



NATIONAL ARBITRATION FORUM

DECISION

Martin H. Meyerson v. Speedy Web
Claim Number: FA0704000960409

PARTIES

Complainant is **Martin H. Meyerson** ("Complainant"), represented by **Xavier Morales**, of **Law Office of Xavier Morales**, PO Box 1293, New York, NY 10025, USA.
Respondent is **Speedy Web** ("Respondent"), Eight Thirty Eight Camp St, 4th Floor, New Orleans, LA 70130, USA.

REGISTRAR AND DISPUTED DOMAIN NAME

The domain name at issue is <**mhmeyerson.com**>, registered with **Intercosmos Media Group, Inc.** d/b/a **Directnic.com**.

PANEL

The undersigned certifies that he has acted independently and impartially and to the best of his 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 April 15, 2007; the National Arbitration Forum received a hard copy of the Complaint on April 17, 2007.

On April 16, 2007, Intercosmos Media Group, Inc. d/b/a Directnic.com confirmed by e-mail to the National Arbitration Forum that the <**mhmeyerson.com**> domain name is registered with Intercosmos Media Group, Inc. d/b/a Directnic.com and that Respondent is the current registrant of the name. Intercosmos Media Group, Inc. d/b/a Directnic.com has verified that Respondent is bound by the Intercosmos Media Group, Inc. d/b/a Directnic.com 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 April 19, 2007, a Notification of Complaint and Commencement of Administrative Proceeding (the "Commencement Notification"), setting a deadline of May 9, 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@mhmeyerson.com by e-mail.

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

On May 14, 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:

Complainant, Martin H. Meyerson, is a well-known businessman in the investment banking industry who has been successfully using his personal name and the M.H. MEYERSON mark for a variety of financial services since at least as early as 1960. In particular, since 1960, Complainant has founded and operated no less than two financial service companies under his own personal name, "M.H. Meyerson."

FACTUAL AND LEGAL GROUNDS

[a.] **THE <MHMEYERSON.COM> DOMAIN NAME IS IDENTICAL AND CONFUSINGLY SIMILAR TO COMPLAINANT'S SERVICE MARK**

As an initial matter, Complainant is not required to establish the registration of a mark in order for Complainant to demonstrate rights in the M.H. MEYERSON mark pursuant to Policy ¶ 4(a)(i). See *Great Plains Metromall, LLC v. Creach*, FA 97044 (Nat. Arb. Forum May 18, 2001) ("The Policy does not require that a trademark be registered by a governmental authority for such rights to exist."); see also *Winterson v. Hogarth*, D2000-0235 (WIPO May 22, 2000) (finding that the Policy does not require that a complainant's trademark be registered by a government authority or agency in order for the complainant to establish rights in the mark).

Complainant has established common law rights in the M.H. MEYERSON mark in accord with Policy ¶ 4(a)(i). An individual may acquire common law trademark rights in

his or her name by demonstrating secondary meaning for the name with actual evidence. *See McCarthy on Trademarks and Unfair Competition*, § 13:1 “Personal Names as Mark Introduction” (4th ed. 2002) (stating that the basic rules pertaining to the protection of personal names require actual proof of secondary meaning for protection); *see also Marino v. Video Images Prods.*, D2000-0598 (WIPO Aug. 2, 2000) (finding that evidence of Dan Marino’s NFL career, sports commentary, and movie roles was sufficient to show that Dan Marino’s name had secondary meaning and qualified as a common law trademark). Accordingly, Complainant hereby submits evidence that he has been using the M.H. MEYERSON mark in the creation, promotion, and commercial exploitation of a variety of services related to financial and investment banking since at least as early as 1960. Specifically, Complainant has widely used the M.H. MEYERSON mark in connection with the provision of securities broker-dealer services, including executing trades for retail customers and brokerages, under the M.H. Meyerson & Co., Inc. business name.

As both an individual and through his own companies, Complainant has been a significant presence in the investment banking and securities industry for more than 45 years. Indeed, Complainant’s financial companies have been retained by major companies such as Global Axxess Corp., Themescapes, Inc., Remedent USA Inc., The Henley Group Inc., Legal Club of America, Corp., etc. Moreover, the numerous published news articles presented herewith illustrates the commercial use of the M.H. MEYERSON name, and linkage between the M.H. MEYERSON mark and financial-related services. Therefore, Complainant has demonstrated secondary meaning in the M.H. MEYERSON mark, and thus has established common law rights in the mark pursuant to Policy ¶ 4(a)(i). *See Steven Rattner v. BuyThisDomainName (John Pepin)*, D200-0402 (WIPO July 3, 2000) (finding that Complainant Steven Ratter, a physical person, had established common law rights to his personal name by providing investment banking and corporate advisory services under his own name, and also finding that Respondent’s argument that the Complainant would only be entitled to claim rights to his full name, i.e. “Steven Lawrence Rattner,” was “unfounded and of little force”); *see also Libby v. Tuzlaci*, D2001-1342 (WIPO Jan. 24, 2002) (“Complainant has conducted a successful business for many years under his name... The Panel has no hesitation in finding that the Complainant has common law rights in his name and service mark.”).

Furthermore, Respondent’s <MHMEYERSON.COM> domain name is identical to Complainant’s M.H. MEYERSON mark pursuant to Policy ¶ 4(a)(i). The disputed domain name features Complainant’s M.H. MEYERSON mark in its entirety, with the omission of two periods and a space between “M.H.” and “MEYERSON”, and the addition of the generic top-level domain (“gTLD”) “.com.” The omission of periods in a mark is not significant in determining the similarity of a domain name and a trademark. *See Mrs. World Pageants, Inc. v. Crown Promotions*, FA 94321 (Nat. Arb. Forum Apr. 24, 2000) (finding that punctuation is not significant in determining the similarity of a domain name and mark). Similarly, the omission of spaces between the terms of a mark does not preclude a finding that the domain name is identical to the mark under Policy ¶ 4(a)(i). *See Wembley Nat’l Stadium Ltd. v. Thomson*, D2000-1233 (WIPO Nov. 16,

2000) (finding that the domain name <wembleystadium.net> is identical to the WEMBLEY STADIUM mark); *see also Hannover Ruckversicherungs-AG v. Ryu*, FA 102724 (Nat. Arb. Forum Jan. 7, 2001) (finding <hannoverre.com> to be identical to HANNOVER RE, “as spaces are impermissible in domain names and a generic top-level domain such as ‘.com’ or ‘.net’ is required in domain names”). Moreover, the addition of a gTLD to a mark does not distinguish the resulting domain name from the mark pursuant to Policy ¶ 4(a)(i). *See Valeant Pharms. Int’l v. Carpela*, D2005-0786 (WIPO Sept. 2, 2005) (finding the <cesamet.com> domain name was identical to the complainant’s CESAMET mark because the addition of the gTLD “.com” did not sufficiently distinguish the disputed domain name from the mark); *see also W. Union Holdings, Inc. v. Topiwala*, D2005-0945 (WIPO Oct. 20, 2005) (finding <wuib.com> identical to the complainant’s mark because the generic top-level domain (gTLD) “.com” after the name WUIB is part of the Internet address and does not add source-identifying significance). Thus, the alterations to Complainant’s M.H. MEYERSON mark incorporated into the disputed domain name render the <MHMEYERSON.COM> domain name identical to Complainant’s mark pursuant to Policy ¶ 4(a)(i).

Accordingly, Policy ¶ 4(a)(i) has been satisfied by Complainant.

[b.] RESPONDENT HAS NO RIGHTS OR LEGITIMATE INTERESTS IN RESPECT OF THE <MHMEYERSON.COM> DOMAIN NAME

Respondent has no rights or legitimate interests in respect of the <MHMEYERSON.COM> domain name.

Respondent is not licensed or otherwise authorized to use Complainant’s M.H. MEYERSON mark and Respondent is not associated with Complainant in any way. Indeed, Respondent’s WHOIS information identifies it as “Speedy Web,” which in no way suggests that Respondent is commonly known by the <MHMEYERSON.COM> domain name. Accordingly, on information and belief, Respondent is not commonly known by the disputed domain name under Policy ¶ 4(c)(ii). *See Am. W. Airlines, Inc. v. Paik*, FA 206396 (Nat. Arb. Forum Dec. 22, 2003) (“Respondent has registered the domain name under the name ‘Ilyoup Paik a/k/a David Sanders.’ Given the WHOIS domain name registration information, Respondent is not commonly known by the [<awvacations.com>] domain name.”); *see also Wells Fargo & Co. v. Onlyne Corp. Services11, Inc.*, FA 198969 (Nat. Arb. Forum Nov. 17, 2003) (“Given the WHOIS contact information for the disputed domain [name], one can infer that Respondent, Onlyne Corporate Services11, is not commonly known by the name ‘welsfargo’ in any derivation.”).

Furthermore, Respondent is using the <MHMEYERSON.COM> domain name, which is confusingly similar to Complainant’s mark, to divert Internet users to a website containing sponsored links to third-party websites. Upon information and belief, Respondent is receiving pay-per-click referral fees from those links. Such use is not within the scope contemplated by Policy ¶¶ 4(c)(i) and (iii) and, thus, is not indicative of

Respondent's rights or legitimate interests in the disputed domain name. *See WeddingChannel.com Inc. v. Vasiliev*, FA 156716 (Nat. Arb. Forum June 12, 2003) (finding that the respondent's use of the disputed domain name to redirect Internet users to websites unrelated to the complainant's mark, websites where the respondent presumably receives a referral fee for each misdirected Internet user, was not a *bona fide* offering of goods or services as contemplated by the UDRP); *see also Golden Bear Int'l, Inc. v. Kangdeock-ho*, FA 190644 (Nat. Arb. Forum Oct. 17, 2003) ("Respondent's use of a domain name confusingly similar to Complainant's mark to divert Internet users to websites unrelated to Complainant's business does not represent 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 also Disney Enters., Inc. v. Dot Stop*, FA 145227 (Nat. Arb. Forum Mar. 17, 2003) (finding that the respondent's diversionary use of the complainant's mark to attract Internet users to its own website, which contained a series of hyperlinks to unrelated websites, was neither a *bona fide* offering of goods or services nor a legitimate noncommercial or fair use of the disputed domain names).

Accordingly, Policy ¶ 4(a)(ii) has been satisfied by Complainant.

[c.] RESPONDENT HAS REGISTERED AND IS USING THE <MHMEYERSON.COM> DOMAIN NAME IN BAD FAITH

Respondent is using the <MHMEYERSON.COM> domain name to operate a search engine holding page with links to a variety of third-party websites unrelated to Complainant. In *Drs. Foster & Smith, Inc. v. Lalli*, FA 95284 (Nat. Arb. Forum Aug. 21, 2000), the panel found that a Respondent's diversion of Internet users who were seeking the complainant's website to its own website for commercial gain created "a likelihood of confusion with the Complainant's mark as to the source, sponsorship, endorsement, or affiliation of its website" and, therefore, provided evidence of bad faith registration and use in violation of Policy ¶ 4(b)(iv). Because Respondent is also diverting Internet users seeking Complainant's services to other websites for commercial gain, presumably by earning click-through fees, Respondent has registered and used the disputed domain name in bad faith according to Policy ¶ 4(b)(iv). *See Golden Bear Int'l, Inc. v. Kangdeock-ho*, FA 190644 (Nat. Arb. Forum Oct. 17, 2003) ("Respondent's use of a domain name confusingly similar to Complainant's mark to divert Internet users to websites unrelated to Complainant's business does not represent 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).").

Furthermore, Respondent has been the target of at least three (3) prior proceedings conducted under the Policy in which Respondent was found to have registered and used the subject domain names in bad faith. *See Abbott Laboratories v Speedy Web*, FA 887814 (Nat. Arb. Forum Feb. 16, 2007); *see also Nueske's Meat Products, Inc. v Speedy Web*, FA 638000 (Nat. Arb. Forum May 19, 2006); *see also Bridgewater Associates, Inc. v. Speedy Web*, D2006-0835 (WIPO Aug. 16, 2006). Respondent has prevented Complainant from reflecting its mark in the disputed domain name and Respondent has

engaged in a pattern of registering and using domain names in such a manner which constitutes bad faith under Policy ¶ 4(b)(ii). *See 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); *see also Arai Helmet Americas, Inc. v. Goldmark*, D2004-1028 (WIPO Jan. 22, 2005) (finding that "Respondent has registered the disputed domain name, <aria.com>, to prevent Complainant from registering it" and taking notice of another UDRP proceeding against the respondent to find that "this is part of a pattern of such registrations").

Accordingly, Policy ¶ 4(a)(iii) has been satisfied by Complainant.

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

FINDINGS

Complainant, Martin H. Meyerson, has operated financial service companies since 1960. Complainant has used the mark M.H. MEYERSON continuously in commerce since 1960. Complainant has created, promoted and exploited commercially the M.H. MEYERSON mark as a source for trading, brokerage, financial advisory and investment banking services. Before its initial public offering in 1994, Complainant was trading about 80 million shares of stock per month and was a market maker for about 2,200 securities. In 1999, Complainant was ranked fifteenth among the top NASDAQ/OTC securities brokers. Complainant has been retained by numerous corporations to provide a broad range of financial advisory and investment banking services.

Respondent registered the <mhmeerson.com> domain name on July 16, 1996. Respondent is using the domain name for a search engine holding page containing links to a variety of third-party websites. Respondent has been involved with previous UDRP disputes, including: *Abbott Laboratories v. Speedy Web*, FA 887814 (Nat. Arb. Forum Feb. 16, 2007); *Nueske's Meat Products, Inc. v. Speedy Web*, FA 638000 (Nat. Arb. Forum May 19, 2006); and *Bridgewater Associates, Inc. v. Speedy Web*, D2006-0835 (WIPO Aug. 16, 2006).

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

It is not necessary for Complainant to hold a registered trademark in order to establish rights in its M.H. MEYERSON mark for purposes of the Policy. Common law rights in a mark are sufficient to satisfy Policy ¶ 4(a)(i). *See Winterson v. Hogarth*, D2000-0235 (WIPO May 22, 2000) (finding that ICANN Policy does not require that the complainant have rights in a registered trademark and that it is sufficient to show common law rights in holding that the complainant has common law rights to her name); *see also British Broad. Corp. v. Renteria*, D2000-0050 (WIPO Mar. 23, 2000) (noting that the Policy "does not distinguish between registered and unregistered trademarks and service marks in the context of abusive registration of domain names."). Complainant has established rights in the common law mark M.H. MEYERSON through more than forty years of continuous and extensive use in connection with investment banking. It is undisputed on this record that Complainant has created substantial recognition in the M.H. MEYERSON mark sufficient to establish rights in the mark pursuant to Policy ¶ 4(a)(i). *See Great Plains Metromall, LLC v. Creach*, FA 97044 (Nat. Arb. Forum May 18, 2001) ("The Policy does not require that a trademark be registered by a governmental authority for such rights to exist."); *see also Steven Rattner v. BuyThisDomainName (John Pepin)*, D2000-0402 (WIPO Jul. 3, 2000) (finding that the complainant had established common law rights to a mark of his own name through use in connection with investment banking and corporate advisory services.).

The <mhmeerson.com> domain name fully incorporates Complainant's M.H. MEYERSON mark, eliminates the two periods and the space between the words, and adds the generic top-level domain ".com." The removal of the space and the addition of a generic top-level domain are both irrelevant to a Policy ¶ 4(a)(i) analysis. *See Hannover Ruckversicherungs-AG v. Ryu*, FA 102724 (Nat. Arb. Forum Jan. 7, 2001) (finding <hannoverre.com> to be identical to HANNOVER RE, "as spaces are impermissible in domain names and a generic top-level domain such as '.com' or '.net' is required in domain names"); *see also Nev. State Bank v. Modern Ltd. – Cayman Web Dev.*, FA

204063 (Nat. Arb. Forum Dec. 6, 2003) (“It has been established that the addition of a generic top-level domain is irrelevant when considering whether a domain name is identical or confusingly similar under the Policy.”). Despite the omission of two periods from Complainant’s mark, the Panel finds the mark and the disputed domain name to be identical according to Policy ¶ 4(a)(i). *See Chernow Commc’ns, Inc. v. Kimball*, D2000-0119 (WIPO May 18, 2000) (holding “that the use or absence of punctuation marks, such as hyphens, does not alter the fact that a name is identical to a mark”); *see also Chi-Chi’s, Inc. v. Rest. Commentary*, D2000-0321 (WIPO June 29, 2000) (finding the domain name <chichis.com> to be identical to the complainant’s CHI-CHI’S mark, despite the omission of the apostrophe and hyphen from the mark).

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

Rights or Legitimate Interests

Complainant alleges Respondent has no rights or legitimate interests in the <mhmeerson.com> domain name. Because Complainant made a *prima facie* case in support of its allegations, the burden shifts to Respondent to show it does have rights or legitimate interests pursuant to Policy ¶ 4(a)(ii). Since Respondent failed to respond to the Complaint, the Panel assumes Respondent does not 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) (holding that, where the complainant has asserted that respondent does not have rights or legitimate interests with respect to the domain name, it is incumbent on respondent to come forward with concrete evidence rebutting this assertion); *see also 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.”). Nevertheless, the Panel will examine the record to determine if Respondent has rights or legitimate interests under Policy ¶ 4(c).

Complainant asserts Respondent is not authorized or licensed to use Complainant’s M.H. MEYERSON mark and Respondent is not associated with Complainant in any way. Furthermore, Respondent’s WHOIS information, as well as other information in the record, does not suggest Respondent is commonly known by the <mhmeerson.com> domain name. Therefore, the Panel finds Respondent is not commonly known by the disputed domain name under Policy ¶ 4(c)(ii). *See Gallup, Inc. v. Amish Country Store*, FA 96209 (Nat. Arb. Forum Jan. 23, 2001) (finding that the respondent does not have rights in a domain name when the respondent is not known by the mark); *see also Wells Fargo & Co. v. Onlyne Corp. Services11, Inc.*, FA 198969 (Nat. Arb. Forum Nov. 17, 2003) (“Given the WHOIS contact information for the disputed domain [name], one can infer that Respondent, Onlyne Corporate Services11, is not commonly known by the name ‘welsfargo’ in any derivation.”).

Respondent is using the <mhmeerson.com> domain name for a search engine holding page containing links to a variety of third-party websites. Because the website at the

disputed domain name is composed entirely of links to third-party websites, Respondent is not offering any goods or services on its website. The Panel infers Respondent earns click-through fees for diverting Internet users to third-party websites. Such use of the disputed domain name does not constitute a *bona fide* offering of goods and services pursuant to Policy ¶ 4(c)(i), or a legitimate noncommercial or fair use of the domain name pursuant to Policy ¶ 4(c)(iii). See *Wells Fargo & Co. v. Lin Shun Shing*, FA 205699 (Nat. Arb. Forum Dec. 8, 2003) (finding that using a domain name to direct Internet traffic to a website featuring pop-up advertisements and links to various third-party websites is neither a *bona fide* offering of goods or services under Policy ¶ 4(c)(i) nor a legitimate noncommercial or fair use under Policy ¶ 4(c)(iii) because the registrant presumably receives compensation for each misdirected Internet user); see also *Sony Kabushiki Kaisha v. Domain rajadomain@yahoo.com +1.415.0*, FA 128701 (Nat. Arb. Forum Dec. 16, 2002) (finding that the respondent's use of its domain name in order to divert Internet users to a website that offers search engine services and links to adult orientated websites was not considered to be in connection with a *bona fide* offering of goods or services or a legitimate noncommercial or fair use pursuant to Policy ¶¶ 4(c)(i) or 4(c)(iii)).

While Respondent appears to have registered the <**mhmeerson.com**> on July 16, 1996, it has not undertaken any efforts to make a *bona fide* use of the domain name. It merely goes to a parking web page which contain "pay per click" links, which is not a *bona fide* use.

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

Registration and Use in Bad Faith

Respondent is using the <**mhmeerson.com**> domain name, which is identical to Complainant's mark, to divert Internet users seeking Complainant's investment banking services to a search engine website containing a directory of links. Presumably, Respondent is profiting from those links by collecting pay-per-click fees for diverting Internet users to third-party websites. Therefore, Respondent is taking commercial advantage of the confusing similarity between Respondent's domain name and Complainant's mark, and profiting from the goodwill associated with the mark. Use of the disputed domain name for this purpose suggests bad faith registration and use under Policy ¶ 4(b)(iv). See *Am. Online, Inc. v. Tencent Commc'ns Corp.*, FA 93668 (Nat. Arb. Forum Mar. 21, 2000) (finding bad faith where the respondent registered and used a domain name confusingly similar to the complainant's mark to attract users to a website sponsored by the respondent); see also *G.D. Searle & Co. v. Celebrex Drugstore*, FA 123933 (Nat. Arb. Forum Nov. 21, 2002) (finding that the respondent registered and used the domain name in bad faith pursuant to Policy ¶ 4(b)(iv) because the respondent was using the confusingly similar domain name to attract Internet users to its commercial website).

Respondent has been involved in previous disputes in which the panels have transferred the disputed domain names to the complainants. Therefore, Respondent has exhibited a pattern of registering domain names including the marks in which others have rights. The Panel finds Respondent's behavior constitutes bad faith registration and use pursuant to Policy ¶ 4(b)(ii). *See Sport Supply Group, Inc. v. Lang*, D2004-0829 (WIPO Dec. 10, 2004) (“[Respondent] registered the <usgames.com> domain name in order to prevent [Complainant] from reflecting its U.S. GAMES Mark in a corresponding domain name [pursuant to Policy ¶ 4(b)(ii)]. The pattern of such conduct is established, inter alia, by the public decisions of two different UDRP proceedings [against] Respondent.”); *see also Nat'l Wildlife Fed'n v. Kang*, FA 170519 (Nat. Arb. Forum Sept. 9, 2003) (“Respondent has a history of registering domain names that infringe on other trademark holders' rights; therefore, Respondent's registration and use of the <yourbigbackyard.com> domain name constitutes bad faith pursuant to Policy ¶ 4(b)(ii) because the domain name is identical to Complainant's YOUR BIG BACKYARD mark and prevents Complainant from reflecting its mark on-line.”).

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



Houston Putnam Lowry, Esq.
Arbitrator

Houston Putnam Lowry, Chartered Arbitrator, Panelist
Dated: May 25, 2007

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