



NATIONAL ARBITRATION FORUM

DECISION

Verizon Trademark Services LLC v. Darlington Edu d/b/a Barmax Distribution
Claim Number: FA0611000830994

PARTIES

Complainant is **Verizon Trademark Services LLC** ("Complainant"), represented by **David M. Kelly**, of **Finnegan, Henderson, Farabow, Garrett & Dunner L.L.P.**, 901 New York Avenue NW, Washington, DC 20001. Respondent is **Darlington Edu d/b/a Barmax Distribution** ("Respondent"), PO Box 30474, San Bernardino, CA 92413.

REGISTRAR AND DISPUTED DOMAIN NAMES

The domain names at issue are <**verizonftp.com**>, <**verizonftp.net**>, <**verizonsolutions.com**>, <**verizonsolutions.net**>, <**verizonsolutions.biz**>, <**verizonsolutions.info**>, <**fiosonlinereviews.com**>, <**fiosonlinereviews.net**>, <**fiosonlinereviews.biz**> and <**fiosonlinereviews.info**>, registered with **Go Daddy Software, 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 1, 2006; the National Arbitration Forum received a hard copy of the Complaint on November 2, 2006.

On November 1, 2006, Go Daddy Software, Inc. confirmed by e-mail to the National Arbitration Forum that the <**verizonftp.com**>, <**verizonftp.net**>, <**verizonsolutions.com**>, <**verizonsolutions.net**>, <**verizonsolutions.biz**>, <**verizonsolutions.info**>, <**fiosonlinereviews.com**>, <**fiosonlinereviews.net**>, <**fiosonlinereviews.biz**> and <**fiosonlinereviews.info**> domain names are registered with Go Daddy Software, Inc. and that Respondent is the current registrant of the names. Go Daddy Software, Inc. has verified that Respondent is bound by the Go Daddy Software, 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 3, 2006, a Notification of Complaint and Commencement of Administrative Proceeding (the "Commencement Notification"), setting a deadline of

November 24, 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@verizonftp.com, postmaster@verizonftp.net, postmaster@verizonsolutions.com, postmaster@verizonsolutions.net, postmaster@verizonsolutions.biz, postmaster@verizonsolutions.info, postmaster@fiosonlinereviews.com, postmaster@fiosonlinereviews.net, postmaster@fiosonlinereviews.biz and postmaster@fiosonlinereviews.info by e-mail.

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

On December 1, 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.

An Additional Submission was submitted by Complainant on December 6, 2006 and was determined to be deficient. The Panel has chosen not to consider this Additional Submission in its Decision.

Having reviewed the communications records, the Administrative Panel (the "Panel") finds that the National Arbitration Forum has discharged its responsibility under Paragraph 2(a) of the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules") "to employ reasonably available means calculated to achieve actual notice to Respondent." Therefore, the Panel may issue its decision based on the documents submitted and in accordance with the ICANN Policy, ICANN Rules, the National Arbitration Forum's Supplemental Rules and any rules and principles of law that the Panel deems applicable, without the benefit of any response from Respondent.

RELIEF SOUGHT

Complainant requests that the domain names be transferred from Respondent to Complainant.

PARTIES' CONTENTIONS

A. Complainant makes the following assertions:

A. Verizon and its VERIZON Trademark

1. The affiliates of Verizon Communications (the "Verizon Companies") comprise one of the world's leading providers of communications and entertainment products and services to wireline and wireless customers (residential, business, wholesale and government).

2. A publicly traded company on the New York Stock Exchange under the stock ticker symbol VZ, Verizon Communications generates annual consolidated operating revenues of approximately \$90,000,000,000, is a Dow 30 company and ranks in the top

20 of the Fortune 500 list. Verizon Communications and its affiliates employ a diverse workforce of approximately 250,000 employees.

3. The Verizon Companies offer and provide a full array of communications products and services and a variety of entertainment products and services under the VERIZON Trademark. The Verizon Companies have used the VERIZON Trademark since April 2000.

4. The Verizon Companies own and operate one of the most expansive end-to-end global IP networks serving more than 2,700 cities in 150 countries worldwide, and provide communications and entertainment products and services to consumers; small, medium and large businesses; and government customers. The Verizon Companies operate three (3) strategic business units, which operate and manage as strategic business units and organize by products and services. They include the following: Wireline, Domestic Wireless and Information Services.

5. The Verizon Wireline telecommunications business consists of Verizon Telecom and Verizon Business. Verizon Telecom is a provider of telephone and broadband products and services to consumer and small and medium business customers in 28 states and the District of Columbia serving a territory consisting of more than 46.9 million access lines and 6.1 million broadband connections in 67 of the top 100 United States markets. Telephone and broadband products and services include voice and data transport, enhanced and custom calling features, network access, directory assistance, private lines, public telephones, nationwide long distance services, customer premises equipment distribution, data solutions and systems integration, billing and collections, Internet access services, and inventory management services. These products and services reach one-third of the nation's households, and more than one-third of Fortune 500 company headquarters, as well as the United States federal government. Verizon Telecom also provides entertainment products and services, including digital television, video on demand, and online games. Verizon Business is a provider of next-generation IP, data, voice, and wireless products and services to large businesses and government customers in 150 countries worldwide.

6. The Verizon domestic wireless business, operating as Verizon Wireless, provides wireless voice and data products and services to nearly 57 million customers across the United States using one of the most extensive wireless networks. One of the nation's largest wireless communications service providers, Verizon Wireless' footprint covers nearly 90% of the United States population, 49 of the top 50 markets, and 98 of the top 100 United States markets.

7. The Verizon Information Services multi-platform business provides yellow pages and related shopping information products and services. The Verizon Information Services business produces and publishes yellow and white pages print directories totaling more than 1,400 directory titles in 35 states, the District of Columbia, and Shanghai and Brunei, with a total circulation of approximately 129 million copies in the United States, and 2 million copies internationally. The Verizon Information Services

business provides the nation's most advanced Internet directory and a leading online shopping resource located at SUPERPAGES.COM which lists nearly 17 million United States businesses and has a growing base of advertisers that currently numbers almost 200,000.

8. The Verizon Companies' main websites featuring information on many of the products and services of the Verizon Companies can be accessed via the domain names VERIZON.COM, which has been used since at least as early as June 2000, and VERIZONWIRELESS.COM, which has been used since at least as early as April 2000.

9. The Verizon Companies have used and use the term "SOLUTIONS" in connection with the VERIZON Trademark. For example, the Verizon Companies use the trademark VERIZON SOLUTIONS PARTNER PROGRAM for its products and services for authorized agents. Through the VERIZON SOLUTIONS PARTNER PROGRAM, authorized agents of the Verizon Companies offer data and voice products and services.

10. Verizon's affiliates spend and have spent many millions of dollars each year since 2000 to extensively advertise and promote VERIZON-branded products and services in the United States and in foreign countries.

B. Verizon's FIOS Trademark

11. The Verizon Companies have offered and provided communications and entertainment products and services under the FIOS Trademarks since at least as early as August 2004.

12. The Verizon Companies' FIOS services include broadband and television services. The FIOS broadband services are designed to provide the fastest and most powerful Internet access offered by the Verizon Companies, with maximum connection speeds of up to 50 or 30 Mbps downstream and 3 Mbps upstream (depending on the consumer's location). The FIOS television services include 100% all digital programming, movies and sports channels, premium and international channels, expansive HD programming, an on-demand video library, interactive features, digital video recording, and fiber-quality picture and sound.

13. The Verizon Companies' FIOS services are available to users connected to the VERIZON network via the Verizon Companies' "Fiber-To-The-Premises," or FTTP, program. The FTTP program refers to the Verizon Companies' network upgrade that utilizes fiber-optic cables and associated optical electronics instead of copper wire to connect customers to the VERIZON network and provide voice service and associated features while offering nearly unlimited bandwidth for an array of data and video applications.

14. Verizon's affiliates spend and have spent significant amounts of money each year since 2004 to extensively advertise and promote FIOS-branded products and services in the United States.

C. Verizon's Trademark Holdings

15. Verizon's VERIZON Trademark and FIOS Trademarks are inherently distinctive and commercially strong marks entitled to an extremely broad scope of protection. Furthermore, the VERIZON Trademark has long enjoyed unquestionable fame as a result of favorable public acceptance and recognition.

16. Verizon's rights in the VERIZON Trademark and FIOS Trademarks are based on its common law rights acquired through the substantial and continuous use of the VERIZON Trademark and FIOS Trademarks by Verizon's affiliates since at least as early as April 2000 and August 2004, respectively, and on Verizon's trademark registrations.

17. Verizon owns the following U.S. trademark registrations for its VERIZON Trademark:

- a. Registration No. 2,886,813 for the mark VERIZON in block letters, filed September 10, 1999, first used April 4, 2000, issued September 21, 2004, covering goods and services in International Classes 9, 16, 35, 36, 37, 38, 41, and 42.
- b. Registration No. 3,085,712 for the mark VERIZON in block letters, filed September 10, 1999, first used May 23, 2005, issued April 25, 2006, covering goods and services in International Classes 9, 38, and 41.
- c. Registration No. 2,879,802 for the mark VERIZON and design, filed March 3, 2000, first used April 4, 2000, issued August 31, 2004, covering goods and services in International Classes 9, 16, 35, 36, 37, 38, 41, and 42.

18. Verizon owns U.S. Registration No. 3,001,081 for the mark FIOS, first used August 30, 2004, filed February 6, 2004, issued September 27, 2005, covering services in International Classes 37 and 38.

19. Verizon owns U.S. Registration No. 3,147,510 for the mark VERIZON FIOS, first used August 30, 2004, filed June 3, 2004, issued September 26, 2006, covering services in International Classes 37 and 38

20. Verizon's registrations for the VERIZON Trademark and FIOS Trademarks on the Principal Register constitute prima facie evidence of the validity of the VERIZON Trademark and FIOS Trademarks and Verizon's exclusive rights to use its VERIZON Trademark and FIOS Trademarks throughout the United States. (15 U.S.C. § 1057(b)).

21. Registration of a trademark on the Principal Register statutorily provides nationwide rights as of the filing date of the application. 15 U.S.C. §1057(c). Thus, Verizon's nationwide priority dates for the registrations listed in Paragraph 31 above are September 10, 1999 and March 3, 2000, respectively, and Verizon's nationwide priority date for the registration listed in Paragraph 32 is February 6, 2004.

22. Verizon's proprietary rights in the VERIZON Trademark and FIOS Trademarks predate Respondent's registration of the Domain Names.

D. Respondent's Infringing Activities and Bad Faith Acts

23. Respondent registered the Domain Names in February 2006, well after: (a) Verizon's affiliates began using the VERIZON Trademark and FIOS Trademarks, (b) the effective date of Verizon's registrations for its VERIZON Trademark and FIOS Trademarks, and (c) the VERIZON Trademark became famous.

24. Respondent offers the Domain Names for sale on GoDaddy.com's auction website "THEDOMAINNAMEAFTERMARKET.COM." Specifically, Respondent offers to sell the domain name VERIZONSOLUTIONS.COM for the "Buy Now" price of \$50,000; the domain name VERIZONSOLUTIONS.NET for the "Buy Now" price of \$7,500; the domain name VERIZONSOLUTIONS.BIZ for the "Buy Now" price of \$25,000; the domain name VERIZONSOLUTIONS.INFO for the "Buy Now" price of \$25,000; the domain name VERIZONFTTP.COM for the "Buy Now" price of \$50,000; the domain name VERIZONFTTP.NET for the "Buy Now" price of \$45,000; the domain name FIOSONLINEREVIEWS.COM for the "Buy Now" price of \$245; the domain name FIOSONLINEREVIEWS.NET for the "Buy Now" price of \$250; the domain name FIOSONLINEREVIEWS.BIZ for the "Buy Now" price of \$175, and the domain name FIOSONLINEREVIEWS.INFO for the "Buy Now" price of \$120.

25. Respondent uses the domain name VERIZONSOLUTIONS.COM for a website offering the Domain Name for sale. Specifically, Respondent's website states: "This Domain Name is For Sale! / www.VERIZONSOLUTIONS.COM / A global telecomm giant....This name is definitely capable of generating the type of traffic to your site to make it a well-worth investment. Names like these do not come up very often, so seize this opportunity...."

26. Respondent uses the domain names VERIZONSOLUTIONS.NET, VERIZONSOLUTIONS.BIZ, and VERIZONSOLUTIONS.INFO for commercial, pay-per-click websites providing advertising links to various websites, including websites for the Verizon Companies' competitors and third-party websites claiming to offer VERIZON-branded products and services. Respondent's websites also display VERIZON-formative categories that lead to links advertising directly competing websites and other commercial websites. Respondent's websites additionally display banner advertisements for GoDaddy.com's domain-name registration and web hosting services.

27. Respondent uses the domain names VERIZONFTTP.COM, VERIZONFTTP.NET, FIOSONLINEREVIEWS.COM, FIOSONLINEREVIEWS.NET, FIOSONLINEREVIEWS.BIZ, and FIOSONLINEREVIEWS.INFO for commercial, pay-per-click websites providing advertising links to various websites, including websites for the Verizon Companies' competitors and third-party websites claiming to offer VERIZON-branded products and services. Respondent's websites also display VERIZON-formative and FIOS-formative categories that lead to links advertising directly competing websites and other commercial websites. Respondent's websites

additionally display banner advertisements for GoDaddy.com's domain- name registration and web hosting services.

THE DOMAIN NAMES ARE CONFUSINGLY SIMILAR TO COMPLAINANT'S MARKS

28. The domain names VERIZONFTTP.COM, VERIZONFTTP.NET, VERIZONSOLUTIONS.COM, VERIZONSOLUTIONS.NET, VERIZONSOLUTIONS.BIZ, VERIZONSOLUTIONS.INFO are confusingly similar to Complainant's famous, federally registered VERIZON Trademark because each Domain Name is comprised of the VERIZON Trademark in its entirety and a term related to the Verizon Companies' business (the abbreviation "FTTP" that stands for "Fiber-To-The-Premises" as described in Paragraph 27 above, or the term "solutions" that the Verizon Companies use in connection with the VERIZON Trademark as described in Paragraph 22 above). Combining the VERIZON Trademark with a term related to the business of the Verizon Companies is not sufficient to distinguish the Domain Names from the VERIZON Trademark. See, e.g., Broadcom Corporation v. Cable Management Ireland (NAF FA0207000115077) (finding the domain name <broadcom-solutions.com> confusingly similar to complainant's BROADCOM mark because the term "solutions" relates to complainant's business and does not distinguish the domain name from complainant's coined mark); Nortel Networks Limited v. Buymebuyme.com, Inc. (NAF FA0604000671847) (finding the domain names <nortelphones.com> and <norstarphones.com> confusingly similar to complainant's NORTEL and NORSTAR marks because the addition of terms "with a direct connection to [c]omplainant's business, fails to sufficiently distinguish [r]espondent's domain names from [c]omplainant's marks pursuant to Policy ¶4(a)(i).").

29. The domain names FIOSONLINEREVIEWS.COM, FIOSONLINEREVIEWS.NET, FIOSONLINEREVIEWS.BIZ, and FIOSONLINEREVIEWS.INFO are confusingly similar to Complainant's federally registered mark FIOS because each Domain Name is comprised of the mark FIOS and the non-distinguishing generic terms "online" and "reviews." See, e.g., Verizon Trademark Services, LLC v. NA et al. (NAF FA0512000616307) (finding the domain name <verizoncenter.com> confusingly similar to Complainant's VERIZON trademark because "[r]espondent's domain name incorporates Complainant's mark in its entirety and merely adds to it the generic term 'center' and the generic top-level domain '.com.' Such alterations to Complainant's registered mark do not negate the confusingly similar character of Respondent's domain name pursuant to Policy ¶4(a)(i)."); Target Brands, Inc. v. Kentech, Inc. et al. (NAF FA0605000697861) (finding the domain name <targetonline.org> confusingly similar to complainant's TARGET mark because the addition of generic terms to complainant's mark "fails to differentiate the disputed domain names from [c]omplainant's mark pursuant to Policy ¶4(a)(i)."); Western Holdings, LLC v. RegisterFly.com et al. (NAF FA0602000651448) (finding the domain names <hylexin-reviews.com> and <hylexineyecream.com> confusingly similar to complainant's HYLEXIN mark because the addition of descriptive terms does not distinguish the domain names from complainant's mark). The domain names

FIOSONLINEREVIEWS.COM, FIOSONLINEREVIEWS.NET, FIOSONLINEREVIEWS.BIZ, and FIOSONLINEREVIEWS.INFO are also confusingly similar to Complainant's federally registered mark VERIZON FIOS.

**RESPONDENT HAS NO RIGHTS OR LEGITIMATE INTEREST
IN THE DOMAIN NAMES**

30. Respondent's registration and use of the Domain Names for commercial pay-per-click websites providing advertising links to competing websites and other commercial websites does not constitute a *bona fide* offering of goods or services under the UDRP. Nor do Respondent's activities constitute a legitimate noncommercial or fair use of the Domain Names under the UDRP. See, e.g., Verizon Trademark Services, LLC v. NA et al. (NAF FA0512000616307) (holding respondent's use of the domain name <verizoncenter.com> for a website featuring links to competing products and services is not a bona fide offering of goods or services or a legitimate noncommercial or fair use of the domain name); Indymac Bank F.S.B. v. Unasi (NAF FA0507000514785) (“[R]espondent is using the confusingly similar domain names to operate websites that feature links to various competing and non-competing commercial websites, through which [r]espondent presumably receives referral fees. Such diversionary use does not represent a bona fide offering of goods or services pursuant to Policy ¶4(c)(i) or a noncommercial or fair use under Policy ¶4(c)(iii).”); DoAll Company v. Titan Net et al. (NAF FA0509000563640) (holding respondent's use of the disputed domain name for a website featuring commercial links to various third-party websites, for which respondent presumably receives referral fees, does not constitute a bona fide offering of goods or services or a legitimate noncommercial or fair use under the UDRP).

31. Respondent is not and has not been commonly known by VERIZON, FIOS, or the Domain Names.

32. Respondent's offers to sell the Domain Names are further evidence that it lacks rights in the Domain Names. See, e.g., The PNC Financial Services Group, Inc. v. Thaoms et al. (NAF FA0506000495474) (holding respondent's offer to sell the disputed domain name is evidence that respondent lacks rights and legitimate interests in the domain name); Federal Home Loan Mortgage Corporation v. Deep (NAF FA0304000154102) (finding respondent had no legitimate interest in the domain name <freddiemac.info> because “[r]espondent's willingness to dispose of its rights in the domain name suggests it has no legitimate interests in <freddiemac.info>.”).

RESPONDENT'S BAD FAITH UNDER SECTION 4(B) OF THE UDRP

33. Respondent's registration and use of the Domain Names meet the bad-faith element set forth in Section 4(b)(i) of the UDRP because Respondent registered the Domain Names to sell, rent, or otherwise transfer them for valuable consideration in excess of Respondent's documented out-of-pocket expenses. As shown above in Paragraph 35, Respondent offers to sell the Domain Names for amounts totaling more than \$200,000 on GoDaddy.com's website THEDOMAINNAMEAFTERMARKET.COM. In addition, as shown above in

Paragraph 35, Respondent uses the domain name VERIZONSOLUTIONS.COM for a website advertising its offer to sell the Domain Name and promoting the Domain Name for its clear connection to the Verizon Companies, or in Respondent's words, a "global telecomm giant." Respondent's activities therefore constitute textbook bad faith pursuant to Section 4(b)(i) of the UDRP. See, e.g., H-D Michigan, Inc. v. Fishkind (NAF FA0212000139691) (holding respondent's offer to sell HARLEY-formative domain names via auction constituted bad faith); Federal Home Loan Mortgage Corporation v. Deep (NAF FA0304000154102) (finding bad faith in respondent's offer to sell the domain name <freddiemac.info> because "[r]espondent uses the disputed domain name for a website that advertises [r]espondent's offer to sell its rights in the domain name. Such registration and use, for the purpose of exploiting a famous mark in the hopes of commercial gain, is conduct explicitly proscribed by the Policy.").

34. Respondent's registration and use of the ten (10) Domain Names subject to this Complaint constitute a bad-faith pattern of registering trademark-related domain names pursuant to Section 4(b)(ii) of the UDRP. See, e.g., H-D Michigan, Inc. v. Morris (NAF FA0212000137094) (finding a bad faith pattern in respondent's registration of six domain names comprised of complainant's HARLEY and HARLEY-DAVIDSON marks); IndyMac Bank F.S.B. v. Domain Owner et al. (NAF FA0303000150814) (finding bad faith pursuant to Section 4(b)(ii) in respondent's registration of three domain names incorporating complainant's mark).

35. Respondent's registration and use of the Domain Names meet the bad faith element set forth in Section 4(b)(iii) of the UDRP because Respondent is disrupting the business of Complainant and its related companies by using the Domain Names to provide links to competing telecom products and services. See, e.g., Verizon Trademark Services, LLC v. NA et al. (NAF FA0512000616307) (holding respondent's use of the domain name <verizoncenter.com> for a commercial website featuring links to competing products and services is evidence of bad faith); Verizon Trademark Services, LLC v. Swider (NAF FA0603000670992) (holding respondent's use of the domain name <verizonwireless.biz> for a website featuring links to competing websites constitutes bad faith).

36. Respondent's registration and use of the Domain Names meet the bad faith element set forth in Section 4(b)(iv) of the UDRP because Respondent uses the Domain Names to intentionally attract, for commercial gain, Internet users to its websites by creating a likelihood of confusion with Complainant and its VERIZON Trademark and FIOS Trademarks as to the source, sponsorship, affiliation, and/or endorsement of Respondent's website. See, e.g., Verizon Trademark Services, LLC v. NA et al. (NAF FA0512000616307) (holding respondent's use of the domain name <verizoncenter.com> for a commercial website for which respondent receives click-through fees constitutes bad faith pursuant to Section 4(b)(iv)); Capital One Financial Corporation v. LaPorte Holdings, Inc. (NAF FA0502000417712) (holding respondent's use of the disputed CAPITAL ONE-formative domain names for pay-per-click websites constitutes bad faith and holding "[r]espondent is profiting from the unauthorized use of [c]omplainant's registered mark in its domain names. Such infringement is what the Policy was intended

to remedy and is evidence of bad faith registration and use under Policy ¶4(b)(iv).”).

37. Given the fame of the VERIZON Trademark, Verizon’s federal trademark registrations for its VERIZON Trademark and FIOS Trademarks, and the fact that Respondent uses the Domain Names for websites displaying competing links and VERIZON-related and/or FIOS-related categories, Respondent undoubtedly had knowledge of Complainant’s rights in its VERIZON Trademark and FIOS Trademarks when it registered the Domain Names. By registering the Domain Names with knowledge of Complainant’s rights in its VERIZON Trademark and FIOS Trademarks, Respondent acted in bad faith. See, e.g., Verizon Trademark Services, LLC v. NA et al. (NAF FA0512000616307) (holding respondent registered with domain name <verizoncenter.com> in bad faith with “at least constructive knowledge of Complainant’s rights in the VERIZON Trademark by virtue of Complainant’s prior filing for registration of that mark with the United States Patent and Trademark Office. Registration of a confusingly similar domain name despite such constructive knowledge evidences bad faith registration and use of the domain name pursuant to Policy ¶4(a)(iii).”); IndyMac Bank, F.S.B. v. Jason U Carpenter d/b/a Jason U Internet Inc (NAF FA0505000474818) (holding respondent’s registration of the domain names constitutes bad faith because he had actual knowledge of complainant’s trademarks as shown by the connection between respondent’s pay-per-click website relating to complainant’s business).

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

FINDINGS

Complainant, Verizon Trademark Services LLC, is a provider of communications and entertainment goods and services to wireline and wireless customers. Complainant holds registrations with the United States Patent and Trademark Office (“USPTO”) for the VERIZON (Reg. No. 2,886, 813 issued September 21, 2004; Reg. No. 3, 085,712 issued April 25, 2004), FIOS (3,001,081 issued September 27, 2005) and VERIZON FIOS (Reg. No. 3,147,510 issued September 26, 2006) marks. Complainant utilizes these marks in connection with its communications and entertainment goods and services.

Respondent registered the <verizonftp.com> and <verizonftp.net> domain names on February 24, 2006, and registered the <fiosonlinereviews.com>, <verizonsolutions.net>, <verizonsolutions.biz>, <verizonsolutions.info>, <fiosonlinereviews.biz>, <verizonsolutions.com>, <fiosonlinereviews.info> and <fiosonlinereviews.net> domain names on February 25, 2006. Respondent has offered all of the disputed domain names for sale on GoDaddy.com’s auction website with “buy it now” prices ranging from \$50,000 for the <verizonsolutions.com> domain name to \$120 for the <fiosonlinereviews.info> domain name. Respondent is also advertising the <verizonsolutions.com> domain name for sale at the website located at that domain name. Respondent is using the remaining domain names to operate websites featuring links to third-party websites. Many of the linked websites offer communications and

entertainment goods and services in direct competition with Complainant while other linked websites are unrelated to Complainant's business.

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 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 established rights in the VERIZON, FIOS and VERIZON FIOS marks pursuant to Policy ¶4(a)(i) through registration of the marks with the USPTO. *See 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."); *see also Innomed Techs., Inc. v. DRP Servs.*, FA 221171 (Nat. Arb. Forum Feb. 18, 2004) ("Registration of the NASAL-AIRE mark with the USPTO establishes Complainant's rights in the mark.").

Respondent's domain names are confusingly similar to Complainant's marks. Respondent's <verizonftp.com>, <verizonftp.net>, <verizonsolutions.com>, <verizonsolutions.net>, <verizonsolutions.biz> and <verizonsolutions.info> domain names include Complainant's VERIZON mark in its entirety without alteration. Respondent adds the generic terms "ftp" and "solutions" to Complainant's mark along with a variety of generic top-level domains. These generic terms have also previously

been used in connection with Complainant's business. Respondent's <fiosonlinereviews.com>, <fiosonlinereviews.net>, <fiosonlinereviews.biz> and <fiosonlinereviews.info> domain names include Complainant's FIOS mark in its entirety with the addition of the terms "online" and "reviews" as well as different of generic top-level domains. The addition of generic or descriptive terms to Complainant's marks does not distinguish the disputed domain names from Complainant's marks, nor does the addition of generic top-level domains. The Panel finds the disputed domain names are confusingly similar to Complainant's marks pursuant to Policy ¶4(a)(i). *See Oki Data Ams., Inc. v. ASD, Inc.*, D2001-0903 (WIPO Nov. 6, 2001) ("[T]he 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 Sony 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 asserts Respondent lacks rights and legitimate interests in the disputed domain name. Under the Policy, Complainant's assertion creates a *prima facie* case and shifts the burden to Respondent to demonstrate that it does have rights or legitimate interests pursuant to Policy ¶4(a)(ii). Respondent had the opportunity to present the Panel with evidence or arguments in support of its rights or legitimate interests in a Response. The Panel views Respondent's failure to submit such a Response as evidence Respondent lacks rights or legitimate interests. *See G.D. Searle v. Martin Mktg.*, FA 118277 (Nat. Arb. Forum Oct. 1, 2002) ("Because Complainant's Submission constitutes a *prima facie* case under the Policy, the burden effectively shifts to Respondent. Respondent's failure to respond means that Respondent has not presented any circumstances that would promote its rights or legitimate interests in the subject domain name under Policy ¶4(a)(ii)."); *see also Bank of Am. Corp. v. McCall*, FA 135012 (Nat. Arb. Forum Dec. 31, 2002) ("Respondent's failure to respond not only results in its failure to meet its burden, but also will be viewed as evidence itself that Respondent lacks rights and legitimate interests in the disputed domain name."). The Panel will nevertheless examine the available evidence to determine whether Respondent has rights or legitimate interests in the disputed domain name as contemplated by Policy ¶4(c).

Respondent is using the disputed domain names to operate websites populated with links to third-party websites, many of which are commercial websites in competition with Complainant. Internet users are redirected to Respondent's website because of the confusing similarity between the disputed domain names and Complainant's marks. Presumably, when Internet users click on the links posted on Respondent's website, Respondent receives pay-per-click referral fees. Because Respondent's websites fail to

offer anything other than third-party links, Respondent is not using the disputed domain name in connection with a *bona fide* offering of goods or services as contemplated by Policy ¶4(c)(i). Nor is Respondent using the disputed domain name in connection with a legitimate noncommercial or fair use as contemplated by Policy ¶4(c)(iii) because Respondent is presumably profiting when Internet users click on the links posted on Respondent's website. Respondent has indicated on GoDaddy.com's auction website and on the website connected to the <verizonsolutions.com> domain name that the disputed domain names are for sale for prices ranging from \$120 to \$50,000. Respondent's willingness to sell the domain names is further evidence that Respondent has rights or legitimate interests in the disputed domain names. From all of these facts, the Panel finds Respondent lacks rights or legitimate interests in the disputed domain names pursuant to Policy ¶4(c)(i) and (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 24 Hour Fitness USA, Inc. v. 24HourNames.com-Quality Domains For Sale*, FA 187429 (Nat. Arb. Forum Sep. 26, 2003) (holding that Respondent's use of the <24hrsfitness.com>, <24-hourfitness.com> and <24hoursfitness.com> domain names to redirect Internet users to a website featuring advertisements and links to Complainant's competitors could not be considered a *bona fide* offering of goods or services or a legitimate noncommercial or fair use); *see also Mothers Against Drunk Driving v. Hyun-Jun Shin*, FA 154098 (Nat. Arb. Forum May 27, 2003) (holding that under the circumstances, the respondent's apparent willingness to dispose of its rights in the disputed domain name suggested that it lacked rights or legitimate interests in the domain name); *see also Wal-Mart Stores, Inc. v. Stork*, D2000-0628 (WIPO Aug. 11, 2000) (finding the respondent's conduct purporting to sell the domain name suggests it has no legitimate use).

There is no available evidence indicating Respondent is commonly known by the disputed domain names. Respondent's WHOIS information identifies Respondent as "Barmax Distribution," a name with no apparent relationship to the disputed domain names. Complainant also asserts without contradiction Respondent is not affiliated with Complainant and does not have permission from Complainant to reflect Complainant's mark in a domain name. The Panel finds Respondent lacks rights or legitimate interests pursuant to Policy ¶4(c)(ii). *See Tercent Inc. v. Lee Yi*, FA 139720 (Nat. Arb. Forum Feb. 10, 2003) (stating "nothing in Respondent's WHOIS information implies that Respondent is 'commonly known by' the disputed domain name" as one factor in determining that Policy ¶4(c)(ii) does not apply); *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).

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

Registration and Use in Bad Faith

Respondent has posted the disputed domain names for sale on GoDaddy.com's auction website. Many of the disputed domain names are offered for sale for thousands of dollars. The website connected to the <verizonsolutions.com> domain name offers that domain name for sale for \$50,000. The Panel finds Respondent's attempt to sell the disputed domain names for prices in excess of Respondent's presumed out of pocket expenses is evidence of bad faith registration and use pursuant to Policy ¶4(b)(i). *See Am. Online, Inc. v. Avrasya Yayincilik Danismanlik Ltd.*, FA 93679 (Nat. Arb. Forum Mar. 16, 2000) (finding bad faith where the respondent offered domain names for sale); *see also World Wrestling Fed'n Entm't., Inc. v. Bosman*, D99-0001 (WIPO Jan. 14, 2000) (finding that the respondent used the domain name in bad faith because he offered to sell the domain name for valuable consideration in excess of any out-of-pocket costs).

Respondent is using the disputed domain names to redirect Internet users to Respondent's websites filled with links to third-party websites, many of which are commercial websites offering entertainment and communications goods and services in competition with Complainant. Internet users redirected to Respondent's websites while trying to find Complainant's genuine website may follow the available third-party links and do business with one of Complainant's competitors. The Panel finds that such use disrupts Complainant's business and is evidence of bad faith registration and use 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 Puckett, Individually v. Miller*, D2000-0297 (WIPO June 12, 2000) (finding that the respondent has diverted business from the complainant to a competitor's website in violation of Policy ¶4(b)(iii)).

Respondent's domain names are confusingly similar to Complainant's marks. Internet users seeking Complainant's genuine website may easily find themselves instead redirected to Respondent's websites. The confusing similarity between the disputed domain names and Complainant's marks combined with the content of Respondent's websites featuring links to third-party websites offering goods and services similar to those offered by Complainant may cause Internet users to mistakenly believe that Respondent's website is affiliated with Complainant. Respondent is presumably profiting from this confusion by collecting pay-per-click referral fees from the links posted at its website. The Panel finds that such use is evidence of bad faith registration and use 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

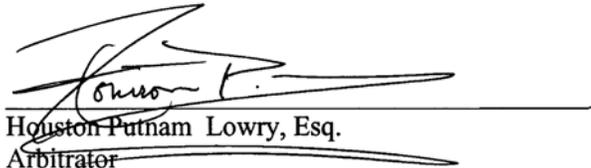
similar to the complainant's services and merely took advantage of Internet user mistakes).

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

DECISION

Having established all three elements required under the ICANN Policy, the Panel concludes that relief shall be **GRANTED**.

Accordingly, it is Ordered that the <verizonftp.com>, <verizonftp.net>, <verizonsolutions.com>, <verizonsolutions.net>, <verizonsolutions.biz>, <verizonsolutions.info>, <fiosonlinereviews.com>, <fiosonlinereviews.net>, <fiosonlinereviews.biz> and <fiosonlinereviews.info> domain name be **TRANSFERRED** from Respondent to Complainant.



Houston Putnam Lowry, Esq.
Arbitrator

Houston Putnam Lowry, Chartered Arbitrator, Panelist
Dated: December 15, 2006

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