



NATIONAL ARBITRATION FORUM

DECISION

Google, Inc. v. TenerifeSTUDIOS c/o Steven Fletcher
Claim Number: FA0910001290475

PARTIES

Complainant is **Google Inc.** ("Complainant"), represented by **Meredith Pavia**, California, USA. Respondent is **TenerifeSTUDIOS c/o Steven Fletcher** ("Respondent"), Spain.

REGISTRAR AND DISPUTED DOMAIN NAME

The domain name at issue is <**googlepowersearch.com**>, registered with **Enom, Inc.**

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 October 20, 2009; the National Arbitration Forum received a hard copy of the Complaint on October 21, 2009.

On October 21, 2009, Enom, Inc. confirmed by e-mail to the National Arbitration Forum that the <**googlepowersearch.com**> domain name is registered with Enom, Inc. and that Respondent is the current registrant of the name. Enom, Inc. has verified that Respondent is bound by the Enom, 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 October 27, 2009, a Notification of Complaint and Commencement of Administrative Proceeding (the "Commencement Notification"), setting a deadline of November 16, 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@googlepowersearch.com by e-mail.

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

On November 19, 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 name be transferred from Respondent to Complainant.

PARTIES' CONTENTIONS

A. Complainant makes the following assertions:

Complainant, Its Business and Its Mark

1. Google is a Delaware corporation located in Mountain View, California.
2. The GOOGLE name was created in 1997 by Stanford Ph.D. candidates Larry Page and Sergey Brin. Since that time, Google has become one of the largest, most highly recognized, and widely used Internet search services in the world. Google's primary website is located at www.google.com.
3. Currently, the GOOGLE search engine maintains one of the largest collections of searchable documents in the world. The GOOGLE search engine provides an easy-to-use interface, advanced search technology, and a comprehensive array of search tools, and allows Internet users to search for and find a wide variety of content in many different languages.
4. Google's website is one of the most popular destinations on the Internet. For example, comScore and Bloomberg.com have ranked Google as the most visited group of websites in the world. Further, Nielsen's NetRatings has ranked Google's search engine as the number one search engine for each of the months of May, June and July 2009, in each case with over 50 percent of searches.
5. Google has consistently been honored for its technology and its services, and has received numerous industry awards, including awards dating from 1998.
6. Google also offers co-branded web search solutions and has hundreds of

thousands of publishers in its content network.

7. In addition to being accessible from desktop PCs, Google's adaptable, highly scalable search technology can also be accessed from most mobile and wireless platforms.

8. Google also offers a wide range of other products and services besides search. A full list of available products and services can be found at <http://www.google.com/intl/en/options/>.

9. The GOOGLE Mark identifies Google's award-winning, proprietary, and unique search services, search engine technology, and associated products and services. The GOOGLE Mark has been widely promoted among members of the general consuming public since 1997, and has exclusively identified Google. As a result, the GOOGLE Mark and name symbolize the tremendous goodwill associated with Google and are property rights of incalculable value. Due to widespread and substantial international use, this mark and name have become famous.

10. Google owns numerous United States and foreign registrations for the GOOGLE Mark (the "Registrations"). Each Registration remains valid and in full force.

11. Google frequently brands its products with its house mark, GOOGLE, followed by a descriptive term or phrase.

Registrant, Its Activities and Its Registration of the Domain Name

12. Registrant is an individual located in San Miguel, Spain.

13. Registrant registered the Domain Name on January 15, 2007.

14. The Domain Name currently resolves to a website that imitates Complainant's website, and commercially benefits from monetized click-through ads displayed on the website.

Efforts to Resolve This Matter

15. Google has exchanged the following communications with Registrant in an effort to have the Domain Name transferred from Registrant to Google:

- On August 26, 2009, Google sent an email to Registrant, explaining Google's rights and demanding transfer of the Domain Name.
- On September 3 and September 10, 2009, Google sent additional emails to Registrant, requesting a response.
- Registrant did not respond.

V. Legal Grounds

16. This Complaint is based on the following legal grounds.

Likelihood of Confusion—ICANN Rule 3(b)(ix)(1); ICANN Policy ¶4(a)(i).

17. Google has used the GOOGLE Mark continuously since well prior to January 15, 2007, the registration date for the Domain Name. Google owns U.S. registrations which were issued prior to, or resulting from applications filed prior to, January 15, 2007. Each remains valid and in full force. Thus, Complainant has rights in the GOOGLE Mark that predate the registration date of the Domain Name. See, e.g., Google Inc. v. Smith Smithers, FA0610000826563 (Nat. Arb. Forum Dec. 7, 2006) (“Although [r]espondent’s registration of the [disputed domain names] predate [sic] Complainant’s USPTO registration, Complainant’s filing date of September 16, 1998 predates [r]espondent’s registration [which] sufficiently establishes rights in the GOOGLE Mark”) (re googlevideo.com, googlevideos.com, googlemovie.com, googlemovies.com, googleforums.com and googlewebmaster.com domain names).

18. A domain name is “nearly identical or confusingly similar” to a complainant’s mark when it “fully incorporate[s] said mark.” PepsiCo, Inc. v. PEPSI SRL, D2003-0696 (WIPO Oct. 28, 2003) (holding pepsiadventure.net, pepsitennis.com, and others confusingly similar to complainant’s PEPSI mark since they “incorporate[ed the] trademark in its entirety”). Here, the Domain Name incorporates the famous GOOGLE Mark in its entirety, and is confusingly similar to it.

19. A domain name registrant may not avoid likely confusion by simply adding non-distinctive terms to another’s mark. See, e.g., Google Inc. v. Kun Zhang, FA0901001245131 (Nat’l Arb. Forum Mar. 13, 2009) (holding the “addition of generic terms to a famous mark is insufficient to diminish the confusingly similar nature” of the domain) (re googlevideodownload.com domain name); Google Inc. v. Babaian, FA0708001060992 (Nat’l Arb. Forum Oct. 1, 2007) (finding that where the Registrant merely added of “generic words [like] ‘web,’ ‘data,’ ‘drive,’ and ‘storage’ that have an obvious relationship to [Google’s] business,” the domain names are confusingly similar under Policy ¶4(a)(i)) (re googledatadrive.com, googlenetstorage.com, googlewebdrive.com, googlewebstorage.com, mygoogledrive.com and mygooglestorage.com domain names).

20. The Domain Name merely adds the generic or highly descriptive terms “power” and “search” to the GOOGLE Mark.

21. Given Google’s branding strategy whereby Google frequently uses its house mark, GOOGLE, with a descriptive word or phrase, users seeing the Domain Name are even more likely to believe the Domain Name originates with Google.

22. As such, the Domain Name is nearly identical, and certainly confusingly similar, to the GOOGLE Mark.

No Rights or Legitimate Interests—ICANN Rule 3(b)(ix)(2); ICANN Policy ¶4(a)(ii).

23. As Panels have noted, any “[r]espondent would be hard pressed to show that it had rights or legitimate interests in the domain name because Complainant’s [GOOGLE] mark is so well known.” Google Inc. v. Mikel M Frieje, FA011000102609 (Nat. Arb. Forum Jan. 11, 2002) (re googlesex.com domain name). Registrant has not been authorized by Complainant to register or use the Domain Name.

24. The Domain Name currently resolves to a website that substantially imitates Complainant’s website. Most notably, Registrant is using Google’s GOOGLE logo on the homepage for the Domain Name. Moreover, the layout of the homepage at the Domain Name closely resembles Google’s search homepage layout. Specifically, the placement of the GOOGLE logo, the links “Web,” “Images,” “Video,” “Music,” “News,” etc., the “Google Custom Search” box below the links and the “Search” and “Google Power Search” buttons below the search box are very similar to the layout of Google’s search homepage. Such use is neither a *bona fide* offering of goods or services nor a legitimate noncommercial or fair use of the Domain Name. See, e.g., Nat’l Westminster Bank plc v. Blues, FA731824 (Nat. Arb. Forum Aug 7, 2006) (“Respondent is using the disputed domain name to divert Internet users attempting to locate Complainant’s website to a website that is a fraudulent imitation of Complainant’s website...such diversion via an imitation website as an attempt by Respondent to pass itself off as Complainant is neither a bona fide offering of goods or services under [the Policy]).

25. In addition, the website features links to other commercial sites (click-through ads). Registrant presumably receives income from this diversionary use of the Domain Name. Such use is neither a *bona fide* offering of goods or services nor a legitimate noncommercial or fair use of the Domain Name. See, e.g., Genzyme Corp. v. Keyword Marketing, Inc., FA0706001007979 (Nat. Arb. Forum Jul. 17, 2007).

26. On information and belief, Registrant is not commonly known by the name or nickname of the Domain Name, or any name containing Complainant’s GOOGLE Mark. Registrant’s WHOIS information in connection with the Domain Name makes no mention of the Domain Name or the Mark as Registrant’s name or nickname. See, Popular Enterprises, LLC v. Sung-a Jang, FA0610000811921 (Nat. Arb. Forum Nov. 16, 2006) (“[r]espondent’s WHOIS information does not suggest that [r]espondent is commonly known by the <ntester.com> domain name”). Registrant’s name is TenerifeSTUDIOS and/or Steven Fletcher.

27. Complainant has not authorized or licensed Registrant to use any of its trademarks in any way. Unlicensed, unauthorized use of domains incorporating complainant’s trademark is strong evidence that Registrant has no rights or legitimate interests. See, e.g., Time Warner Inc. v. MLM Capital LLC d/b/a Domains, FA0709001076561 (Oct. 26, 2007).

28. Thus, Registrant has no rights or legitimate interests in the Domain Name.

Bad Faith—ICANN Rule 3(b)(ix)(3); ICANN Policy ¶4(a)(iii).

29. The evidence overwhelmingly supports the conclusion that Registrant registered and is using the Domain Name in bad faith. First, the fame and unique qualities of the GOOGLE Mark make it extremely unlikely that the Registrant created the Domain Name independently. See, e.g., The J. Jill Group, Inc. v. John Zuccarini d/b/a RaveClub Berlin, FA0205000112627 (Nat. Arb. Forum July 1, 2002) (“Because of the famous and distinct nature of Complainant’s mark and Complainant’s J. JILL listing on the Principal Register of the USPTO, [r]espondent is thought to have been on notice as to the existence of Complainant’s mark at the time [r]espondent registered the infringing <jjill.com> domain name. Thus, [r]espondent’s registration despite this notice is evidence of bad faith registration”). Even constructive knowledge of a famous mark like GOOGLE is sufficient. Google v. Abercrombie 1, FA0111000101579 (Nat. Arb. Forum Dec. 10, 2001) (“because of the famous and distinctive nature of Complainant’s GOOGLE Mark, [r]espondent is thought to have been on notice of the existence of Complainant’s mark at the time [r]espondent registered the infringing [domain name]”) (re googld.com domain name).

30. Second, Respondent’s current use of the Domain Name to resolve to a website that imitates Complainant’s website constitutes bad faith registration and use. See, e.g., Pacificherbal, LLC v. emmerse c/o lazaro remond, FA0902001246873 (Nat. Arb. Forum Apr. 6, 2009) (finding bad faith where Respondent’s reproduced Complainant’s entire website).

31. Third, Respondent’s use of the Domain Name to divert internet traffic to a website that generates revenue from click-through ads constitutes bad faith use and registration. See, e.g., REO Speedwagon, Inc. v. Domain Administrator , FA 0802000910799 (Nat. Arb. Forum Mar. 23, 2008) (bad faith use and registration found; domain name used to attract Internet users to generate “per click” revenue); Google Inc. v. Forum LLC, supra, FA 0708001053323 (finding bad faith registration and use where <googlenews.com> “ resolves to a commercial search engine website” generating “click-through advertising fees”). Such use demonstrates Registrant’s intent to attract, for commercial gain, Internet users to Registrant’s web site by creating a likelihood of confusion with Complainant’s Google mark. See ICANN Policy ¶4(b)(iv).

32. Finally, Registrant has failed to comply with demands from Google regarding transfer of the Domain Name. Such failure to respond to a cease-and-desist letter indicates bad faith registration and use of a domain name. See, e.g., Encyclopedia Britannica v. Zuccarini, D2000-0330 (WIPO June 7, 2000) (failure to positively respond provides “strong support for a determination of ‘bad faith’ registration and use.”); RRI Financial, Inc., v. Chen, D2001-1242 (WIPO Dec. 11, 2001) (finding bad faith where “The Complainant alleges that it sent numerous cease and desist letters to [r]espondent without receiving a response”).

33. As shown above, Registrant has registered and is using the Domain Name in bad faith.

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

FINDINGS

Complainant, Google, Inc., is an internationally used Internet search service. Complainant's primary website is located at the <google.com> domain name. Complainant is the owner of multiple registrations of the GOOGLE mark with the United States Patent and Trademark Office ("USPTO") (e.g., Reg. No. 2,884,502 issued September 14, 2004) and a vast array of other governmental trademark authorities throughout the world.

Respondent, TenerifeSTUDIOS c/o Steven Fletcher, registered the <googlepowersearch.com> domain name on January 15, 2007. The disputed domain name resolves to a website that imitates Complainant's website. Respondent makes prominent use of Complainant's logos and GOOGLE mark on the disputed domain name's resolving website. Furthermore, the website features a competing search engine service and an assortment of sponsored links.

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

Based on the uncontroverted evidence submitted by Complainant, the Panel finds Complainant has established sufficient rights in the GOOGLE mark from its use in commerce and the registration of the mark with the USPTO (e.g., Reg. No. 2,884,502 issued September 14, 2004) and a multitude of other governmental trademark authorities throughout the world. The Panel further notes it is not necessary under the Policy for Complainant to have registered its GOOGLE mark in the country of Respondent's residence. *See Williams-Sonoma, Inc. v. Fees*, FA 937704 (Nat. Arb. Forum Apr. 25, 2007) (finding that it is irrelevant whether the complainant has registered its trademark in the country of the respondent's residence); *see also Google, Inc. v. DktBot.org*, FA 286993 (Nat. Arb. Forum Aug. 4, 2004) (finding that the complainant had established rights in the GOOGLE mark through its holding of numerous trademark registrations around the world).

Respondent's <**googlepowersearch.com**> domain name incorporates Complainant's entire GOOGLE mark with the mere addition of the descriptive phrase "power search" and the affixation of the generic top-level domain ".com." The Panel finds the addition of the phrase "power search" is insufficient to distinguish Respondent's disputed domain name from Complainant's GOOGLE mark, especially since the phrase describes the type of services offered by Complainant under the GOOGLE mark and Complainant has numerous related marks. Thus, the Panel finds Respondent's <**googlepowersearch.com**> domain name is confusingly similar to Complainant's GOOGLE mark under Policy ¶4(a)(i). *See Oki Data Am. v. ASD, Inc.*, D2001-0903 (WIPO Nov. 6, 2001) (finding that the <okidataparts.com> domain name is confusingly similar to the complainant's OKIDATA mark because "...the fact that a domain name wholly incorporates a complainant's registered mark is sufficient to establish identity [sic] or confusing similarity for purposes of the Policy despite the addition of other words to such marks."); *see also Google Inc. v. Xtraplus Corp.*, D2001-0125 (WIPO Apr. 16, 2001) (finding that the respondent's domain names were confusingly similar to Complainant's GOOGLE mark where the respondent merely added common terms such as "buy" or "gear" to the end); *see also Reese v. Morgan*, FA 917029 (Nat. Arb. Forum Apr. 5, 2007) (finding that the mere addition of the generic top-level domain ".com" is insufficient to differentiate a disputed domain name from a mark).

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

Rights or Legitimate Interests

Complainant alleges Respondent lacks rights and legitimate interests in the <**googlepowersearch.com**> domain name. Complainant must first make a *prima facie* case in support of its allegations, and then the burden shifts to Respondent to show it does have rights or legitimate interests pursuant to Policy ¶4(a)(ii). *See 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). Respondent's failure to answer the Complaint raises a presumption Respondent has no rights or legitimate interests in the <**googlepowersearch.com**> domain name. *See Branco do Brasil S.A. v. Sync Tech.*, D2000-0727 (WIPO Sept. 1, 2000) ("By its default, Respondent has not contested the allegation . . . that the Respondent lacks any rights or legitimate interests in the domain name. The Panel thus assumes that there was no other reason for the Respondent having registered <bancodobrasil.com> but the presumably known existence of the Complainant's mark BANCO DO BRASIL"). However, the Panel will now examine the record to determine if Respondent has rights or legitimate interests under Policy ¶4(c).

Respondent's disputed domain name was registered on January 15, 2007 and resolves to Respondent's commercial website featuring a search engine service that is in direct competition with Complainant's services. The website resolving from the <**googlepowersearch.com**> domain name also contains many sponsored links. Respondent is presumably profiting through the generation of click-through fees from such use. Thus, the Panel finds Respondent's use of the disputed domain name is neither a *bona fide* offering of goods and services pursuant to Policy ¶4(c)(i), nor a legitimate noncommercial or fair use pursuant to Policy ¶4(c)(iii). *See Yahoo! Inc. v. Web Master*, FA 127717 (Nat. Arb. Forum Nov. 27, 2002) (finding that the respondent's use of a confusingly similar domain name to operate a pay-per-click search engine, in competition with the complainant, was not a *bona fide* offering of goods or services); *see also Royal Bank of Scotland Grp plc et al. v. Demand Domains*, FA 714952 (Nat. Arb. Forum Aug. 2, 2006) (finding that the operation of a commercial web directory displaying various links to third-party websites was not a use in connection with a *bona fide* offering of goods or services pursuant to Policy ¶4(c)(i) or a legitimate noncommercial or fair use pursuant to Policy ¶4(c)(iii), as the respondent presumably earned "click-through" fees for each consumer it redirected to other websites).

Moreover, nothing in the WHOIS information or in any other evidence in the record suggests Respondent is commonly known by the <**googlepowersearch.com**> domain name. Complainant also asserts it has not authorized or licensed Respondent to use its GOOGLE mark in the disputed domain name. Therefore, this Panel finds Respondent is not commonly known by the disputed domain name and has no rights to or legitimate interests in it pursuant to Policy ¶4(c)(ii). *See RMO, Inc. v. Burbridge*, FA 96949 (Nat. Arb. Forum May 16, 2001) (interpreting Policy ¶4(c)(ii) "to require a showing that one has been commonly known by the domain name prior to registration of the domain name to prevail"); *see also Compagnie de Saint Gobain v. Com-Union Corp.*, D2000-0020 (WIPO Mar. 14, 2000) (finding no rights or legitimate interest where the respondent was not commonly known by the mark and never applied for a license or permission from the complainant to use the trademarked name).

Additionally, Complainant contends Respondent is using the disputed domain name to pass itself off as Complainant online. Complainant asserts this is evidenced by

Respondent's deliberate use of Complainant's layout from its <google.com> domain name and the prominent placement of Complainant's logos and GOOGLE mark on the disputed domain name's corresponding website. The Panel finds Respondent's offering of services in competition with Complainant and passing itself off as Complainant is further evidence Respondent lacks rights and legitimate interests pursuant to Policy ¶4(a)(ii). *See Am. Int'l Group, Inc. v. Busby*, FA 156251 (Nat. Arb. Forum May 30, 2003) (finding that the respondent attempts to pass itself off as the complainant online, which is blatant unauthorized use of the complainant's mark and is evidence that the respondent has no rights or legitimate interests in the disputed domain name); *see also Crow v. LOVEARTH.net*, FA 203208 (Nat. Arb. Forum Nov. 28, 2003) ("It is neither a bona fide offerings [sic] of goods or services, nor an example of a legitimate noncommercial or fair use under Policy ¶4(c)(i) & (iii) when the holder of a domain name, confusingly similar to a registered mark, attempts to profit by passing itself off as Complainant . . .").

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

Registration and Use in Bad Faith

Complainant alleges Respondent is using the disputed domain name to directly compete with Complainant by offering search engine services through the <googlepowersearch.com> domain name. The Panel finds Respondent's registration and use of the <googlepowersearch.com> domain name to operate a website in direct competition with Complainant constitutes a disruption of Complainant's business and qualifies as bad faith registration and use pursuant to Policy ¶4(b)(iii). *See DatingDirect.com Ltd. v. Aston*, FA 593977 (Nat. Arb. Forum Dec. 28, 2005) ("Respondent is appropriating Complainant's mark to divert Complainant's customers to Respondent's competing business. The Panel finds this diversion is evidence of bad faith registration and use pursuant to Policy ¶4(b)(iii)."); *see also Jerie v. Burian*, FA 795430 (Nat. Arb. Forum Oct. 30, 2006) (concluding that the respondent registered and used the <sportlivescore.com> domain name in order to disrupt the complainant's business under the LIVESCORE mark because the respondent was maintaining a website in direct competition with the complainant).

Complainant contends Respondent's use of the confusingly similar <googlepowersearch.com> domain name to intentionally attract Internet users to its website by creating a strong likelihood of confusion with Complainant's GOOGLE mark and in order to offer search engine services in direct competition with Complainant is further evidence of bad faith. Therefore, pursuant to Policy ¶4(b)(iv), the Panel finds this use of the disputed domain name constitutes bad faith registration and use. *See Luck's Music Library v. Stellar Artist Mgmt.*, FA 95650 (Nat. Arb. Forum Oct. 30, 2000) (finding that the respondent engaged in bad faith use and registration by using domain names that were identical or confusingly similar to the complainant's mark to redirect users to a website that offered services similar to those offered by the complainant); *see also State Fair of Tex. v. Granbury.com*, FA 95288 (Nat. Arb. Forum Sept. 12, 2000)

(finding bad faith where the respondent registered the domain name <bigtex.net> to infringe on the complainant's goodwill and attract Internet users to the respondent's website).

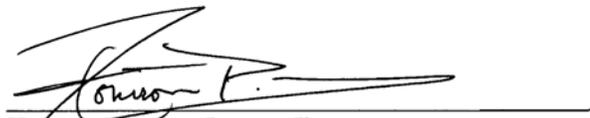
Complainant further contends Respondent is using the <googlepowersearch.com> domain name to pass itself off as Complainant by prominently displaying Complainant's GOOGLE mark and logo on Respondent's website. The Panel finds this as further evidence of bad faith registration and use pursuant to Policy ¶4(a)(iii). *See Target Brands, Inc. v. JK Internet Servs.*, FA 349108 (Nat. Arb. Forum Dec. 14, 2004) (finding bad faith because the respondent not only registered Complainant's famous TARGET mark, but "reproduced . . . Complainant's TARGET mark . . . [and] added Complainant's distinctive red bull's eye [at the domain name] . . . to a point of being indistinguishable from the original."); *see also DaimlerChrysler Corp. v. Bargman*, D2000-0222 (WIPO May 29, 2000) (finding that the respondent's use of the title "Dodgeviper.com Official Home Page" gave consumers the impression that the complainant endorsed and sponsored the respondent's website).

The Panel finds Complainant has satisfied 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 <googlepowersearch.com> domain name be **TRANSFERRED** from Respondent to Complainant.



Houston Putnam Lowry, Esq.
Arbitrator

Houston Putnam Lowry, Chartered Arbitrator, Panelist
Dated: December 1, 2009

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NATIONAL ARBITRATION FORUM