



## NATIONAL ARBITRATION FORUM

### DECISION

Hubbell Incorporated v. Domain Park Limited  
Claim Number: FA0611000846861

#### PARTIES

Complainant is **Hubbell Incorporated** ("Complainant"), represented by **Roberta S. Bren**, of **Oblon, Spivak, McClelland, Maier & Neustadt, P.C.**, 1940 Duke Street, Alexandria, VA 22314. Respondent is **Domain Park Limited** ("Respondent"), Vaea Street, Level 2, Lotemau centre, Apia, Samoa 0815, WS.

#### REGISTRAR AND DISPUTED DOMAIN NAME

The domain name at issue is <**hubbell-ad.com**>, registered with **Moniker Online Services, 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 November 20, 2006; the National Arbitration Forum received a hard copy of the Complaint on November 21, 2006.

On November 21, 2006, Moniker Online Services, Inc. confirmed by e-mail to the National Arbitration Forum that the <**hubbell-ad.com**> domain name is registered with Moniker Online Services, Inc. and that Respondent is the current registrant of the name. Moniker Online Services, Inc. has verified that Respondent is bound by the Moniker Online Services, 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 November 22, 2006, a Notification of Complaint and Commencement of Administrative Proceeding (the "Commencement Notification"), setting a deadline of December 12, 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@hubbell-ad.com by e-mail.

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

On December 21, 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 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:

##### **The Complainant**

[a.] The Complainant is Hubbell Incorporated, of Orange, Connecticut.

[b.] Complainant and its related companies manufacture and offer a wide range of residential and commercial electric, wiring, telecommunications and lighting products, as well as products for the utility industry. Complainant's sales during the first nine months of 2006 were \$1.83 billion.

[c.] Complainant has utilized the designation HUBBELL, through its predecessor in interest, as its primary trademark for over one hundred years. Complainant is the owner of numerous trademark registrations in the U.S. and internationally for the mark HUBBELL. Registrations in the U.S. include:

Mark	Reg. No.	Abbreviated Description of Goods	Reg'n Date
HUBBELL (and Design)	50,234	Toggle snap-switches.	05/04/20
HUBBELL	723,015	Electric wiring and lighting devices-namely, switches; receptacles; caps; connectors; couplings; attachment plugs; convenience outlets; motor plugs and couplings; adapters; current taps; cover plates; waterproof covers for caps, connectors and cover plates; closure plugs; shade holders; socket fixtures; lamp holders; fluorescent starters; reflectors, and components of all the foregoing.	10/24/61

Mark	Reg. No.	Abbreviated Description of Goods	Reg'n Date
HUBBELL (and Design)	827,814	Electric wiring and lighting devices-namely, switches; receptacles; caps; connectors; couplings; attachment plugs; convenience outlets; motor plugs and couplings; adapters; current taps; cover plates; waterproof covers for caps, connectors and cover plates; closure plugs; shade holders; pull sockets; socket fixtures; lamp holders; bases; fluorescent starters; reflectors; electric light dimmers; cable grips; and components of all the foregoing.	04/25/67
HUBBELL	1,018,779	Electric lighting apparatus and fixtures-namely, fluorescent, incandescent, infrared, metal halide, sodium and mercury vapor illuminating devices for indoor and outdoor applications including lamps, floodlights, spot lights, louver lights, tube lights, step lights, walkway lights, swivel lights, colored lights, light clusters, high bay lights, submersible lights, poultry brooder lights, landscaping lights, globes, shades, reflectors, adapters, outlet boxes, bases, mountings, brackets, ground spikes, poles, ballasts, starters, photoelectric switches, dimmers, and parts of all the foregoing.	08/26/75
HUBBELL	1,043,525	Plastic products in the forms of angles, channels, rods, sheets and shaped sections, all for use in manufactures; electric insulating plate for electrical wiring devices.	07/13/76
HUBBELL (and Design)	1,015231	Electric lighting apparatus and fixtures, to wit, fluorescent, incandescent, infrared, metal halide, sodium and mercury vapor illuminating devices for indoor and outdoor applications-namely, lamps, floodlights, spot lights, louver lights, tube lights, step lights, walkway lights, swivel lights, colored lights, light clusters, high bay lights, submersible lights, poultry brooder lights, landscaping lights, globes, shades, reflectors, lampholders, electric light bases, electric light mountings, electric light mounting brackets, electric light mounting ground spikes, electric floodlight supporting poles, electric light powering ballasts, fluorescent light starters, electric light dimmers, and parts of all of the foregoing.	07/08/75
HUBBELL (and Design)	1,019302	Wiring devices of various types-namely, receptacles, plugs, adapters, connectors, connector bodies, flanged inlets and outlets, motor bases, explosion-proof receptacles and plugs; plugs and connectors; wall mounting plates; switch devices of various types-namely, limit, locking ...	10/10/74
HUBBELL	1,027,976	Molded plastic products-namely, knobs for cooking utensils.	12/23/75

Mark	Reg. No.	Abbreviated Description of Goods	Reg'n Date
HUBBELL (and Design)	1,033,883	Plastic rods, sheets, extruded shapes and sections, all for use in manufacture; low voltage plastic insulators; and ] plastic electrical insulating covers for electrical wiring devices.	02/17/76
HUBBELL (and Design)	1,936,597	Hand operated tools for making data, telephone and video terminations, namely hand operated tools for installing telephone jacks, hand operated tools for stripping insulation from telephone and data conductors and hand operated tools for crimping modular plugs onto data, telephone and video conductors and parts therefor.	11/21/95
HUBBELL (and Design)	1,952,348	Electrical power, telephone and data communications components, namely adapters, plugs, jumpers, jacks and connectors; patch, jack, balun and connector panels; telephone, data and furniture terminals and terminal wall plates; poles and raceways made of plastic for wire and optical fiber containment; through and above-floor fittings made of plastic and boxes; cross connect terminal blocks; patch and jumper cords; connectorized wires, cords and cables; cable testers; surge protectors; and parts therefor.	01/30/96
HUBBELL	1,982,131	Metal enclosures, cabinets, consoles and boxes for use with electrical, electronic and heat transfer components.	06/25/96

[d.] Several of Complainant's trademark registrations, such as No. 1018779, No. 1,015,231, and No. 1,027,976, have acquired incontestable status pursuant to 15 U.S.C. § 1065.

[e.] Complainant and its related companies also have registered and use the domain names hubbellcatalog.com, hubbellighting.com, hubbellnet.com, myhubbell.com, hubbell-canada.com, and various other Hubbell combination domains.

[f.] As the result of Complainant's long and extensive use of HUBBELL as a mark and company name, and its high standards and careful quality control, the HUBBELL mark has become well-known both as an indicator of the source of Complainant's goods and as a symbol of Complainant's good reputation.

#### Respondent and its Domain Name

[g.] The disputed domain name, <HUBBELL-AD.COM>, is registered to Domain Park Limited of Apia, Samoa. The Whois record shows a record creation date of November 1, 2006.

[h.] Complainant has never licensed its HUBBELL mark to Respondent.

[i.] The domain name <HUBBELL-AD.COM> resolves to a page at searchportal.com bearing the title "HUBBELL-AD.COM" and containing internal links labeled "Hubbell". These links take the Internet user to another page at searchportal.com containing sponsored links.

Upon information and belief, Respondent earns revenue through these sponsored links.

[j.] A trace report shows that the server for the domain name <HUBBELL-AD.COM> is located in Los Angeles, California.

[k.] Nothing on the website accessible at <HUBBELL-AD.COM> indicates that the website is directed to Samoa. Rather, the sponsored links appear to be U.S. businesses, such as Amazon.com and Shopping.com.

Respondent's Domain Name, <HUBBELL-AD.COM>, Is Confusingly Similar to the  
HUBBELL Mark in which Complainant Has Trademark Rights.  
ICANN Rule 3(b)(ix)(1); ICANN Policy ¶4(a)(i).

[l.] Complainant has provided evidence demonstrating its rights in the HUBBELL mark. Complainant owns numerous federal trademark registrations for HUBBELL and has used the mark for over a century. Complainant also provided evidence of its use of the HUBBELL mark in connection with its goods on its website.

[m.] The domain name <HUBBELL-AD.COM> is confusingly similar to Complainant's HUBBELL mark. The domain name contains Complainant's mark in its entirety. The addition of the generic top level domain ".com" is irrelevant when comparing a domain name to a mark, and does nothing to overcome the identity or confusing similarity between the domain name and Complainant's mark. *See, e.g., Burnham Corp. v. Domain Research and Sales*, Case No. FA 102741 (NAF Jan. 14, 2002) (stating that generic top-level domains, such as '.com,' are inconsequential when considering Policy ¶4(a)(i)).

[n.] The addition of "-ad" to Complainant's mark does nothing to dispel any confusing similarity. *See, e.g., State Farm Mutual Automobile Insurance Company v. Jason Cox*, Case No. FA654541 (NAF Apr. 25, 2006) (1statefarminurance16.info and 1statefarminurance18.info); *Fifth Third Bancorp v. Ashley Khong*, Case No. D2005-1360 (WIPO Sep. 30, 2005) (fifththirddirect.com). It is common for businesses to add words or letters to their mark to create domain names, as Complainant has done with several domain names incorporating its HUBBELL mark. The term "AD" may have significance to some members of the Internet public as the acronym for "active directory" in the context of Windows-based computer network environments. Such significance would only increase the confusing similarity between the domain name and Complainant's mark.

[o.] Therefore, Complainant has established that it has rights to the mark HUBBELL, and that the domain name is confusingly similar to its mark.

The Respondent Has No Rights or Legitimate Interests in Respect of the <HUBBELL-  
AD.COM> Domain Name. ICANN Rule 3(b) (ix) (2); ICANN Policy ¶4(a) (ii).

[p.] Complainant has never licensed its mark HUBBELL to Respondent or otherwise authorized Respondent to use the mark.

[q.] Respondent's mere registration of a domain name, by itself, does not create a right or legitimate interest in the domain name for purposes of the Policy. See, e.g., *Gallup, Inc. v. Heejo Kim*, FA96081 (NAF Jan. 4, 2001).

[r.] Before any notice of the Respondent of the dispute, Respondent did not use, or make demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services. ICANN Policy ¶4(c)(i). Rather, Respondent selected and registered <HUBBELL-AD.COM> because of Complainant's well-known HUBBELL mark, and in order to misleadingly attract Internet users to its website and thereby profit from the Internet traffic. Such use is neither *bona fide* nor legitimate. See, e.g., *United Services Automobile Association v. John Walker*, Case No. FA 796309 (October 30, 2006); *United Services Automobile Association v. Jason Cox*, Case No. FA 785541 (October 19, 2006).

[s.] Respondent should not be allowed to hide behind the Samoan address provided in the WHOIS record when its website contains information directed to Internet users in the U.S., and the website server is located in the U.S.

[t.] Respondent has not been commonly known by the name HUBBELL or HUBBELL-AD.COM. ICANN Policy ¶4(c)(ii). Respondent has no legitimate reason for selecting "HUBBELL-AD" for a domain name.

[u.] Respondent is not 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. ICANN Policy ¶4(c)(iii). Respondent's use of the domain name to generate revenue is clearly commercial. Respondent's use of a domain name that is confusingly similar to Complainant's HUBBELL mark manifests its intent to misleadingly direct Internet users interested in information about HUBBELL to Respondent's website. See, e.g., *United Services Automobile Association v. John Walker*, Case No. FA 796309 (October 30, 2006); *United Services Automobile Association v. Jason Cox*, Case No. FA 785541 (October 19, 2006).

[v.] Therefore, Respondent has no rights or legitimate interests in <HUBBELL-AD.COM> under the factors set forth in the ICANN Policy.

Respondent Registered and Is Using the <HUBBELL-AD.COM> Domain Name in Bad Faith.  
ICANN Rule 3(b)(ix)(3); ICANN Policy ¶4(a)(iii).

[w.] By using <HUBBELL-AD.COM>, Respondent has intentionally attempted to attract, for commercial gain, Internet users to its web site by creating a likelihood of confusion with Complainant's marks as to source, sponsorship, affiliation, or endorsement of Respondent's website. At the time Respondent registered and began using the <HUBBELL-AD.COM> domain name, Complainant's HUBBELL mark had been in use for over a hundred years. Registration and use of <HUBBELL-AD.COM> to misleadingly divert Internet traffic looking for Complainant to Respondent's webpage constitutes registration and use of the domain name in bad faith under the Policy. ICANN Policy ¶4(b)(iv). See, e.g., *United Services Automobile Association v. John Walker*, Case No. FA 796309 (October 30, 2006); *United Services*

*Automobile Association v. Jason Cox*, Case No. FA 785541 (October 19, 2006).

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

## **FINDINGS**

Complainant, Hubbell Incorporated, and its related companies manufacture and offer a wide range of residential and commercial electric, wiring, telecommunications, lighting and various utility industry products. Complainant and its predecessors in interest have used the HUBBELL mark for over 100 years, and hold several registrations with the United States Patent and Trademark Office (“USPTO”) for the HUBBELL mark (Reg. No. 723,015 issued October 24, 1961). Complainant also holds a number of domain name registrations incorporating its mark.

Respondent registered the <**hubbell-ad.com**> domain name on November 1, 2006. Respondent’s disputed domain name resolves to a website that displays hyperlinks to various third-party websites, some of which directly compete 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**

The Panel finds Complainant's trademark registrations with the USPTO sufficiently establish Complainant's rights in the HUBBELL mark. *See Vivendi Universal Games v. XBNetVentures Inc.*, FA 198803 (Nat. Arb. Forum Nov. 11, 2003) ("Complainant's federal trademark registrations establish Complainant's rights in the BLIZZARD mark."); *see also Men's Wearhouse, Inc. v. Wick*, FA 117861 (Nat. Arb. Forum Sept. 16, 2002) ("Under U.S. trademark law, registered marks hold a presumption that they are inherently distinctive [or] have acquired secondary meaning.").

The Panel finds Respondent's <hubbell-ad.com> domain name is confusingly similar to Complainant's HUBBELL mark as it contains Complainant's entire mark with the addition of a hyphen and the generic word "ad." Such additions are not sufficient to negate the confusing similarity between Complainant's mark and Respondent's disputed domain name for the purposes of Policy ¶4(a)(i). *See Teradyne, Inc. v. 4Tel Tech.*, D2000-0026 (WIPO May 9, 2000) (finding that the "addition of a hyphen to the registered mark is an insubstantial change. Both the mark and the domain name would be pronounced in the identical fashion, by eliminating the hyphen"); *see also ony Kabushiki Kaisha v. Inja, Kil*, D2000-1409 (WIPO Dec. 9, 2000) (finding that "[n]either the addition of an ordinary descriptive word . . . nor the suffix '.com' detract from the overall impression of the dominant part of the name in each case, namely the trademark SONY" and thus Policy ¶4(a)(i) is satisfied).

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

### **Rights or Legitimate Interests**

Complainant initially must establish Respondent lacks rights or legitimate interests with respect to the disputed domain name. However, once Complainant makes a *prima facie* case, the burden of proof shifts, and Respondent must prove it has rights or legitimate interests in the <hubbell-ad.com> domain name. *See Do The Hustle, LLC v. Tropic Web*, D2000-0624 (WIPO Aug. 21, 2000) (holding that once the complainant asserts that the respondent has no rights or legitimate interests with respect to the domain, the burden shifts to the respondent to provide "concrete evidence that it has rights to or legitimate interests in the domain name at issue"); *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).").

Respondent's WHOIS information does not indicate Respondent is commonly known by the <hubbell-ad.com> domain name, and there is no other evidence in the record to suggest Respondent is commonly known by the disputed domain name. Complainant asserts Respondent is not authorized to use Complainant's HUBBELL mark and Respondent is not associated with Complainant in any way. The Panel finds Respondent is not commonly known by the disputed domain name under Policy ¶4(c)(ii). *See RMO*,

*Inc. v. Burbbridge*, 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).

Respondent is using the disputed domain name to operate a website that displays hyperlinks to various third-party websites, some of which are in direct competition with Complainant. Such use does not give Respondent rights or legitimate interests in the <hubbell-ad.com> domain name, as Respondent's use is neither a *bona fide* offering of goods and services under Policy ¶4(c)(i) nor a legitimate noncommercial or fair use under Policy ¶4(c)(iii). *See Disney Enters., Inc. v. Dot Stop*, FA 145227 (Nat. Arb. Forum Mar. 17, 2003) (finding 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 also Computer Doctor Franchise Sys., Inc. v. Computer Doctor*, FA 95396 (Nat. Arb. Forum Sept. 8, 2000) (finding the respondent's website, which is blank but for links to other websites, is not a legitimate use of the domain names).

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

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

The Panel finds Respondent is using the <hubbell-ad.com> domain name to redirect Internet users to a website that contains third-party hyperlinks, some of which are in direct competition with Complainant. Such use constitutes a disruption of Complainant's business and qualifies as bad faith registration and use under Policy ¶4(b)(iii). *See 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); *see also EBAY, Inc. v. MEODesigns*, D2000-1368 (WIPO Dec. 15, 2000) (finding that the respondent registered and used the domain name <ebay.com> in bad faith where the respondent has used the domain name to promote competing auction sites).

The Panel finds, based on the uncontested evidence presented by Complainant, that Respondent receives click-through fees for the hyperlinks displayed on the website that resolves from the <hubbell-ad.com> domain name. The Panel also finds Respondent's disputed domain name is capable of creating a likelihood of confusion as to the source and affiliation of Complainant with the disputed domain name and corresponding website. In *Drs. Foster & Smith, Inc. v. Lalli*, FA 95284 (Nat. Arb. Forum Aug. 21, 2000), the panel found bad faith where the respondent directed Internet users seeking the complainant's site to its own website for commercial gain. *See Kmart v. Khan*, FA

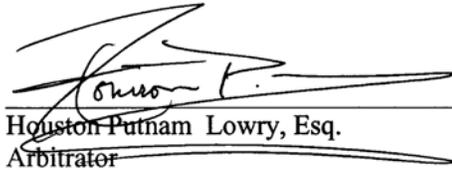
127708 (Nat. Arb. Forum Nov. 22, 2002) (finding that if the respondent profits from its diversionary use of the complainant's mark when the domain name resolves to commercial websites and the respondent fails to contest the complaint, it may be concluded that the respondent is using the domain name in bad faith pursuant to Policy ¶4(b)(iv)). Accordingly, the Panel finds such commercial benefit constitutes bad faith registration and use under Policy ¶4(b)(iv).

The Panel find 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 <**hubbell-ad.com**> domain name be **TRANSFERRED** from Respondent to Complainant.



Houston Putnam Lowry, Esq.  
Arbitrator

Houston Putnam Lowry, Chartered Arbitrator, Panelist  
Dated: January 3, 2007

[Click Here](#) to return to the main Domain Decisions Page.

[Click Here](#) to return to our Home Page

**NATIONAL ARBITRATION FORUM**