

**IN THE MATTER OF A COMPLAINT PURSUANT TO THE  
CANADIAN INTERNET REGISTRATION AUTHORITY (CIRA)  
DOMAIN NAME DISPUTE RESOLUTION RULES (the Rules)**

Dispute Number: DCA-1754-CIRA  
Domain Name: magnacanada.ca  
Complainant: Magna International Inc.  
Registrant: Unknown, but is wrongly identified as Anne Hrychuk  
Register: Go Daddy Domains Canada, Inc.  
Panelist: Harold Margles  
Service Provider: The British Columbia International Commercial Arbitration Centre

**PARTIES**

The Complainant, Magna International Inc., is a global automotive component supplier, founded in 1957 and incorporated under the laws of Ontario. It is one of Canada's largest companies, having 285 manufacturing operations and 83 product development, engineering and sales centres across 29 countries and 5 continents. It employs over 125,000 people through its subsidiaries and operating groups involved in the design, engineering testing and manufacture of automotive seating systems, metal body and chassis systems, closure systems, mirror systems, exterior systems, roof systems, electronic systems and powertrain systems. Additionally, it engineers and assembles complete vehicles for sale to original equipment manufacturers of cars and light trucks. At present, the Complainant provides automotive content for virtually every automotive manufacturer of every major brand of automobile in the world.

The Complainant's subsidiaries and operating groups include Magna Steyr, Magna Powertrain, Magna Exteriors, Magna Seating, Magna Closures, Magna Mirrors, Magna Electronics and Cosma International.

In 2014, the Complainant had sales of US\$36.64 billion. It is listed on the New York Stock Exchange and the Toronto Stock Exchange.

The Complainant considers the skills, knowledge and commitment of its employees to be fundamental to its continued success. As such, the Complainant operates under a unique corporate constitution which calls for the distribution of profits to employees, as well as shareholders, through its Employee Equity and Profit Participation Program. Its Employee's Charter encourages an entrepreneurial culture which builds ownership and inspires pride in its employees. It promotes its appeal to potential employees on its website. As a result of these unique policies, Magna is a much sought-after employer. It enjoys an enviable reputation with both current and prospective employees worldwide.

The Registrant's website alludes to the Complainant with references to the hiring of employees for the Complainant, incorporating misinformation to induce such interested persons to contact the Complainant's human resources department.

The website states:

"We only hire the best, and if they want to stay in Key West sitting in their pajamas all day while they work on our latest solutions, fine with us".

That is not an accurate statement of the Complainant's Employee's Charter. The Registrant's website is intended to deceive internal users, particularly prospective employees of the Complainant, into providing the Registrant with confidential personal contact and financial information on the basis that such information is going to a reliable and trustworthy potential employer. The Complainant has no knowledge of the use to which the Registrant may be putting this information to the potential detriment of the internal users. If such information is misused by the Registrant, vulnerable internal users can be preyed upon, and the credibility and reputation of the Complainant will be impaired and the potential for attracting quality employees to the Complainant will be diminished. The Registrant's scheme is commonly known as a "phishing" scam.

The Complainant was founded in Canada by Frank Stronach who is a proud Canadian, and is known to be so. The Registrant's website states: "Magna was founded in 1931 by our current CEO's grandfather, Bill McCormick.....We're Americans and we love America so it only makes sense for us to be centrally located in the good old U.S. of A". This misinformation is at best misleading to potential employees of the Complainant, and is confusing in light of the proudly Canadian reputation of the Complainant and of Mr. Stronach.

Successful and famous companies, such as the Complainant, are frequently the target of unscrupulous online activities. A UDRP panel recently ordered the transfer of the domain name magnahr.info, finding that it was similarly used in a phishing scam to solicit confidential data and funds under the guise of offering employment opportunities with the Complainant. See *Magna International Inc. v Mustafa Mashari D2015-0645*.

On December 18, 2015, shortly after the Complainant became aware of the Domain Name, it sent correspondence to the Registrant through CIRA's messenger service, demanding that it cease its unauthorised use of the Domain Name. No reply was received. The website has continued to operate.

**The Complainant must establish that the disputed Domain Name is confusingly similar to a mark in which the Complainant had rights prior to the date of registration of the Domain Name and continues to have such rights.**

The Registrant registered the Domain Name magnacanada.ca nearly 30 years after the Complainant commenced to use, and continually used, the first of its many Magna registered trade-marks, MAGNA TMA 303,870, and nearly 50 years since it began the use of its other MAGNA trade-marks.

The dominant portion of the Domain Name, MAGNA is identical in sound and appearance to the Complainant's registered trade-marks. Indeed, the Registrant uses the Domain Name to totally identify itself as the Complainant.

The use of the Complainant's human resources manager, Anne Hrychuk, to both shield the identity of the Registrant and to wrongfully appropriate her name, legitimate position and address in the Complainant's organisation for its own purposes, is disruptive of the Complainant's business, a source of confusion to internet users utilising the website and, quite potentially, a source of fraud on such users. This too is bad faith.

Bad faith under paragraph 3.5(c) exists where the use of a domain name is likely to cause confusion among internet users as to affiliation or sponsorship. *Yamaha Corporation and Yamaha Motor Canada Inc. Jim Yoon BCICAC Case 00089 at Paragraph 58.*

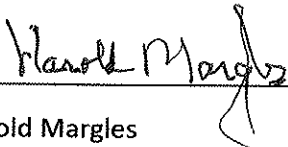
The Complainant has established a prima facie case of bad faith on the part of the Registrant. The Registrant had an obligation to adduce evidence to rebut that finding and has not done so.

For the foregoing reasons, the Panel decides:

1. The Domain Name magnacanada.ca registered by the Registrant is confusingly similar to the trade-mark MAGNA in which the Complainant has rights.
2. The Registrant has no legitimate interest in respect of the Domain Name magnacanada.ca.
3. The Domain Name magnacanada.ca has been registered in bad faith.

**THE PANEL ORDERS THAT THE REGISTRATION OF THE DOMAIN NAME magnacanada.ca BE FORTHWITH TRANSFERRED TO THE COMPLAINANT MAGNA INTERNATIONAL INC., BY THE REGISTER GO DADDY DOMAINS CANADA INC (REGISTER NUMBER 2316042)**

Dated at Toronto this 11<sup>th</sup> day of March 2016



Harold Margles

Panel