



CANADIAN INTERNATIONAL INTERNET DISPUTE RESOLUTION CENTRE
DOMAIN NAME DISPUTE
ADMINISTRATIVE PANEL
DECISION

CIIDRC case number:	18909-UDRP	Decision date: June 13,2023
Domain Names:	1) DOGANDCATSSHOTS.COM 2) DOGSANDCATSHOTS.COM and DOGSANDCATSSHOTS.COM 3) DOOGANDCATSHOTS.COM; DOGGANDCATSHOTS.COM; DOGAANDCATSHOTS.COM; DOGANNDCATSHOTS.COM; DOGANDDCATSHOTS.COM; DOGANDCCATSHOTS.COM; DOGANDCAATSHOTS.COM; DOGANDCATTSHOTS.COM; DOGANDCATSHHOTS.COM; DOGANDCARSHOTS.COM; DOGANDCSTSHOTS.COM; DOGANDXATSHOTS.COM; DOGANDCATSJOTS.COM; DOGANDCATSHPTS.COM; DOGANDCATSGOTS.COM; DOGANDCATSHORS.COM; DOGANDCATSHOOTS.COM; DOGANDCATSHOYS.COM; DOGANDCATSHOTTS.COM; DOGANDCATSHOTSS.COM; FOGANDCATSHOTS.COM; DOGANDCAYSHOTS.COM; DOHANDCATSHOTS.COM; SOGANDCATSHOTS.COM; DOGANDCATSHOS.COM; DOGSNDCATSHOTS.COM	
Panel:	Claude Freeman	
Complainant:	Dr. Geoffrey Antipa, dba Yolano Veterinary Clinic	
Complainant's Representative:	R. Shane Quigley of Parker Law Taylor Group, PC	
Respondents:	Carolina Rodrigues/Comercio Electronico, Yang Zhi Chao and Karl Schnurch/EdenMedia	

1. PROCEDURAL HISTORY

The procedural history of this case was set out in a letter from the Canadian International Internet Dispute Resolution Centre to the Panel dated June 1, 2023.

The particulars of the case are summarized as follows:

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1. On December 29, 2022, R. Shane Quigley submitted a Complaint via the CIIDRC online platform. The Complaint included twenty-nine domain names with variations of the words such as “dog” “and” “cats” “shots”. The required commencement fee was paid on March 16, 2023. The identity of the Registrant is not published in the public WHOIS database; therefore, the Registrant’s name was not included in the Complaint.
2. On March 16, 2023, CIIDRC transmitted request for registrar verification in connection with the disputed domain names to the Registrar, GoDaddy.com, LLC, and on March 17, 2023, the Registrar responded advising of the identity of the Respondents. The Registrars' records indicate that the disputed domain names are registered by three different Registrants.
3. On April 25, 2023, the Complainant amended the Complaint by filing additional complaints against each Registrant.
4. Pursuant to UDRP Rule 4 and Supplemental Rule 5, CIIDRC notified the Respondents of this administrative proceeding and forwarded a Notice with a login information and the link to the Complaints to the Respondents on April 26, 2023.
5. The Respondents failed to file their responses by the due date of May 16, 2023.
6. We have received no correspondence from Carolina Rodrigues/ Fundacion Comercio Electronico or Yang Zhi Chao.
7. On April 26, 2023 EdenMedia confirmed receipt of the complaint via email.
8. On May 31, 2023, counsel for the Complainant submitted a Petition to Consolidate all three UDRP matters. CIIDRC notified the complainant that the decision to consolidate would be at the discretion of the panel.
9. The Complainant in this administrative proceeding has elected for a Panel consisting of a single member. CIIDRC appointed Claude Freeman as a single-member Panel in this matter on June 1, 2023.

This matter is conducted pursuant to the Uniform Domain Name Dispute Resolution Policy (the Policy) and the Rules for Uniform Domain Name Dispute Resolution Policy (the Rules) of the Internet Corporation for Assigned Names and Numbers (ICANN).

Petition to Consolidate:

As per above item #8, counsel for the Complainant submitted a Petition to Consolidate on May 31, 2023.

The grounds for such are that the overreaching facts in each Complaint are virtually identical, differing only in the different typos in and number of domain names. As well, the registrations, and non-use of the typo squatting names are also virtually identical (other than misspelled variants), have been used to divert traffic to apparently unmonitored websites, dedicated to static advertising. The salient points of the Petition are more specifically outlined below.

1. REQUESTED RELIEF

Complainant Geoffrey Antipa, dba Yolano Veterinary Service (“Complainant”) hereby seeks from the appointed panelist consolidation of the existing matters (1) 18909-UDRP-1; (2) 18909-UDRP-2; and (3) 18909-UDRP-3 to be ruled on concurrently by the panelist. All three matters involve the same Complainant, the same confusingly and unlawfully infringing typo squatting domain names, and the same underlying facts such that it would be a more efficient use of panelist and party resources to have the matters considered and ruled at the same time.

2. JURISDICTION & PROCEDURAL STATUS

Complainant has previously filed the three (3) above-listed complaints against the respective Respondents under the Uniform Domain Name Dispute Resolution Policy through ICANN. CIIDRC is an authorized provider of UDRP arbitration.

The Complaints in all three matters were opened on April 26, 2023, with formal notice provided by the CIIDRC to Complainant and Respondents via email. Pursuant to the Rules for Uniform Domain Name Proceedings (“UDRP Rules”) and the CIIDRC Supplemental Rules, responses were required by May 16, 2023. No response was submitted by any Respondent.

3. AUTHORITY TO CONSOLIDATE

Under the UDRP Rules, arbitrator panelists have extremely broad authority to conduct administrative proceedings. The panelist has explicit authority, subject to the panelist’s discretion, to consolidate multiple domain name requests under the UDRP “in accordance with the Policy and these Rules.” (Uniform Domain Name Dispute Resolution Policy Rules). The UDRP Policy itself explicitly provides for consolidation, stating:

“In the event of multiple disputes between you and a complainant, either you or the complainant may petition to consolidate the disputes before a single Administrative Panel. This petition shall be made to the first Administrative Panel appointed to hear a pending dispute between the parties. This Administrative Panel may consolidate before it any or all such disputes in its sole discretion, provided that the disputes being consolidated are governed by this Policy or a later version of this Policy adopted by ICANN.” (Uniform Domain Name Dispute Resolution Policy, 4(f).)

UDRP Rule 10(a) provides that an arbitrator “shall conduct the administrative proceeding in such manner as it considers appropriate in accordance with the Policy and these Rules (Uniform Domain Name Dispute Resolution Policy Rules, 10(a)), while the Rules also provide that the proceeding should take place “with due expedition.” (Uniform Domain Name Dispute Resolution Policy Rules, 10(c).)

4. GROUNDS FOR CONSOLIDATION

The overarching facts in each Complaint are virtually identical, differing only in the different typos in and number of domain names. (See Complaint No. 18909-UDRP-1 7; 18909-UDRP-2 7; 18909-UDRP-3 7.) All the Complaints allege the same supporting information, namely that Complainant has been the owner of the registered domain name www.dogandcatshots.com and has been using this specific domain name since it was first registered in June 2015 (as per Exhibit 1 to Complaint – ICANN Registration Domain Information; as per Exhibit 2 to Complaint – Wayback Machine), along with the specific intellectual property rights held by Complainant.

The facts surrounding the registration and non-use of the typo squatting names are also virtually identical across all three Complaints, summarized as (1) a large number of confusing, slightly misspelled variants on his domain name have been recently registered and utilized to divert traffic to apparently-unmonitored websites dedicated to static advertising; (2) that none of the typo squatting names are being utilized for any legitimate purpose; (3) that the Respondents have no intellectual property rights in the domain names; (4) that the Respondents have been operating in bad faith by registering these clearly-predatory domain names in bulk and doing nothing with them; (5) that Complainant has lost web traffic and patients due to Respondents' registration and misuse of the domain names; and (6) that the Annexes are identical. Further, none of the Respondents submitted any response or defense to the respective Complaints, rendering individualized treatment unnecessary. Under the UDRP Rules, a Respondent's failure to file a response shall cause the panelist to make a decision based on the Complaint. (Uniform Domain Name Dispute Resolution Policy Rules, 5(f)). Since the Complaints are all virtually identical, it would be economical for the panelist and Complainant to have all the matters disposed of concurrently in a singular written opinion.

Decision as to Consolidation:

Having carefully reviewed and considered the Petition to Consolidate provided by the Complainant's legal representative, including weighing that had the Proceeding not been consolidated, there is no reason to suggest or to conclude that the usual "tests" for such a proceeding would otherwise be individually different, not to mention the economic savings of a consolidation.

The Panel has therefore accepted to Consolidate the Complaints into one proceeding.

2. FACTS ALLEGED BY THE PARTIES

The Complainant Dr. Geoffrey Antipa, dba Yolano County Vet as a general partnership in California, the owner and user of the registered domain name www.dogandcatshots.com, and provides pet vaccination services, among other pet health products.

Dr. Antipa has been using this specific domain name since it was first registered in June 2015. Dr. Antipa and his family have been operating this business in California since 1978 as stated on his website and his registered trademark, thus having common law intellectual property rights through their exclusive use, in addition to their California registered trademark.

Recently, a large number of confusingly similar and slightly misspelled variants on his own domain name have been registered and utilized to divert traffic to apparently unmonitored websites dedicated to static advertising.

That a huge number of these domains having been recently registered and being so extremely similar, and that none of them are being utilized for any legitimate business purpose, the Complainant alleges these have been fraudulently and improperly registered solely to capitalize on Dr. Antipa's intellectual property rights and domain.

The Complainant also alleges that the unlawful domain name squatters are siphoning business from the overwhelming source of visitors to his own domain name of www.dogandcatshots.com, thereby resulting in significant financial damage, though the exactitude of the financial damages haven't been quantified.

As well, the Complainant submits that numerous clients have expressed concern and confusion about the website and believing that he was no longer operating, thereby causing considerable disruption, damage, and detriment to Dr. Antipa's business.

The Complainant further adds that twenty-eight (28) of the thirty (30) infringing domain names were in 2022, and 27 of those were not updated even a single time since registration. Two (2) others were registered in 2018 and ostensibly updated but are identical to all the bother infringing websites. Not a single one of these websites appears to have ever been used in any legitimate fashion. All of these websites were registered after 2015, the year in which the Complainant's website www.dogandcatshots.com was registered.

3. CONTENTIONS OF THE PARTIES

- **Complainant**

The Complainant submits that the Domain Names satisfy the three elements of the UDRP. First, the Complainant contends that the Domain Names are confusingly similar to a mark in which the Complainant has rights. Furthermore, the Complainant asserts that the circumstances are such the Registrants have no rights or legitimate interests in the Domain Names, and, as well, that the Domain Names has been registered and are being used in bad faith per the purpose of the Policy.

- **Respondents**

Only one of the two Respondents has provided a Response. EdenMedia responds that their domain names (Dogsandcatshots.com and Dogsandcatsshots.com) were acquired in October of 2022 as part of a monetization domain portfolio of 3,000 domain names used exclusively to direct users to paid advertisements selected by PPC or zero click advertising networks including

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TrafficMotor.com that they partner with for domain name monetization purposes. They further indicate having performed a scan of the entire portfolio for potential infringed trademarks using Estibot.com, but that the domain name was not flagged, and have to date, received no complaints.

Accordingly, they submit to having a legitimate interest in the domain name, it generates revenues and to their knowledge does not infringe upon the classes of the Complainant's trademarks.

- **Remedy Sought**

The Complainant requests all of the Domain Names be transferred to it.

4. **DISCUSSION AND FINDINGS**

4.1 **Requirements**

In accordance with Paragraph 4 of the Policy, the onus is on the Complainant to prove:

1. That the Domain Name(s) are Identical or Confusingly Similar to a trademark or service mark in which the Complainant has rights:
2. That the Registrant(s) have no rights or legitimate interests in the Domain Names; and
3. That the Domain Names have been registered and being used in bad faith.

The Panel will consider each of these requirements in turn.

4.2 **Analysis**

4.2.1 That the Domain Name(s) is/are Identical or Confusingly Similar to a Mark in which the Complainant has Rights

When a domain name wholly incorporates the complainant's trademark, the domain name will normally be considered confusingly similar. The addition of other terms to the relevant trademark would not prevent a finding of confusing similarity.

The Complainant has established that it has rights in the www.dogandcatshots.com Trademark for purposes of paragraph 4(a)(i) of the Policy.

Accordingly, the Panel finds that the Domain Names are confusingly similar to the Complainant's Trademark (paragraph 4(a)(i) of the Policy).

4.2.2 That the Respondent has No Rights or Legitimate Interest in the Domain Name

Under paragraph 4(a)(ii) of the Policy, the complainant has the burden of establishing that the respondent has no rights or legitimate interests in respect of the disputed domain name. If the complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name.

By virtue of paragraph 4(c) of the Policy, any of the following circumstances, in particular but without limitation, if found by the panel to be proved based on its evaluation of all evidence presented, shall demonstrate the respondent's rights or legitimate interests to the domain name: 5 (i) before any notice to the respondent of the dispute, the respondent's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or (ii) the respondent (as an individual, business, or other organization) has been commonly known by the domain name, even if it has acquired no trademark or service mark rights; or (iii) the respondent is making a legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

In this case, the Panel considers that the Complainant has made out a sufficient *prima facie* case. The Domain Names are confusingly similar to the Complainant's www.dogandcatshots.com Trademark. The Domain Names were registered in 2022, well after the Complainant's prior mark. The Complainant's mark is well-known in the veterinary world or circles. It is also valid in the territory where the Respondent resides (the United States). The Respondents have not been authorized by the Complainant to use its mark, whether in a domain name or otherwise. The Disputed Domain Names do not resolve to web sites claiming legitimate uses. These factors are sufficient to establish a *prima facie* case, and move the evidentiary onus under paragraph 4(a)(ii) of the Policy, to the Respondents.

The Respondents have not submitted any Response (except for EdenMedia on April 27, 2023) other than to simply contest the proceeding without any evidentiary information or productions, and, thus, have failed to invoke any of the circumstances, which could demonstrate any rights or legitimate interests in the Domain Name. Therefore, the Panel must determine the dispute on the basis of the available evidence submitted.

No evidence is available to the Panel showing that the Respondents have been commonly known by the Domain Names or have acquired any rights in a trademark or trade name corresponding to the Domain Name.

The Respondents registered the Domain Names incorporating the Complainant's distinctive and prior trademark plus the additional generic and descriptive terms "dog(s)" and "cat(s)" and, thus confusingly similar to the www.dogandcatshots.com Trademark.

UDRP panels have found that domain names identical or confusingly similar to a complainant's trademark carry a high risk of implied affiliation. A domain name consisting of a trademark plus an additional term at the second or top-level is seen as tending to suggest sponsorship or endorsement by the trademark owner. Thus, UDRP panels have largely held that such composition cannot constitute fair use.

Moreover, there is no evidence that, before any notice to the Respondents, they used, or demonstrably prepared to use, the Domain Name or a name corresponding to the Domain Name in connection with a bona fide offering of goods or services.

Domain Name: dogandcatshots.com: This Domain Name is being used for and by a well-known veterinary clinic and related pet services. There are no disclaimers on the websites associated with the Domain Names that makes it clear to Internet users visiting the Respondents' websites that they are not operated by the Complainant.

Having considered the above circumstances, in absence of any relevant evidence proving the Respondents' rights or legitimate interests in respect of the Domain Name, the Panel concludes that, on the balance of probabilities, the Respondents have registered the Domain Name to target the Complainant's widely known www.dogandcatshots.com

Trademark and with the intent for commercial gain to misleadingly divert consumers or to tarnish that mark. One Respondent has indicated that the registrations were designed to monetize websites.

The Panel is satisfied that the Complainant has met the second requirement of paragraph 4(a) of the Policy and finds that the Respondents lacks rights or legitimate interests to the Domain Names.

4.2.3 That the Respondent has Registered and Used the Domain Name in Bad Faiths

The Domain Name has been registered and is being used in bad faith for the following cumulative reasons.

The Respondent has used a privacy or proxy service when registering the Domain Name. Although the use of such service is not in and of itself an indication of bad faith, the circumstances, and the manner in which such service is used may however impact the Panel's assessment of bad faith.

The Domain Names are to be considered confusingly similar to the www.dogandcatshots.com Trademark, since they incorporate such marks in their entirety and differ from it merely by adding the non-distinctive and descriptive terms, that create confusing similarity between the Domain Names and the trademark of the Complainant as it is a technical requirement of registration.

UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names incorporating the mark plus a descriptive term) to a famous or widely known trademark by an unaffiliated entity can by itself create a presumption of bad faith.

Given the distinctiveness and the reputation of the Complainant's prior mark acquired over the years, it is inconceivable that the Respondents could have registered the Domain Names confusingly similar to the Complainant's trademark for a mere chance without actual knowledge of the Complainant and its mark and the intention to exploit such reputation by diverting traffic away from the Complainant's website.

Even assuming that the Respondents had no knowledge of the Complainant's prior mark at the time of registration of the Domain Names there is no evidence that they omitted to verify that the Domain Names would have infringed the Complainant's earlier rights.

Domain Name: dogandcatshots.com

Under paragraph 2 of the Policy, it is the Respondent's responsibility to determine whether a domain name registration infringes or violates third party's rights. By registering the Domain Names confusingly similar with the Complainant's well-known mark, the Respondents have violated, *inter alia*, the cited provision of the Policy. Again, the Domain Names don't resolve to any web sites with any legitimate purpose(s). Therefore, the Panel finds that, by using the Domain Names, the Respondents have intentionally attempted to attract, for commercial gain, Internet users to their web sites or other on-line location, by creating a likelihood of confusion with the www.dogandcatshots.com Trademark as to the source, sponsorship, affiliation, or endorsement of her web site or location or of a product or service on her web site or location (paragraph 4(b)(iv) of the Policy).

Looking at the totality of the circumstances the present case, the Panel finds that the Complainant has discharged the burden of proof to show that the Domain Names have been registered and are being used in bad faith (paragraph 4(a)(iii) of the Policy).

5. DECISION and ORDER

For the above reasons, in accordance with Paragraph 4 of the Policy, Paragraph 15 of the Rules, and Rule 10 of the Supplemental Rules, the Panel orders that the Domain names of:

- 1) **DOGANDCATSSHOTS.COM**
- 2) **DOGSANDCATSHOTS.COM and DOGSANDCATSSHOTS.COM**
- 3) **DOOGANDCATSHOTS.COM; DOGGANDCATSHOTS.COM; DOGAANDCATSHOTS.COM; DOGANNDCATSHOTS.COM; DOGANDDCATSHOTS.COM; DOGANDCCATSHOTS.COM; DOGANDCAATSHOTS.COM; DOGANDCATTSHOTS.COM; DOGANDCATSHHOTS.COM; DOGANDCARSHOTS.COM; DOGANDCSTSHOTS.COM; DOGANDXATSHOTS.COM; DOGANDCATSJOTS.COM; DOGANDCATSHPTS.COM; DOGANDCATSGOTS.COM; DOGANDCATSHORS.COM; DOGANDCATSHOOTS.COM; DOGANDCATSHOYS.COM; DOGANDCATSHOTTS.COM; DOGANDCATSHOTSS.COM; FOGANDCATSHOTS.COM; DOGANDCAYSHOTS.COM; DOHANDCATSHOTS.COM; SOGANDCATSHOTS.COM; DOGANDCATSHOS.COM; DOGSNDCATSHOTS.COM,**

all be transferred to the Complainant.

Made as of June 13, 2023

SIGNATURE OF PANEL

Claude Freeman, LL.M., C. Med., C. Arb.

