brand Management, Inc. v. PabloPalermao*, FA0805001191651 (NAF July 9, 2008); *Policy 4(b)(iv)*.

23. The fact that it is presumed that Respondent commercially benefits from the use of such third party links through the accrual of click-through fees provides additional evidence of Respondent's bad faith registration and use. *See Victoria's Secret Stores Brand Management, Inc. v. PabloPalermao*, FA 0805001191651 (NAF July 9, 2008) ("The Panel presumes that Respondent is commercially benefitting from the use of such links through the accrual of click-through fees. As a result, the Panel finds this to be additional evidence Respondent registered and is using the <victoriasecretangel.com> domain name in bad faith").

24. It is inconceivable that Respondent was not aware of Complainant's trademarks HAAS and HAAS AUTOMATION and its official domain or company name, **haascnc.com** and **HAAS AUTOMATION** when Respondent registered the Domain Names. Respondent has registered the misspelling and inversion of Complainant's domain name and has registered Complainant's company name as its domain with the inclusion of a hyphen between the terms HAAS and AUTOMATION. Moreover, Complainant notes that upon receiving Complainant's cease and desist letter of July 23, 2009, Respondent then changes its WHOIS information to hide its identity.

25. Given the well-known status of Complainant's Mark, and given the fact that Respondent is clearly aware of Complainant's Marks and Complainant's ownership of the Marks

and the domain **haascnc.com**, there is no reason for Respondent to have registered the Domain Names other than to trade off the reputation and goodwill of Complainant's Marks. *See Charles Jourdan Holding AG v. AAIM*, D2000-0403 (WIPO, June 27, 2000 (finding that the domain name in question is "so obviously connected with the Complainant and its products that its very use by someone with no connection with Complainant suggests opportunistic bad faith."); *see also National Rifle Association of America v. FMA* (NAF Oct. 13, 2006). At a minimum, the existence of Complainant's numerous trademark registrations charged Respondent with constructive knowledge of those registered marks. *See* 15 U.S.C. §1072; *see also Encyclopedia Britannica, Inc. v. Sheldon.com*, No. D2000-0755 (WIPO, September 6, 2000). Therefore, Respondent has clearly registered and used the Domain Names in bad faith. *See* Policy 4(b)(iv).

26. In addition, Respondent's registration of the Domain Names violates the Anticybersquatting Consumer Protection Act, 15 U.S.C. §43(d), *et seq.*

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

## FINDINGS

Complainant, Haas Automation, Inc., has been associated with computer numerically controlled machines for over twenty-five years. Complainant has registered its HAAS and HAAS AUTOMATION marks with the United States Patent and Trademark Office (i.e. Reg. No. 2,573,776 issued May 28, 2002; and Reg. No. 2,573,775 issued May 28, 2002, respectively). Complainant also operates online at its official <haascnc.com> domain name.

Respondent registered the <cnchass.com> and <haas-automation.com> domain names on December 6, 2005 and December 13, 2005, respectively. The disputed domain names resolve to websites that display click-through advertisements and links for Complainant's third-party competitors.

## 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 has evidenced its registrations of its HAAS (Reg. No. 2,573,776 issued May 28, 2002) and HAAS AUTOMATION (Reg. No. 2,573,775 issued May 28, 2002) marks with the USPTO. The Panel finds Complainant therefore has sufficient rights in the mark pursuant to Policy ¶4(a)(i). *See Paisley Park Enters. v. Lawson*, FA 384834 (Nat. Arb. Forum Feb. 1, 2005) (finding that the complainant had established rights in the PAISLEY PARK mark under Policy ¶4(a)(i) through registration of the mark with the USPTO); *see also 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).

The <**cnchass.com**> domain name contains Complainant's HASS mark while adding the descriptive term "cnc," which stands for Complainant's "computer numerically controlled" machine products, and the generic top-level domain ".com." The Panel finds the additions of a descriptive term (especially under the facts of this case where Complainant's own web site contains the same initials but AFTER the "haas" portion of the domain name) and a top-level domain are insufficient to thwart a finding of confusing similarity between the disputed domain name and the mark. *See Jerry Damson, Inc. v. Tex. Int'l Prop. Assocs.*, FA 916991 (Nat. Arb. Forum Apr. 10, 2007) ("The mere addition of a generic top-level domain ("gTLD") ".com" does not serve to adequately distinguish the Domain Name from the mark."); *see also Gillette Co. v. RFK Assocs.*, FA 492867 (Nat. Arb. Forum July 28, 2005) (finding that the additions of the term "batteries," which described the complainant's products, and the generic top-level domain ".com" were insufficient to distinguish the respondent's <duracellbatteries.com> from the complainant's DURACELL mark). Therefore, the Panel finds the <**cnchass.com**> domain name is confusingly similar to Complainant's HASS mark pursuant to Policy ¶4(a)(i).

Respondent's <**haas-automation.com**> domain name includes Complainant's HASS AUTOMATION mark while adding the generic top-level domain ".com" and substituting the space in the mark with a hyphen. The Panel finds this disputed domain name confusingly similar to Complainant's mark because these additions are of little to no importance under Policy ¶4(a)(i). *See Jerry Damson, supra*; *see also Pirelli & C. S.p.A. v. Tabriz*, FA 921798 (Apr. 12, 2007) (finding that the addition of a hyphen between

terms of a registered mark did not differentiate the <p-zero.org> domain name from the P ZERO mark under Policy ¶4(a)(i).

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

### **Rights or Legitimate Interests**

Complainant has asserted that Respondent lacks rights and legitimate interests in the disputed domain names. Complainant must successfully assert a sufficient *prima facie* case supporting its allegations before Respondent receives the burden of demonstrating its rights or legitimate interests. The Panel finds Complainant has met its burden, and therefore Respondent must demonstrate its rights or legitimate interests under Policy ¶4(c). *See 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).”); *see also Clerical Med. Inv. Group Ltd. v. Clericalmedical.com*, D2000-1228 (WIPO Nov. 28, 2000) (finding that, under certain circumstances, the mere assertion by the complainant that the respondent has no right or legitimate interest is sufficient to shift the burden of proof to the respondent to demonstrate that such a right or legitimate interest does exist).

There is no evidence in the record, including the WHOIS information, to conclude Respondent is commonly known by either of the disputed domain names. Complainant contends Respondent is not a licensee of Complainant, and Respondent was never authorized to register or use the disputed domain names or Complainant’s marks. Therefore, the Panel finds Respondent lacks rights and legitimate interests under Policy ¶4(c)(ii). *See Braun Corp. v. Loney*, FA 699652 (Nat. Arb. Forum July 7, 2006) (concluding that the respondent was not commonly known by the disputed domain names where the WHOIS information, as well as all other information in the record, gave no indication that the respondent was commonly known by the disputed domain names, and the complainant had not authorized the respondent to register a domain name containing its registered mark); *see also M. Shanken Commc’ns v. WORLDTRAVELERSONLINE.COM*, FA 740335 (Nat. Arb. Forum Aug. 3, 2006) (finding that the respondent was not commonly known by the <cigaraficionada.com> domain name under Policy ¶4(c)(ii) based on the WHOIS information and other evidence in the record).

Respondent’s disputed domain names resolve to websites that feature third-party advertisements, some of which lead to Complainant’s direct competitors. The Panel infers Respondent receives click-through fees from this activity. Therefore, the Panel finds Respondent has failed to create 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). *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 Disney Enters., Inc. v. Kamble*, FA 918556 (Nat. Arb. Forum Mar. 27, 2007) (holding that the operation of a pay-per-click website at a confusingly similar domain name was not 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)).

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

### **Registration and Use in Bad Faith**

The Panel finds Respondent has engaged in bad faith registration and use under Policy ¶4(b)(iii) by disrupting Complainant's business through the provision of competitive third-party advertisements on the resolving websites of the disputed domain names. *See EBAY, Inc. v. MEODesigns*, D2000-1368 (WIPO Dec. 15, 2000) (finding that the respondent registered and used the domain name <eebay.com> in bad faith where the respondent has used the domain name to promote competing auction sites); *see also S. Exposure v. S. Exposure, Inc.*, FA 94864 (Nat. Arb. Forum July 18, 2000) (finding the respondent acted in bad faith by attracting Internet users to a website that competes with the complainant's business).

Respondent is using the disputed domain names to host websites that display competitive third-party commercial links, presumably to receive referral fees. The Panel finds Respondent has engaged in bad faith registration and use under Policy ¶4(b)(iv) by intentionally creating a likelihood of confusion for commercial gain as to Complainant's affiliation with Respondent's confusingly similar disputed domain names and corresponding websites. *See Allianz of Am. Corp. v. Bond*, FA 680624 (Nat. Arb. Forum June 2, 2006) (finding bad faith registration and use under Policy ¶4(b)(iv) where the respondent was diverting Internet users searching for the complainant to its own website and likely profiting); *see also Univ. of Houston Sys. v. Salvia Corp.*, FA 637920 (Nat. Arb. Forum Mar. 21, 2006) ("Respondent is using the disputed domain name to operate a website which features links to competing and non-competing commercial websites from which Respondent presumably receives referral fees. Such use for Respondent's own commercial gain is evidence of bad faith registration and use pursuant to Policy ¶4(b)(iv).").

The Panel finds Policy ¶4(a)(iii) 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 <**cnchass.com**> and <**haas-automation.com**> domain names be **TRANSFERRED** from Respondent to Complainant.



Houston Putnam Lowry, Esq.  
Arbitrator

Houston Putnam Lowry, Chartered Arbitrator, Panelist  
Dated: September 29, 2009

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**NATIONAL ARBITRATION FORUM**