

ADMINISTRATIVE PANEL DECISION

Comerica Incorporated v. Domain Admin, PrivacyProtect.org /
Web Master Internet Services Private Limited
Case No. D2010-1664

1. The Parties

The Complainant is Comerica Incorporated of Detroit, Michigan, United States of America, represented by Shumaker Williams, P.C., United States of America.

The Respondent is Domain Admin, PrivacyProtect.org / Web Master Internet Services Private Limited of Moergestrel, the Netherlands, and Thane West, Maharashtra, India.

2. The Domain Name and Registrar

The disputed domain name <comerica.com> is registered with Direct Information Pvt Ltd d/b/a PublicDomainRegistry.com (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on October 1, 2010. On October 4, 2010, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 5, 2010, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on October 6, 2010 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on October 6, 2010.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the "Policy" or "UDRP"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules"), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the "Supplemental Rules").

In accordance with the Rules, paragraphs 2(a) and 4(a), the Center formally notified the Respondent of the Complaint, and the proceedings commenced on October 7, 2010. In accordance with the Rules, paragraph 5(a), the due date for Response was October 27, 2010. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 28, 2010.

The Center appointed Tobias Zuberbühler as the sole panelist in this matter on November 4, 2010. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is a provider of financial services to consumers and businesses in the United States, Canada and Mexico. The Complainant was founded as the Detroit Savings Fund Institute in 1849 and began using the name "Comerica" in 1982. In the United States, Canada and Mexico, the Complainant is the registered owner of various trademarks containing the element COMERICA.

According to the Complainant, it has been using the designation "Comerica" in commerce since at least February 26, 1982. The Complainant uses "www.comerica.com" as its primary website for providing information to customers and to allow account holders to access their accounts.

The disputed domain name was registered on August 11, 2003. The respective website contains information about various financial services which are offered by the Complainant and links to the Complainant's direct competitors.

5. Parties' Contentions

A. Complainant

The Complainant argues the following:

This is a classic case of "typosquatting". The Respondent's use of the disputed domain name is a blatant attempt to take advantage of Internet users who inadvertently omit a "c" from the Complainant's website address.

As previous panels have recognized, the Complainant's marks are "widely recognized and famous under US federal and state trademark laws". The word "Comerica" is a distinctive word not commonly found in the English language and is associated only with the Complainant. Previous panels have acknowledged that "Comerica" is a coined word and therefore should be accorded strong protection from infringement and that a misspelling of the COMERICA mark is confusingly similar to COMERICA.

The Respondent is not using the disputed domain name in connection with any *bona fide* offering of goods or services. It is not commonly known by the disputed domain name and has not acquired any rights to use the disputed domain name. The Complainant has not granted the Respondent any permission, authorization or license to use the COMERICA trademarks or to offer services using the Complainant's name.

The Respondent intentionally seeks to divert Internet users to its website and then, using the links at that site, to the Complainant's direct competitors. By registering a domain name which is confusingly similar to the Complainant's trademarks, the Respondent has created a likelihood of confusion as to the source, sponsorship, affiliation or endorsement of the Respondent's site. Given the fame of the Complainant's mark and the fact that the Complainant has used the COMERICA trademark for many years before the Respondent registered the disputed domain name, the Respondent could not have been unaware of the Complainant's mark. Because the Respondent registered the disputed domain name primarily for the purpose of disrupting the Complainant's business and uses the disputed domain name intentionally to attempt to attract Internet users, for commercial gain, to its own website by creating a likelihood of confusion, the Panel should conclude that the Respondent has registered and uses the disputed domain name in bad faith.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

The disputed domain name is identical to the Complainant's registered trademark COMERICA except for the omission of the letter "c".

Under these circumstances and in accordance with prior UDRP jurisprudence, the Panel finds that the disputed domain name is confusingly similar to a trademark or service mark in which the Complainant has rights and that the Complainant has thus fulfilled paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The use of the disputed domain name, which is a misspelling of the trademark of the Complainant (*i.e.* a case of so-called typosquatting), cannot be considered as use in connection with a *bona fide* offering of goods or services, nor a legitimate noncommercial or fair use. The Panel refers to *National Association of Professional Baseball Leagues, Inc., d/b/a Minor League Baseball v. John Zuccarini*, WIPO Case No. D2002-1011.

The Panel also notes that the website under the disputed domain name contains links to the Complainant's competitors. Because the disputed domain name reproduces the Complainant's trademark, except for the omission of the letter "c", this use cannot be considered as *bona fide* offering of goods or services, nor as a legitimate noncommercial or fair use (see *mVisible Technologies, Inc. v. Navigation Catalyst Systems, Inc.*, WIPO Case No. D2007-1141 and the cases cited therein). Additionally, the Panel notes that from the present record, and in the absence of any Response from the Respondent, it does not appear that the Respondent is commonly known by the disputed domain name, and does not appear to have any other basis for demonstrating any rights or legitimate interests in the disputed domain name.

Since the Complainant has shown that the Respondent does not have a right or a legitimate interest in the disputed domain name, the Complainant has fulfilled the requirements of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Under the circumstances of this case, it can be inferred in the Panel's view that the Respondent was aware of the Complainant's trademark when registering the disputed domain name.

The Panel finds that there is sufficient evidence that the Respondent, by registering and using the disputed domain name, attempted to attract Internet users for commercial gain to its website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website or the products or services on its website, which demonstrates bad faith.

Furthermore, the Panel notes that the disputed domain name is an example of typosquatting, which also demonstrates bad faith. The Panel refers in this respect to *National Association of Professional Baseball Leagues, Inc., d/b/a Minor League Baseball v. John Zuccarini*, *supra*.

In summary, the Panel finds that the Respondent has registered and uses the disputed domain name in bad faith, thus fulfilling paragraph 4(a)(iii) of the Policy.

7. Decision

For all the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <comeria.com> be transferred to the Complainant.

Tobias Zuberbühler

Sole Panelist

Dated: November 8, 2010