

**IN THE MATTER OF A COMPLAINT PURSUANT TO
THE CANADIAN INTERNET REGISTRATION AUTHORITY
DOMAIN NAME DISPUTE RESOLUTION POLICY**

Dispute Number: DCA-2081-CIRA
Domain Names: <schlage.ca> and <vonduprin.ca>
Complainant: Schlage Lock Company LLC
Registrant: Door Hardware Depot Ltd
Registrar: Tucows.com Co
Panel: The Honourable Neil Anthony Brown, Q.C.
Service Provider: British Columbia International Commercial Arbitration Centre

DECISION

OVERVIEW

1. This matter concerns a dispute between the Complainant and the Registrant regarding the registration of the domain names <schlage.ca> and <vonduprin.ca> ("the disputed domain names").
2. The British Columbia International Commercial Arbitration Centre ("BCICAC") is a recognized service provider to the CIRA Domain Name Dispute Resolution Policy ("the Policy") of the Canadian Internet Registration Authority ("CIRA").
3. This is a proceeding under the CIRA Domain Name Dispute Resolution Policy ("the Policy"), in accordance with the CIRA Dispute Resolution Rules ("the Rules").
4. The Complainant claims that the Registrant registered the disputed domain names in breach of the Policy. The Registrant has not filed a Response in this proceeding.

THE PARTIES

1. The Complainant in this proceeding is Schlage Lock Company LLC, 2720 Tobey Drive, Indianapolis, Indiana 46219, United States of America ("the Complainant").
2. The Registrant in this proceeding is Door Hardware Depot Ltd, 945 McKinney #501, Houston TX 77002 and sales@dhdepot.com ("the Registrant").

REGISTRATION OF THE DISPUTED DOMAIN NAMES

1. The disputed domain name <schlage.ca> was registered by the Registrant on February 17, 2009 and the disputed domain name <vonduprin.ca> was registered by the Registrant on February 16, 2009.
2. The Registrar of the disputed domain names is Tucows.com Co.

PROCEDURAL HISTORY

According to the information provided by the BCICAC:

- (a) The Complainant filed a Complaint with respect to the disputed domain names in accordance with the Policy on April 3, 2019 via electronic transmission.
- (b) The Complaint was reviewed and found to be administratively compliant. By letter dated April 3, 2019 and delivered via email, the BCICAC as service provider confirmed administrative compliance of the Complaint and, as Notice in accordance with Rules 2.1 and 4.3, forwarded a copy of the Complaint to the Registrant together with its Schedules, by email on that date, as the Complaint with attachments

had been filed exclusively by email. By the same communication the BCICAC informed the parties that in accordance with Rule 4.4 the date of commencement of the Proceeding was April 3, 2019 and that any Response had to be filed by April 23, 2019. The said communication was successfully delivered.

- (c) The Registrant did not file a Response in this proceeding with the BCICAC by April 23, 2019 or at all.
- (d) On or about April 23, 2019 the BCICAC by email to the Complainant and the Registrant gave notice that the time to submit a Response had expired and that accordingly under Rule 6.5, the Complainant might elect to convert from a three-person tribunal to a single arbitrator within 5 days of receipt of that notice, which the Complainant did.
- (e) On April 24, 2019, BCICAC appointed The Honourable Neil Anthony Brown QC as sole arbitrator in this proceeding. The sole arbitrator has signed and forwarded to the BCICAC an Acceptance of Appointment as Arbitrator and Statement of Independence and Impartiality.
- (f) The Panel has reviewed all of the material submitted by the Complainant and is satisfied that the Complainant is an eligible Complainant under the Policy and the Rules by virtue, pursuant to section 2(q) of the Canadian Presence Requirements for Registrants, of its ownership of the trademark for SCHLAGE with the registration number UCA 17952 registered with the Canadian Intellectual Property Office on May 1, 1943 and its ownership of the trademark for VON DUPRIN with the registration number TMDA 53176 registered with the Canadian Intellectual Property Office by its predecessor in title on September 30, 1931 and both used by or on behalf of the Complainant in Canada. The Complainant has enjoyed its rights to both trademarks in Canada.
- (g) Each mark is a "mark" pursuant to subparagraph 3.2 (a) and (c) of the CIRA Policy, which was used in Canada and in which the Complainant enjoyed rights in Canada prior to the date of registration of the <schlage.ca> domain name registered by the Registrant on February 17, 2009 and the <vonduprin.ca> domain name registered by the Registrant on February 16, 2009.

FACTS

The facts set out below are taken from the Complaint, together with related Schedules.

The Complainant is a United States company which has been using the mark SCHLAGE to identify the locks it has supplied in Canada since at least 1924 and the mark VON DUPRIN to identify the locks and latches it has provided in Canada since at least 1931. Both brands have acquired an excellent reputation for their design, reliability, long service life, wide range and reduced operating costs and have as such long been recognised in the market under those names for their exceptionally high quality. Both brands are well recognised in Canada and are also available online via the Complainant's two websites at www.schlage.com and www.vonduprin.com.

The Complainant maintains that the Registrant registered the disputed domain names incorporating in their entirety the SCHLAGE and VON DUPRIN marks and that internet users are therefore likely to believe that the domain names are associated with or authorized by the Complainant.

It is alleged that the Registrant is abusing Complainant's trademarks to attract web traffic for commercial gain by causing consumer confusion and has engaged in a pattern of such conduct. It is alleged that the Registrant had no right to engage in that conduct, that it is plain that the Registrant is using the Complainant's trademarks in the domain names without any authority and that it has used the domain names to resolve to its own websites where it promotes or allows to be promoted the products of the Complainant's competitors, to create confusion, to imply that the goods being offered are offered with the approval of the Complainant, which is untrue, and also for the purpose of obtaining commercial gain for the Registrant.

For these reasons, the Complainant has requested that the Disputed Domain Names be transferred from the Registrant to the Complainant.

The Registrant has not replied to the submissions of the Complainant by way of a Response.

CONTENTIONS OF THE PARTIES

A. THE COMPLAINANT

The Complainant submits as follows:

1. CANADIAN PRESENCE REQUIREMENTS

The Complainant submits that it satisfies the Canadian presence requirement of paragraph 1.4 the Policy in view of the Complainant's registration of the SCHLAGE and VON DUPRIN trademarks with CIPO referred to above and established by the evidence.

2. THE REGISTRATION OF THE DISPUTED DOMAIN NAMES

1. The disputed domain name <schlage.ca> was registered by the Registrant on February 17, 2009 and the disputed domain name <vonduprin.ca> was registered by the Registrant on February 16, 2009. In support thereof, the Complainant adduces a copy of the WHOIS information for the domain names.
2. The Registrar of the Disputed Domain Names is Tucows.com Co. and the Complainant has adduced evidence to that effect.

3. THE COMPLAINANT'S RELEVANT TRADEMARK RIGHTS AND ITS USE BY THE COMPLAINANT IN ITS BUSINESS

The marks relied on by the Complainant are the trademark for SCHLAGE with the registration number UCA 17952 registered with the Canadian Intellectual Property Office on May 1, 1943 and its ownership of the trademark for VON DUPRIN with the registration number TMDA 53176 registered with the Canadian Intellectual Property Office on September 30, 1931 and both used by or on behalf of the Complainant in Canada. The Complainant has enjoyed its rights to both trademarks in Canada. A copy of the trademark certificates is adduced by the Complainant in evidence. There are also extensive international registrations of the SCHLAGE and VON DUPRIN trademarks and evidence has been adduced of those registrations.

The Complainant has a long-standing and well-developed reputation based on the use of the SCHLAGE and VON DUPRIN trademarks in Canada and internationally. It has used the marks in its business in Canada since at least as early as 1924 and 1931 respectively.

4. THE GROUNDS ON WHICH THE COMPLAINT IS MADE

Confusingly Similar

Complainant's Marks. The Disputed Domain Names are confusingly similar to the SCHLAGE and VON DUPRIN trademarks, each of which is a mark within the meaning of subsection 3.2(a) and (c) of the Policy and in which Complainant had rights prior to the date of registration of the Domain Names, and in which it continues to have rights.

The Disputed Domain Names are confusingly similar to the SCHLAGE and VON DUPRIN trademarks because they contain the entirety of the trademarks in the respective domain names and the mandatory .ca extension, which it is well established is not taken into account for these purposes.

The SCHLAGE and VON DUPRIN trademarks are known to identify the Complainant and its goods and services and internet users would therefore naturally assume that the domain names refer to Complainant and its products.

Applying the test set out in the Policy and the principles elaborated upon in CIRA decisions, the Disputed Domain Names are confusingly similar to the SCHLAGE and VON DUPRIN trademarks.

No Legitimate Interest

It is submitted that the Registrant does not have any legitimate interest in the Disputed Domain Names within the meaning of section 3.4 of the Policy.

There are six non-exclusive circumstances under which the Registrant may establish a legitimate interest in the domain names, but the Registrant could not bring itself within the plain language of any of them. The Complainant has adduced evidence to that effect and maintains that it has therefore complied with its obligation under subparagraph 4.1 (c) of the Policy to produce some evidence that the Registrant has no legitimate interest in the Disputed Domain Names.

Bad Faith

The Complainant submits that the Registrant has registered the Domain Names in bad faith. The Policy lists four non-exhaustive circumstances that may establish bad faith registration. The Complainant relies on subparagraphs 3.5(b), (c) and (d) and maintains that it can establish all three of those provisions.

Thus:

1. Pattern of Domain Name Registrations by Registrant to Prevent Registration by Persons with Rights in Marks (Subparagraph 3.5(b))

The Complainant adduces evidence to show a pattern of domain name registrations to prevent registration by other persons with rights in marks. Evidence of even two registrations, established in the present case, is sufficient to show a pattern. As the Complainant has established this, the Registrant has registered the Disputed Domain Names in the present case in bad faith.

2. Registered the domain name primarily for the purpose of disrupting the business of the Complainant, who is a competitor of the Registrant. (Subparagraph 3.5(c))

The Complainant submits that it can be inferred that the Registrant competes with the Complainant in selling locks and related goods. Its conduct can therefore only have had the effect of disrupting the business of the Complainant.

3. Intentionally Attempting to Attract for Financial Gain by Creating Likelihood of Confusion as to Source, Sponsorship, Affiliation or Endorsement (Paragraph 3.5(d))

The Disputed Domain Names direct to a parked page where internet users can find sponsored links to the Complainant's and certain third parties' websites including competitors of the Complainant, leading to competitors of the Complainant and promoting their locks and related products.

Conclusion on Bad Faith

The Complainant therefore submits that it has met its burden of proving that the Registrant registered the Disputed Domain Names in bad faith under both subparagraphs 3.5(b), (c) and (d) of the Policy.

Conclusion on the Complainant's case

The Complainant submits that it has made out the three elements that it must establish and that the Panel should therefore order that the Disputed Domain Names be transferred from the Registrant to the Complainant.

Applicable Law.

The Complainant submits that the Complaint should be resolved in a manner consistent with the Canadian Trademark Law and in particular to the effect that the Registrant has committed an infringement of the Complainant's exclusive trademark rights pursuant to sections 19 and 20 of the *Trademarks Act* and that its conduct has had the effect of depreciating in some fashion the value of the goodwill attaching to the Complainant contrary to section 22 of the *Trademarks Act*.

B. THE REGISTRANT

The Registrant did not file a Response to this proceeding.

DISCUSSION OF THE ISSUES

1. CANADIAN PRESENCE REQUIREMENTS

Paragraph 1.4 of the Policy provides that a complainant initiating a complaint must satisfy the Canadian Presence Requirements for Registrants in respect of the Domain Name that is the subject of the proceeding.

Paragraph 2 (q) of the Requirements relied on by Complainant provides that:

"A Person which does not meet any of the foregoing conditions [conditions (a) to (p)], but which is the owner of a trade-mark which is the subject of a registration under the Trade-marks Act (Canada) R.S.C. 1985, c.T-13 as amended from time to time, but in this case such permission is limited to an application to register a .ca domain name consisting of or including the exact word component of that registered trade-mark".

The Complainant is the owner of the SCHLAGE and VON DUPRIN trademarks more particularly set out above and which are registered with CIPO.

The Complainant has therefore satisfied CIRA's Canadian Presence Requirement for Registrants in respect of the Disputed Domain Names.

2. REGISTRATION OF THE DISPUTED DOMAIN NAMES

The Disputed Domain Name <schlage.ca> was registered by the Registrant on February 17, 2009 and the Disputed Domain Name <vonduprin.ca> was registered by the Registrant on February 16, 2009.

In support thereof, Complainant adduces copies of the WHOIS information for the domain names which are attached to the Complaint at Schedule A. The Registrar of the Disputed Domain Names is Tucows.com Co and the Complainant has adduced evidence to that effect.

The Complainant submits that the Registrant of the domain names is Door Hardware Depot Ltd and this has been verified.

The Panel will therefore proceed with this matter on the basis that the Complainant has made out its standing to file the Complaint and that the Registrant is the proper party against whom the proceeding should be brought.

3. GENERAL

The purpose of the Policy, as stated in paragraph 1.1, is to provide a forum in which cases of bad faith registration of .CA domain names can be dealt with relatively inexpensively and quickly.

In accordance with paragraph 4.1 of the Policy, to succeed in the Proceeding, the Complainant must prove, on the balance of probabilities, that:

- (a) the Registrant's dot-ca domain names are "Confusingly Similar" to a Mark in which the Complainant had Rights prior to the date of registration of the domain names and continues to have such Rights; and
- (b) the Registrant has registered the domain names in bad faith as described in paragraph 3.5 or generally;

and the Complainant must provide some evidence that:

- (c) the Registrant has no legitimate interest in the domain names as described in paragraph 3.4.

The Panel will now deal with each of the three elements.

CONFUSINGLY SIMILAR

As the Complainant correctly submits, it is required to prove that the Disputed Domain Names are confusingly similar to a Mark in which the Complainant had rights prior to the date of registration of the domain names and continues to have such Rights. The Complainant must therefore show that it has rights to a mark, that it had those rights before the domain names were registered, that it still has them and that the domain names are confusingly similar to the mark on which it relies to establish that proposition. The Complainant submits that it can meet those requirements. The Panel agrees.

The Mark

The first question that arises is whether the Complainant has a trademark on which it can rely for the purpose of this proceeding. The Complainant has adduced evidence to show that it is the owner of the trademarks for SCHLAGE and VON DUPRIN, details of which have already been set out and supported by evidence which the Panel accepts and which are defined above for the purpose of this decision as "the SCHLAGE and VON DUPRIN trademarks".

The next question that arises is whether each of the SCHLAGE and VON DUPRIN trademarks relied on is a "mark" in which the Complainant had Rights prior to the date of registration of the domain names and continues to have such Rights.

Bearing in mind that the Disputed Domain Name <schlage.ca> was registered by the Registrant on February 17, 2009 and the Disputed Domain Name <vonduprin.ca> was registered by the Registrant on February 16, 2009, ("the due dates") the Panel finds that the Complainant had rights in the trademark SCHLAGE with the registration number UCA 17952 registered with the Canadian Intellectual Property Office on and from May 1, 1943 and in the trademark for VON DUPRIN with the registration number TMDA 53176 registered with the Canadian Intellectual Property Office by its predecessor in title on and from September 30, 1931 when it was registered with the Canadian Intellectual Property Office, which dates were of course prior to the due date.

The Panel also finds that the Complainant continues to have such rights.

The Panel finds that the SCHLAGE and VON DUPRIN trademarks comes within the meaning of "mark" in Paragraph 3.2 (a) of the Policy, as the unchallenged evidence shows they are registered with CIPO.

The panel therefore finds that each of the SCHLAGE and VON DUPRIN trademarks is a mark in which the Complainant had rights before the Disputed Domain Names were registered and in which it still has rights.

The question then arises whether the Disputed Domain Names are confusingly similar to the SCHLAGE and VON DUPRIN trademarks.

Confusingly similar

Pursuant to paragraph 3.3 of the Policy, a domain name will be found to be confusingly similar with a mark if it so nearly resembles the same in appearance, sound or in the ideas suggested so as to be likely to be mistaken for the mark. The test to be applied when considering "confusingly similar" is one of first impression and imperfect recollection and the ".dot-ca" suffix should be excluded from consideration (see *Coca-Cola Ltd. v. Amos B. Hennan*, BCICAC Case No. 00014).

Having regard to those principles, the Panel finds that the Disputed Domain Names are confusingly similar to the SCHLAGE and VON DUPRIN trademarks. That is so because the internet user who is an objective bystander, asked to make a comparison between the respective domain names and trademarks, would readily see that the domain names incorporate the entirety of the respective trademarks.

The SCHLAGE and VON DUPRIN trademarks are known to identify the Complainant and its goods and services and internet users would therefore naturally assume that the domain names refer to the Complainant and its products. Moreover, it is well established that the mandatory .ca extension is not taken into account for these purposes.

Applying the test set out in the Policy and the principles elaborated upon in CIRA decisions, the Disputed Domain Names are confusingly similar to the respective SCHLAGE and VON DUPRIN trademarks as they are,

for the purposes of the Policy, confusingly similar to the trademarks, as they so nearly resembles the marks in appearance, sound and in the ideas suggested as to be likely to be mistaken for the respective trademarks within the meaning of Paragraph 3.3 of the Policy.

The Panel therefore concludes that the Disputed Domain Names are confusingly similar to the SCHLAGE and VON DUPRIN trademarks in which the Complainant had rights prior to the registration dates of the Disputed Domain Names and in which it continues to have such rights.

The Complainant has thus made out the first of the three elements that it must prove.

NO LEGITIMATE INTEREST IN THE DOMAIN NAMES

Under the Policy, the question whether the Registrant has a legitimate interest in the Disputed Domain Names is to be decided in the following framework. First, there must be an assertion that the Registrant has no legitimate interest in the domain names. That criterion has been satisfied because the Complainant has made such an assertion in the Complaint. Secondly, the Complainant must provide some evidence that "... (c) the Registrant has no legitimate interest in the domain name as described in paragraph 3.4." Each of the sub-paragraphs of paragraph 3.4 describes a situation which, if made out, would give the Registrant a legitimate interest in the domain names. The obligation on the Complainant is therefore to show that the Registrant cannot make out any of the successive tests in the sub-paragraphs of 3.4. Thirdly, the Panel has to decide whether the evidence as a whole shows on the balance of probabilities that the Registrant has a legitimate interest in the domain names. Fourthly, the Registrant, had it filed a Response, would not be confined to the criteria set out in that paragraph, for those criteria are "without limitation". In other words, a registrant may try to bring itself within any of the specified criteria, but it may also rely on any other fact or argument it wishes to rely on to show that it has a legitimate interest. If it does do this, the role of the Panel is to decide if the registrant has made out its case and to make that decision on the balance of probabilities. The Registrant, however, has waived that right by not filing a Response.

The first task of the Panel is therefore to see if the Complainant has provided "some evidence" that the Registrant has not brought itself within any of the specific criteria in paragraph 3.4.

Applying that test, the Panel finds that the Complainant has provided evidence that the Registrant has no legitimate interest in the Disputed Domain Names. In particular, the Complainant has shown by the evidence that, as the Complainant submitted and as the Panel agrees, as follows.

The domain names are not a mark and the Registrant cannot have used them in good faith under section 3.4(a).

The domain names are not descriptive or generic and the Registrant cannot have used them in good faith under section 3.4(b) and (c).

The Registrant did not use the domain names for a non-commercial activity and cannot have used them in good faith under section 3.4(d).

The Registrant cannot have used the domain names under section 3.4(e) as they are not the legal name of the Registrant.

The Registrant cannot have used the domain names under section 3.4(f) as they are not the geographical location of the Registrant as defined.

The Complainant has shown very persuasively that on the available evidence and inferences that can be drawn from it, that the Registrant has no legitimate interest in the Disputed Domain Names.

It is also apparent to the Panel that the Registrant could not conceivably bring itself within any of the circumstances in the above sub-paragraphs. In this regard it must be remembered that the Registrant has illegally taken the Complainant's trademarks on its own whim, constructed domain names around those trademarks and then caused them to resolve to the Registrant's own websites for commercial purposes and caused or allowed them to be used for soliciting competing business that might well have been the Complainant's business and in products of the same types as those of the Complainant.

These facts have two effects. First, they show that the Complainant has shown persuasive evidence that the Registrant has no legitimate interest in the domain names, so that the Complainant has met its obligations under this section of the Policy. Accordingly, the Complainant has provided evidence that the Registrant cannot bring itself within any of the specified criteria in paragraph 3.4 that would show a legitimate interest in the domain names and the Panel so finds.

They also show that the Registrant has in fact no such legitimate interest, for such conduct described above and elsewhere could never give rise to a legitimate interest in a domain name. The websites to which the domain names resolve make it very plain that the Registrant is passing itself off as having some right to use the Complainant's trademarks and to use them to sell competing products, a right which of course it does not have. It is also giving the impression that it has an affiliation with the Complainant which again it does not. It is in fact using the Complainant's trademarks and reputation for its branded products to sell competing products which is contrary to all principle, is deceptive and apparently intended to be so.

The Complainant has thus established the second of the three elements that it must prove.

REGISTRATION IN BAD FAITH

The Panel now turns to consider whether the disputed domain names were registered in bad faith. In that regard, the Panel notes that, consistent with the decision in *Canadian Broadcasting Corporation? Societes Radio-Vanada v. William Quon*, CIRA Dispute Number 00006 (April 8, 2003), pp.13-14, surrounding circumstances may be considered in assessing whether the disputed Domain Name has been registered in bad faith.

By clause 3.1 of the Policy, the Complainant is obliged to prove that:

“(c) the Registrant has registered the domain name in bad faith as described in paragraph 3.5.”

Section 3.5 provides that “(f)or the purposes of paragraphs 3.1(c) ... any of the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence that a Registrant has registered a domain name in bad faith:...” and then goes on to provide four such circumstances, three of which are relied on by the Complainant, namely:

“(a)...;

(b) the Registrant registered the domain name or acquired the Registration in order to prevent the Complainant, or the Complainant's licensor or licensee of the Mark, from registering the Mark as a domain name, provided that the Registrant, alone or in concert with one or more additional persons has engaged in a pattern of registering domain names in order to prevent persons who have Rights in Marks from registering the Marks as domain names;

(c) the Registrant registered the domain name or acquired the Registration primarily for the purpose of disrupting the business of the Complainant, or the Complainant's licensor or licensee of the Mark, who is a competitor of the Registrant;

(d) 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 to be noted that the criteria for bad faith are not exclusive, but that complainants may rely on circumstances other than those enumerated to show bad faith registration.

The Panel will now examine the three criteria relied on by the Complainant. The Panel finds that all three show that the Registrant registered the Disputed Domain Names in bad faith.

3.5 (b) Pattern of conduct

The Complainant has presented a strong case and the Panel finds that it has made out this ground. As the Complainant rightly submitted, there was a pattern of conduct as there were two domain names registered.

Doing so prevented the Complainant from registering its marks in the relevant domain names. The ground is therefore made out.

The Panel therefore finds that the Respondent registered the Disputed Domain Names in bad faith to prevent the Complainant from registering its marks as domain names, demonstrated by a pattern of conduct.

3.5 (c) Disrupting the business of the Complainant, who is competitor of the Registrant;

This ground is made out because registering the domain names using the Complainant's trademarks and using them to solicit competing business means that the Complainant business was disrupted, because it diverted potential business away from the Complainant. The Registrant has also assumed a name that holds himself out as a competitor of the Complainant.

3.5 (d) Intentionally Attract Traffic For Commercial Gain By Creating likelihood of Confusion;

The Complainant also relies on paragraph 3.5(d) of the Policy and submits that the Registrant intentionally attempted to attract, for commercial gain, internet users to its website by creating a likelihood of confusion with the SCHLAGE and VON DUPRIN trademarks as to the source, sponsorship, affiliation or endorsement of the contents of Registrant's website.

Clearly, the Registrant's websites have broken this provision. Their content makes that very plain. The links from the domain names are to a variety of sites which promote competing goods, giving rise to confusion as to the source and particularly the affiliation of the contents. The Respondent has taken the Complainant's trademarks, used them in its domain names and sought by that means to divert some of the Complainant's business to itself or others for financial gain. The confusion created is as to whether the internet user has arrived at the Complainant's site or not and whether the services being offered are those of the Complainant or not. The Registrant was in every sense using the Complainant's name and trademarks to make money selling other brands of similar goods. This is clearly acting in bad faith.

The Panel therefore finds that the Respondent has registered the Disputed Domain Names in bad faith by committing a serious and clear breach of subparagraph 3.5(d).

Bad Faith in general

The Panel has also examined all of the evidence carefully and has concluded that it shows that the Registrant registered the domain names in circumstances that can fairly be described as bad faith within the generally accepted meaning of that expression. Indeed there is no other interpretation that can be placed on the evidence.

The Panel finds that the intention of the Registrant was to register the Disputed Domain Names because they reflected the Complainant's famous trademarks and brands and to use them for a purpose consistent with its own interests and not with the Complainant's interests and for a purpose that would benefit the Registrant financially by taking away some of the Complainant's potential business. That conduct constitutes bad faith registration.

The Complainant has thus made out the third of the three elements that it must establish.

CONCLUSION AND DECISION

The Panel finds that the constituent elements of the Policy have been made out and that the Complainant is entitled to the relief it seeks. The Panel will therefore order that the Disputed Domain Names be transferred to the Complainant.

ORDER

The Panel directs that the registration of the Disputed Domain Names <schlage.ca> and <vonduprin.ca> be transferred from the Registrant to the Complainant Schlage Lock Company LLC.

Date: April 26, 2019


The Honourable Neil Anthony Brown, Q.C.