

IN THE MATTER OF
A Complaint pursuant to the Canadian Internet Registration Authority (**CIRA**)
Dispute Resolution Policy (**CDRP**) and Domain Name Dispute Resolution Rules (the **Rules**).

File Number: DCA-1943-CIRA
Domain Name: meetic.ca
Complainant: MEETIC SA
Registrant: Galt Networks Inc.
Registrar: Namespro Solutions Inc.
Sole Arbitrator: Michael Erdle
Service Provider: British Columbia International Commercial Arbitration Centre
(BCICAC)

DECISION

On January 10, 2018, the Complainant filed a complaint against the Registrant with the BCICAC, with respect to the registration of <meetic.ca> (the “Domain Name”).

The BCICAC confirmed the Complainant was in administrative compliance with the Policy and the Rules and forwarded a copy of the complaint to the Registrant on January 10, 2018.

The Registrant has not responded to the BCICAC with respect to the complaint within the time required under the Rules.

Accordingly, under Rule 6.5, the Complainant was permitted to elect to convert from a three-person tribunal to a single arbitrator. The Complainant elected to do so.

I was appointed as sole arbitrator on February 5, 2018 and accepted the appointment on February 6, 2018.

Factual Background

In accordance with Rule 5.8, having received no response to the complaint, I shall decide the complaint based on the information provided in the Complaint and accompanying materials, as set out in this award.

The Complainant is MEETIC, a Société par Actions Simplifiée, whose principal office is located at 6 rue auber 75009 Paris, France.

The Registrant is Galt Networks, Inc., whose administrative contact address is Namespro.ca Private WHOIS, Box 276, 130-8191 Westminster Highway Richmond, BC V6X 1A7.

The Complainant was founded in November 2001 and is a leading online dating service in Europe, with about 6.5 million visitors in 15 countries and 13 languages.

The Complainant is the owner of the trademark MEETIC (the “Trademark”), registered in the Canadian Intellectual Property Office (“CIPO”) under registration number TMA 685099. The Trademark was registered on March 30, 2007.

The Complainant also owns and communicates on the Internet through various domain names, the main one being <meetit.com>, registered on October 30, 2001.

According to the WHOIS report filed by the Complainant, the Domain Name was registered with the Registrar Namespro Solutions Inc. on May 23, 2007.

Remedy

Pursuant to paragraph 4.3 of the Policy, if the Panel decides in favour of the Complainant, the Panel must decide whether the Domain Name should be deleted or transferred to the Complainant.

Reasons

Eligibility

The Complainant satisfies CIRA’s eligibility requirements for Complainants, pursuant to paragraph 1.4 of the Policy, because the complaint relates to a trademark registered with the Canadian Intellectual Property Office and the Complainant is the owner of the trademark.

The Respondent has not made any submissions of any kind in response to the Complaint. Nevertheless, under the Policy, the onus is on the Complainant to prove on a balance of probabilities that the domain name is confusingly similar to Complainant’s trademark, that the Complainant has rights in the mark, and that it has been registered in bad faith. The Complainant must also provide “some evidence” that the Registrant has no legitimate interest in the disputed domain name.

1. Confusingly Similar & Rights in the Trade-mark

A domain name is “Confusingly Similar” to a Mark if the “domain name so nearly resembles the Mark in appearance, sound or the ideas suggested by the Mark as to be likely to be mistaken for the Mark”. In assessing whether a domain name is “Confusingly Similar”, the Panel shall only consider the appearance, sound, or idea suggested and not have regard to other factors. The “domain name”, for the purposes of the Policy, means the domain name excluding the dot-ca suffix. (Paragraph 3.3 of the Policy)

In this case, the Domain Name is identical to the Complainant’s Trademark.

The registration of a mark with CIPO is sufficient in and of itself to establish “rights” within the meaning of the Policy. (*Viacom International Inc. v. Harvey Ross Enterprises Ltd.*, BCICAC, Case No. 00015, 2003)

The term “MEETIC” is widely known in relation to the Complainant. The word “MEETIC” is said to have no dictionary meaning in in any language. It has no meaning whatsoever in English or French. A Google search of the word “MEETIC” submitted by Complainant shows several results related to the Complainant, including results related to Canada.

The Complainant is also present in Canada through its website: <http://www.meetic-app.ca/>.

Consumers would likely mistake the Domain Name for the Trade-mark, since (i) the Domain Name is identical to the Trademark, (ii) the Complainant’s Trademark registration pre-dates the registration of the Domain Name, and (iii) the Complainant has used and developed goodwill in the Trademark in Canada.

Based on the foregoing, I find that the Complainant has rights in the Trademark and that the Domain Name is confusingly similar to the Trademark.

2. Legitimate Interest

The Policy requires that the Complainant must provide some evidence that the Registrant has no Legitimate Interest in the Domain Name. If the Complainant meets this burden, the Registrant may still succeed if it proves, on a balance of probabilities, that it has a Legitimate Interest in the Domain Name. The Respondent has not made any submissions in this case, so it simply falls to the Complainant to provide “some evidence” of no legitimate interest.

The Complainant contends that the Registrant has no rights or legitimate interests in respect of the domain name.

The Complainant does not carry out any activity or have any business with the Registrant. No license or authorization has been granted to the Registrant by the Complainant to make any use, or apply for registration of the Trademark or the Domain Name.

The Complainant asserts that Registrant is not commonly known by the disputed domain name. The disputed domain name <meetic.ca> redirects to pages unrelated to the Domain Name or the Trademark. In addition, the Domain Name was available for purchase when the complaint was filed.

Paragraph 3.4 of the Policy provides a non-exhaustive list of instances when a registrant can establish a “Legitimate Interest” in a domain name. I will briefly refer to each of these.

(a) the domain name was a Mark, the Registrant used the Mark in good faith and the Registrant had Rights in the Mark;

As previously stated, the Registrant has no rights to use the Trademark and is not using it in good faith.

(b) the Registrant used the domain name in Canada in good faith in association with any wares, services or business and the domain name was clearly descriptive in Canada in the English or French language of: (i) the character or quality of the wares, services or

business; (ii) the conditions of, or the persons employed in, production of the wares, performance of the services or operation of the business; or (iii) the place of origin of the wares, services or business;

There is no evidence that the Registrant ever used or is preparing to use the Domain Name in connection with any bona fide wares or services. The Domain Name was “parked” and made available for sale to the highest bidder. The Trademark is a coined word – MEETIC – and is not descriptive of any wares, services or business.

(c) the Registrant used the domain name in Canada in good faith in association with any wares, services or business and the domain name was understood in Canada to be the generic name thereof in any language;

The Trademark is a coined word – MEETIC – which has no dictionary meaning in English or French, or as the Complainant asserts, in any other language. It is not a generic term for online dating services or any other wares, services or business.

(d) the Registrant used the domain name in Canada in good faith in association with a non-commercial activity including, without limitation, criticism, review or news reporting;

The Domain Name is not being used in good faith in association with a non-commercial activity. It is used in connection with third party advertising and is available for sale.

(e) the domain name comprised the legal name of the Registrant or was a name, surname or other reference by which the Registrant was commonly identified; or

The Domain Name is not the legal name of the Registrant.

(f) the domain name was the geographical name of the location of the Registrant’s non-commercial activity or place of business.

The Domain Name is not the geographical name of the location of the Registrant’s non-commercial activity or place of business.

Based on the foregoing, I find that the Registrant has no legitimate interest in the Domain Name.

3. Registration in Bad Faith

The Complainant further submits that the Registrant registered the Domain Name in order to prevent the Complainant from registering the Complainant’s Mark as a domain name and that the Registrant has engaged in a pattern of such conduct.

The evidence shows that the Domain Name was registered shortly after the registration of the Canadian trademark. It is reasonable to infer that the Registrant was aware of the Complainant’s Mark and anticipated that the Complainant would be interested in reflecting the Complainant’s Mark under the .ca extension for Canada and, that the Registrant deliberately registered the Domain Name to deny

the Complainant the opportunity to register the .ca domain and misappropriate for the Registrant the benefit of the goodwill and reputation established by the Complainant. (See *DCA – 1904 WhatsApp Inc. v. Hiba Alnatour.*)

The Domain Name points to a pay-per-click website. The Complainant contends that the Registrant has intentionally attempted to attract, for commercial gain, Internet users to the Registrant's website or other on-line location, by creating a likelihood of confusion with the Complainant's Mark as to the source, sponsorship, affiliation, or endorsement of the Registrant's website or location or of a product or service on the Registrant's website or location.

“It is a well-established principle that pointing a domain name containing a third party trademark to a pay-per-click website may give rise to a finding of bad faith. These websites put a registrant in a position to reap a financial benefit by way of referral fees.” (See *Meguiar's, Inc v Interex Corporate Registration Services Inc, March 9, 2015, Case No. 00279 at para. 38 <meguiars.ca>*)

The Domain Name was also made available for sale. Paragraph 3.5(a) of the Policy, states that registration of the domain name, or the acquisition of the Registration, primarily for the purpose of selling, renting, licensing or otherwise transferring the Registration to the Complainant, or the Complainant's licensor or licensee of the Mark, or to a competitor of the Complainant or the licensee or licensor for valuable consideration in excess of the Registrant's actual costs in registering the domain name, or acquiring the Registration, is evidence of bad faith.

Finally, the Complainant asserts that the Registrant has engaged in a pattern of registering domain name which contain third party trademarks to which the Registrant does not appear to be entitled.

The Complainant refers to *WIPO case N° D2011-1992 Twitter, Inc. v. Whois Privacy Services Pty Ltd / 21562719 Ont Ltd a/k/a Galt Networks Inc < twitter.com >* where the Panel was satisfied that the Respondent deliberately chose the disputed domain name to take advantage of the Complainant's goodwill. The Panel found that the Respondent knew of the Complainant's business and trademark at the time of acquisition of the disputed domain name, and acquired the disputed domain name with the intention of attracting Internet traffic (and “click-through” revenue).

On the facts and evidence presented by the Complainant, it would be unreasonable to think that Registrant chose this particular Domain Name by accident or without any knowledge of Complainant's business. It is reasonable to infer that the Registrant registered the Domain Name for the purpose of selling it to the Complainant or a third-party, or to exploit the goodwill associated with the Trademark to attract Internet traffic and revenues.

Based on the evidence and submissions of the Claimant, I find on a balance of probabilities, that the Registrant registered the Domain Name in bad faith.

Decision and Order

Based on the uncontested evidence of the Complainant, including the facts and arguments in the Complaint and supporting documents, I find that the Complainant has satisfied the requirements and burden of proof in the Policy and the Rules.

I find that the Claimant has rights in the Trademark.

I find that the Domain Name is confusingly similar to the Trademark, that the Registrant has no legitimate interest in the Domain Name and has registered the Domain Name in bad faith.

I hereby order and direct that the registration of the Domain Name be transferred from the Registrant to the Complainant.

Dated at Toronto, Ontario, this 12th day of February, 2018.

A handwritten signature in black ink, appearing to read "M. Erdle", with a long horizontal stroke extending to the right.

Michael Erdle,
C.Arb; FCI Arb.