



## NATIONAL ARBITRATION FORUM

### DECISION

Liberty Mutual Insurance Company v. Bin g Glu c/o G Design no sale - building  
Claim Number: FA0707001036129

#### PARTIES

Complainant is **Liberty Mutual Insurance Company** ("Complainant"), represented by **Christopher Sloan**, of **Liberty Mutual Insurance Company**, 175 Berkeley Street, Boston, MA 02117. Respondent is **Bin g Glu c/o G Design no sale - building** ("Respondent"), 2-4 201 64 Shuangtaxijie, Taiyuan Shanxi 30012, CN.

#### REGISTRAR AND DISPUTED DOMAIN NAME

The domain name at issue is <**libertymutuals.com**>, registered with **Communigal Communications Ltd.**

#### 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 July 13, 2007; the National Arbitration Forum received a hard copy of the Complaint on July 17, 2007.

On July 16, 2007, Communigal Communications Ltd. confirmed by e-mail to the National Arbitration Forum that the <**libertymutuals.com**> domain name is registered with Communigal Communications Ltd. and that Respondent is the current registrant of the name. Communigal Communications Ltd. has verified that Respondent is bound by the Communigal Communications Ltd. 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 July 23, 2007, a Notification of Complaint and Commencement of Administrative Proceeding (the "Commencement Notification"), setting a deadline of August 13, 2007 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@libertymutuals.com by e-mail.

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

On August 20, 2007, 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:

The term "**Liberty Mutual**" is a federally registered trademark of Liberty Mutual Insurance Company, a Massachusetts domiciled insurance company which conducts business operations in over 20 countries and the fifty United States. Liberty Mutual Insurance Company is a member of the Liberty Mutual Group which is one of the largest multi-line insurers in the property & casualty field with over 39,000 employees in over 900 offices worldwide. Liberty Mutual currently ranks number 95 among the Fortune 100 list of largest U.S. companies.

The company used the name '**Liberty Mutual**' in connection with a variety of products and services in the insurance and financial services industry in the United States since 1917 and internationally since 1993. The trademark has acquired substantial goodwill and is a valuable intellectual property asset of the company. Liberty Mutual has also owned and operated the domains <www.LibertyMutual.com> and <www.LibertyMutualInsurance.com> since 1996.

The **Liberty Mutual** trademarks are listed on the Principal Register of the United States Patent and Trademark Office, Registration No. 1405249 (August 12, 1986) and Registration No.2734195 (July 8, 2003) under International Class Code 036 for financial services.

In addition to its U.S. operations, Liberty Mutual began operations (with corresponding websites) in several Latin American countries in 1995 including Argentina, Brazil, Chile,

Columbia and Venezuela and has expanded into several countries in Europe and Asia. “**Liberty Mutual**” is a registered or pending mark in several countries under the “financial services and insurance” class including:

- European Community Trademarks (Reg. No. 1743855, Feb. 19, 2003 & Reg. No. 3441524, Aug. 30, 2005)
- Argentina (Reg. No. 1.674.448, July 14, 1998)
- Australia (Reg. No. 853362, November 11, 2002)
- Brazil (Reg. No. 821256106 and 821256084, March 30, 1999)
- Canada (Pending Application Nos. 0796177 and 0780258)
- China (Reg. Nos. 1990169, January 21, 2003 and 1990209, February 21, 2002)
- Colombia (Reg. Nos. 230571, December 5, 2002 and 247701, January 18, 2002)
- India (Pending 325/2002)
- Ireland (Reg. No. 205514, May 20, 1999)
- Japan (Reg. No. 4585108, July 12, 2002)
- Mexico (Reg. No. 511856, November 30, 1995)
- Singapore (Reg. Nos. T04/022696, September 14, 2004 and T04/02270D, August 12, 2004)
- Switzerland (Reg. No. 514954, November 6, 2003 and 521586, May 13, 2004)
- Thailand (Reg. No. Bor18508, January 9, 2003 and Bor18381, December 26, 2002)
- Turkey (Pending 2005G213664, filed on December 22, 2005)
- Vietnam (Reg. Nos. 61481 and 61504, April 1, 2005)

#### [5.] **FACTUAL AND LEGAL GROUNDS**

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

[a.] Respondent’s domain name listed in 4[a] above is confusingly similar to several pre-existing Liberty Mutual trademarks identified in 4[c] above and to Liberty Mutual’s primary domain names: <www.LibertyMutual.com> and <www.LibertyMutualInsurance.com>.

Respondent has simply appended the letter “s” to the word “Liberty Mutual”, making it a plural version of the pre-existing Liberty Mutual trademark. Respondent’s use of the Liberty Mutual trademark in conjunction with this typographical error deceptively suggests that Respondent is authorized to offer or solicit Liberty Mutual insurance products and services. The Respondent is not a licensed insurance agent, broker, claims representative, or authorized representative of Liberty Mutual (as required by state insurance laws) and has no license, grant or authority to solicit, sell or service Liberty Mutual insurance products or services or use the Liberty Mutual trademark in commerce. The Liberty Mutual name, trademark and logo are frequently seen in the national and local media on a weekly basis and the company spends considerable amounts of time,

money and effort advertising in multiple media outlets (TV, radio, Internet, newspaper and magazine ads, and sponsorships). Nationally recognized and advertised sponsorships include *The Liberty Mutual Legends of Golf*, *The Liberty Mutual Coach of the Year*, *The American Experience* on Public Television, *Students Against Destructive Decisions* (“SADD”), the *Big Ten Conference*, and the *Rose Bowl Stadium*. Virtually all Internet searches on the name “**Liberty Mutual**” lead directly to Liberty Mutual’s main company website <www.LibertyMutual.com>.

Liberty Mutual has used the term “**Liberty Mutual**” continuously in commerce for ninety (90) years, has owned the federally registered trademark since 1986 and has operated the websites <www.LibertyMutual.com> and <www.LibertyMutualInsurance.com>, since 1996. Respondent’s domain registration in 2004 means Respondent was aware, or should have been aware with minimal effort and due diligence, of the numerous pre-existing Liberty Mutual trademarks, domain names and websites.

[b.] Respondent does not have any rights or legitimate interests with respect to the domain name since Respondent has never been known as, nor is Respondent currently known as, “Liberty Mutual”. Respondent is not making any legitimate noncommercial or fair use of the domain name, instead, Respondent is using common typographic error of “Liberty Mutual” as a domain name and using the corresponding website to mislead and divert consumers who are seeking Liberty Mutual products and services.

[c.] Respondent’s registration of this domain name is in bad faith. Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent’s website by creating a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of Respondent’s website. Respondent also uses the Liberty Mutual trademark directly in its website taking further unfair advantage of the confusion created by the typographic error for commercial gain. Respondent’s unauthorized use of the Liberty Mutual trademark diminishes the trademark as the source identifier for Liberty Mutual products and services. Respondent’s website has also been identified as “Pay-per-Click” site meaning it is likely Respondent receives “click-thru” fees for redirecting Internet users from Respondent’s website to third party websites which compete with Liberty Mutual for insurance quotes.

Respondent has registered in excess of 1700 domain names and has used a similar cybersquatting and typosquatting tactics against several other well known brand names including:

- **AccuWeather** - (www.AccuWeathers.com)
- **Verizon Communications** - (www.VirizenWirless.com)
- **Pizza Hut Restaurants** - (www.PizzaHHut.com)
- **Nordstrom** - (www.Nordstrmo.com )

Respondent has been the subject of at least four (4) UDRP cases of which all resulted in orders to transfer the domain names to the Complaints including:

- **Hewlett-Packard Company** (www.snapfihs.com - NAF Case No. 714965, decided 6/30/06)
- **Metropolitan Life Insurance Company** (www.metllife.com and www.metliffe.com - NAF Case No. 874496, decided 5/15/07)
- **PepsiCo, Inc.** (www.PepsiRewards.com - WIPO Case D2007-0490, decided 6/707)
- **VeriSign, Inc.** (www.veri-sign.com – WIPO Case D2007-0421, decided 5/28/07)

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

## FINDINGS

Complainant is an international multi-line insurer in the property and casualty fields. Complainant has continuously used the LIBERTY MUTUAL mark since 1917 in connection with insurance and financial products and services. It has registered the mark in numerous jurisdictions worldwide including in the United States with the United States Patent and Trademark Office (“USPTO”) (Reg. No. 1,405,249 issued August 12, 1986).

Respondent’s <libertymutuals.com> domain name resolves to website featuring links to third parties, some of whom offer services in competition with those offered under Complainant’s mark. Respondent has also been the subject of at least four other disputes before similar panels all resulting in the transfer of the domain name to a complainant. *See Hewlett-Packard Company and Hewlett-Packard Development Company, L.P. v Bin g Glu*, FA 714965 (Nat. Arb. Forum June 6, 2006); *see also Metropolitan Life Insurance Company v Bin g Glu c/o G Design*, FA 874496 (Nat. Arb. Forum May 15, 2007); *see also PepsiCo, Inc. v. Bin G Glu*, D2007-0490 (WIPO June 7, 2007); *see also VeriSign Inc. v. Bin g Glu / G Design*, D2007-0421 (WIPO May 28, 2007).

## 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. This 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 sufficiently established its rights in the LIBERTY MUTUAL mark pursuant to Policy ¶4(a)(i) through registration of the mark with the USPTO. *See U.S. Office of Pers. Mgmt. v. MS Tech. Inc.*, FA 198898 (Nat. Arb. Forum Dec. 9, 2003) (“[O]nce the USPTO has made a determination that a mark is registrable, by so issuing a registration, as indeed was the case here, an ICANN panel is not empowered to nor should it disturb that determination.”); *see also Janus Int’l Holding Co. v. Rademacher*, D2002-0201 (WIPO Mar. 5, 2002) (“Panel decisions have held that registration of a mark is *prima facie* evidence of validity, which creates a rebuttable presumption that the mark is inherently distinctive.”).

There are only two differences between Complainant’s mark and the disputed domain name: (1) the addition of the letter “s” after the mark; and (2) the addition of the generic top-level domain (“gTLD”) “.com.” It is well-established that the addition of a gTLD is disregarded in a Policy ¶4 (a)(i) analysis. Moreover, adding the letter “s” to the end of Complainant’s mark does not render the disputed domain name sufficiently distinct under Policy ¶4(a)(i). This Panel finds the <libertymutuals.com> domain name is confusingly similar to Complainant’s LIBERTY MUTUAL mark. *See Nat’l Geographic Soc’y v. Stoneybrook Invs.*, FA 96263 (Nat. Arb. Forum Jan. 11, 2001) (finding that the domain name <nationalgeographics.com> was confusingly similar to the complainant’s NATIONAL GEOGRAPHIC mark); *see also Rollerblade, Inc. v. McCrady*, D2000-0429 (WIPO June 25, 2000) (finding that the top level of the domain name such as “.net” or “.com” does not affect the domain name for the purpose of determining whether it is identical or confusingly similar).

This Panel concludes Complainant satisfied Policy ¶4(a)(i).

### **Rights or Legitimate Interests**

Under Policy ¶4(a)(ii), Complainant must initially make out a *prima facie* case that Respondent has no rights or legitimate interests in the domain name at issue. *See VeriSign Inc. v. VeneSign C.A.*, D2000-0303 (WIPO June 28, 2000) (“Respondent’s default, however, does not lead to an automatic ruling for Complainant. Complainant still must establish a *prima facie* case showing that under the Uniform Domain Name Dispute Resolution Policy it is entitled to a transfer of the domain name.”). This Panel finds

Complainant has met this burden and accordingly, the burden is shifted to Respondent to demonstrate that it does have rights or legitimate interests in the disputed domain name. *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 has failed to submit a Response to the Complaint. The Panel may therefore presume Respondent has no rights or legitimate interests in the <libertymutuals.com> domain name but will still consider all the available evidence with respect to the factors listed in Policy ¶4(c) before making this determination. *See Am. Express Co. v. Fang Suhendro*, FA 129120 (Nat. Arb. Forum Dec. 30, 2002) (“[B]ased on Respondent's failure to respond, it is presumed that Respondent lacks all rights and legitimate interests in the disputed domain name.”); *see also G.D. Searle v. Martin Mktg.*, FA 118277 (Nat. Arb. Forum Oct. 1, 2002) (“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).”).

Nowhere in the record, including Respondent’s WHOIS information, does it indicate Respondent is or ever has been commonly known by the <libertymutuals.com> domain name. Respondent has not sought, nor has Complainant granted, a license or permission to Respondent to use Complainant’s mark in any way. Therefore, This Panel finds Respondent is not commonly known by the disputed domain name pursuant to Policy ¶4(c)(ii). *See 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); *see also 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; (3) the respondent is not commonly known by the domain name in question).

Respondent does not have a business or offer any services on the website at the disputed domain name. Respondent’s <libertymutuals.com> domain name resolves to a web page featuring links to third parties, some of whom offer products and services that compete with Complainant. This Panel finds Respondent is not using the <libertymutuals.com> domain name in connection with a *bona fide* offering of goods or services pursuant to Policy ¶4(c)(i) or a noncommercial or fair use pursuant to Policy ¶4(c)(iii). *See TM Acquisition Corp. v. Sign Guards*, FA 132439 (Nat. Arb. Forum Dec. 31, 2002) (finding that the respondent’s diversionary use of the complainant’s marks to send Internet users to a website which displayed a series of links, some of which linked to the complainant’s competitors, was not a *bona fide* offering of goods or services); *see also Computer Doctor Franchise Sys., Inc. v. Computer Doctor*, FA 95396 (Nat. Arb. Forum Sept. 8, 2000) (finding that the respondent’s website, which is blank but for links to other websites, is not a legitimate use of the domain names).

This Panel concludes Complainant satisfied Policy ¶4(a)(ii).

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

At least four other similarly situated panels have transferred disputed domain names from Respondent to a complainant. *See Hewlett-Packard Company and Hewlett-Packard Development Company, L.P. v Bin g Glu*, FA 714965 (Nat. Arb. Forum June 6, 2006); *see also Metropolitan Life Insurance Company v Bin g Glu c/o G Design*, FA 874496 (Nat. Arb. Forum May 15, 2007); *see also PepsiCo, Inc. v. Bin G Glu*, D2007-0490 (WIPO June 7, 2007); *see also VeriSign Inc. v. Bin g Glu / G Design*, D2007-0421 (WIPO May 28, 2007). This Panel finds Respondent is engaged in a pattern of conduct for the purpose of preventing true trademark owners from reflecting their marks in a corresponding domain name and as such, Respondent has registered and is using **<libertymutuals.com>** in bad faith pursuant to Policy ¶4(b)(ii). *See Armstrong Holdings, Inc. v. JAZ Assocs.*, FA 95234 (Nat. Arb. Forum Aug. 17, 2000) (finding that the respondent violated Policy ¶4(b)(ii) by registering multiple domain names that infringe upon others' famous and registered trademarks); *see also Nat'l Abortion Fed'n v. Dom 4 Sale, Inc.*, FA 170643 (Nat. Arb. Forum Sept. 9, 2003) (finding bad faith pursuant to Policy ¶4(b)(ii) because the domain name prevented the complainant from reflecting its mark in a domain name and the respondent had several adverse decisions against it in previous UDRP proceedings, which established a pattern of cybersquatting).

Respondent's **<libertymutuals.com>** domain name is confusingly similar to Complainant's LIBERTY MUTUAL mark and resolves to a website featuring links to third parties, some of whom offer services in competition with those services offered under Complainant's mark. This Panel finds this to be further evidence of bad faith pursuant to 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 EthnicGrocer.com, Inc. v. Unlimited Latin Flavors, Inc.*, FA 94385 (Nat. Arb. Forum July 7, 2000) (finding that the minor degree of variation from the complainant's marks suggests that the respondent, the complainant's competitor, registered the names primarily for the purpose of disrupting the complainant's business).

Lastly, Respondent's website features links to third parties, some of whom are competitors of Complainant. This Panel presumes such links are financially benefiting Respondent through click-through-fees. This Panel finds this to be additional evidence of bad faith pursuant to Policy ¶4(b)(iv). *See Associated Newspapers Ltd. v. Domain Manager*, FA 201976 (Nat. Arb. Forum Nov. 19, 2003) ("Respondent's prior use of the **<mailonsunday.com>** domain name is evidence of bad faith pursuant to Policy ¶4(b)(iv) because the domain name provided links to Complainant's competitors and Respondent presumably commercially benefited from the misleading domain name by receiving 'click-through-fees.'"); *see also AltaVista Co. v. Krotov*, D2000-1091 (WIPO Oct. 25, 2000) (finding bad faith under Policy ¶4(b)(iv) where the respondent's domain name resolved to a website that offered links to third-party websites that offered services

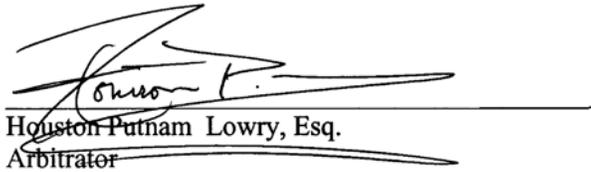
similar to the complainant's services and merely took advantage of Internet user mistakes).

This Panel concludes Complainant 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 <**libertymutuals.com**> domain name be **TRANSFERRED** from Respondent to Complainant.



Houston Putnam Lowry, Esq.  
Arbitrator

Houston Putnam Lowry, Chartered Arbitrator, Panelist  
Dated: September 2, 2007

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