



B.E.S.T. GDR, LLC)
6723 N Sacramento Ave.)
Chicago, IL 60645 USA)
(Complainant))
)
 v.)
)
)
(Respondent))
)
 _____)

Case No. [REDACTED]

Domain Names In Dispute:
premiumhomeservice.info

**COMPLAINT IN ACCORDANCE WITH
THE UNIFORM DOMAIN NAME DISPUTE RESOLUTION POLICY**

[1.] This Complaint is hereby submitted for decision in accordance with the Uniform Domain Name Dispute Resolution Policy (UDRP), adopted by the Internet Corporation for Assigned Names and Numbers (ICANN) on August 26, 1999 and approved by ICANN on October 24, 1999, and the Rules for Uniform Domain Name Dispute Resolution Policy (UDRP Rules), with an effective date of July 31, 2015, and the FORUM’s Supplemental Rules (Supp. Rules). UDRP Rule 3(b)(i).

[2.] COMPLAINANT INFORMATION

- [a.] Name: B.E.S.T. GDR, LLC
- [b.] ADDRESS: 6723 N Sacramento Ave. Chicago, IL 60645 USA
- [c.] Telephone: (855) 435-0112
- [e.] E-Mail: contact@premiumhomeservice.com

[3.] COMPLAINANT AUTHORIZED REPRESENTATIVE, IF ANY

- [a.] Name: Renee Reuter, Michael Kass, Jeffrey Schultz
- [b.] Address: 7700 Forsyth, St. Louis, MO 63105
- [c.] Telephone: [REDACTED]
- [d.] Fax: [REDACTED]
- [e.] E-Mail: [REDACTED], iptm@atllp.com

UDRP Rule 3(b)(ii).

Complainant's preferred contact person for correspondence relating to this case:

- [a.] Contact Name(s): Renee Reuter
- [b.] Contact Emails(s): [REDACTED], iptm@atllp.com

The Complainant chooses to have this dispute heard before a *single-member administrative panel* Rule 3(b)(iv).

[4.] RESPONDENT INFORMATION

- [a.] Name: [REDACTED]
- [b.] Address: [REDACTED], GB
- [c.] Telephone: [REDACTED]
- [e.] E-Mail: [REDACTED]

[5.] RESPONDENT AUTHORIZED REPRESENTATIVE, IF KNOWN

- [a.] Name: [REDACTED]
- [b.] Address: [REDACTED], GB
- [c.] Telephone: [REDACTED]
- [e.] E-Mail: [REDACTED]

Rule 3(b)(v).

[6.] DISPUTED DOMAIN NAME(S)

- [a.] The following domain name(s) is/are the subject of this Complaint: Rule 3(b)(vi).

premiumhomeservice.info

- [b.] Registrar Information: UDRP Rule 3(b)(vii).

- [i.] Registrar's Name: Easyspace Limited
- [ii.] Registrar Address: Lister Pavilion, Kelvin Campus, West of Scotland
Science Park, Glasgow, G20 0SP, UK
- [iii.] Telephone Number: unknown
- [iv.] E-Mail Address: abuse@easyspace.com

- [c.] Trademark/Service Mark Information: Rule 3(b)(viii).

Complainant owns Wisconsin Trademark Registration No. 20220086633 for PREMIUM HOME SERVICE in connection with advertising and business management services, registered March 16, 2022 (Exhibit A). In addition to this state trademark registration, Complainant has established common law rights in the PREMIUM HOME SERVICE mark in several states across the United States

through significant marketing investment and consistent and continual use in various markets or online through its website at premiumhomeservice.com (“Complainant’s Site”) and mobile apps since at least as early as 2020 (the “Mark”).

[7.] **FACTUAL AND LEGAL GROUNDS**

This Complaint is based on the following factual and legal grounds: UDRP Rule 3(b)(ix).

[a.] **Respondent’s domain name, premiumhomeservice.info (the “Domain Name”), is identical and confusingly similar to Complainant’s Site and Mark.**

Complainant’s Mark is PREMIUM HOME SERVICE and main website is at premiumhomeservice.com (Exhibit B). The only difference between the Mark and the Domain Name is the addition of “.info” in the Domain Name. The only difference between Complainant’s Site address and the Domain Name is the use of “.info” instead of “.com”.

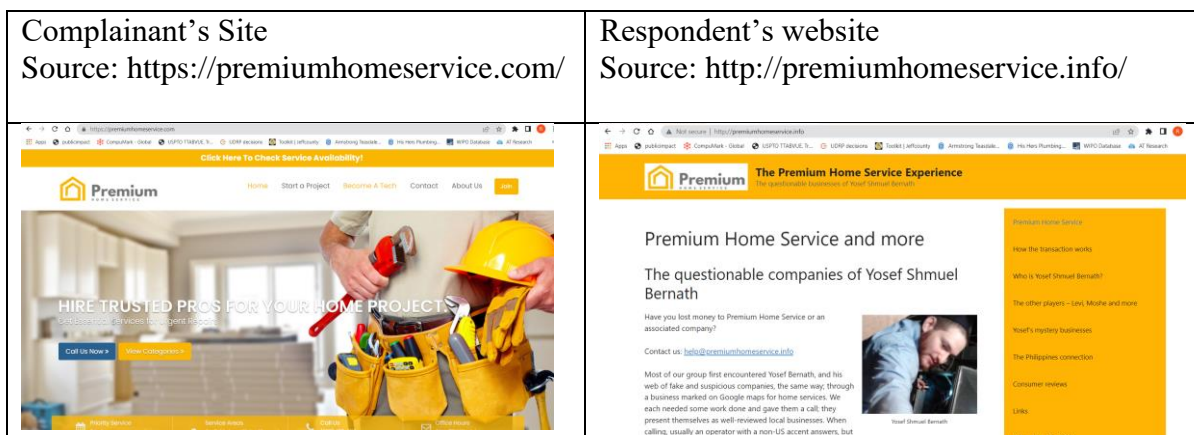
The change or addition of “.info” in each of the Domain Names has no bearing on a Policy ¶ 4(a)(i) analysis because gTLDs are required in domain names. *See Jerry Damson, Inc. v. Tex. Int’l Prop. Assocs.*, FA 916991 (Nat. Arb. Forum Apr. 10, 2007) (“The mere addition of a generic top-level domain (“gTLD”) does not serve to adequately distinguish the Domain Name from the mark.”).

[b.] **Respondent has no rights or legitimate interests in the Domain Names.**

Complainant did not provide permission for the owner of the Domain Name to register Complainant’s Mark as a Domain Name or use it.

Complainant is known by its Mark (See screenshot from Complainant’s Site at Exhibit B). It is virtually impossible to conceive of any plausible (actual or contemplated) active use of the Domain Name by Respondent that would not be illegitimate.

Respondent directs the Domain Name to a page that features Complainant’s marks, design elements, colors and overall layout (Exhibit C). A side-by-side comparison of the two sites is below:



Screenshots of websites taken on May 12, 2022

Clearly, the Respondent intends to use the Domain Name primarily to disrupt Complainant’s business, which is not a *bona fide* use.

Respondent is not commonly known by the Domain Name and has shown no *bona fide* intention to use the Domain Name for any reason other than to disrupt Complainant’s business, disparage Complainant and tarnish Complainant’s reputation. Because Respondent can achieve its objective of providing commentary and criticism of Respondent without using a Domain Name that is identical to Complainant’s Mark and confusingly similar to Complainant’s Site address, freedom of expression does not excuse Respondent’s behavior and Respondent’s use is not considered a *bona fide* or legitimate use. *See Royal Bank of Scotland Group & Nat’l Westminster Bank v. Lopez*, D2002-0823 (WIPO Dec. 3, 2002) (“[T]he Respondents have used domain names that are identical and substantially similar to Complainants’ trademarks to exercise their freedom of expression and this has the direct consequence of tarnishing Complainants’ trademarks. Respondents’ can very well achieve their objective of criticism by adopting a domain name that is not identical or substantially similar to Complainants’ marks.”); *see also Compagnie Generale des Matieres Nucleaires v. Greenpeace Int’l*, D2001-0376 (WIPO May 14, 2001) (holding that Respondent’s showing that it “has a right to free speech and a legitimate interest in criticizing the activities of organizations like the Complainant . . . is a very different thing from having a right or legitimate interest in respect of [a domain name that is identical to Complainant’s mark]”); *see also Monty & Pat Roberts, Inc. v. Keith*, D2000-0299 (WIPO June 9, 2000) (“[T]he Panel does not dispute Respondent’s right to establish and maintain a website critical of (the Complainant) However, the panel does not consider that this gives Respondent the right to identify itself as Complainant.”); *see also Direct Line Group Ltd. v. Purge I.T.*, D2000-0583, (WIPO Aug. 13, 2000) (finding that use of Complainant’s name and adoption of it in a domain name is inherently likely to lead some people to believe that Complainants are connected with it); *see also Name.Space Inc. v. Network Solutions*, 202 F.3d 573, 585 (2d Cir. 2000) (although the content of

Respondent's site may be entitled to First Amendment protection, Respondent's use of Complainant's trademark in the domain name of its site is not protected. Since Respondent's domain name merely incorporates Complainant's trademark, it does not constitute a protectable, communicative message); *see also DFO, Inc. v. Williams*, D2000-0181 (WIPO May 14, 2000) (finding that Respondent did not use the domain name <dennys.net> as a legitimate noncommercial or fair use because Respondent chose a name that would lead Internet users to the conclusion that the attached website was affiliated with the Denny's restaurant chain. Moreover, Respondent's disclaimer failed to remedy the confusion and infringing use of Complainant's mark).

Finally, Respondent registered the Domain Name using a privacy service, concealing the Respondent's identity. If Respondent planned to be commonly known by the Domain Name, Respondent would not have used a privacy service in the Whois records.

All these facts establish that Respondent does not have any rights or legitimate interest in the Domain Name.

[c.] **Respondent registered and is using the Domain Names in bad faith.**

As mentioned above, the Domain Name redirects to a website that is built to mirror Claimant's website. This is an impermissible attempt to benefit from unapproved use of Complainant's mark and does not qualify as a *bona fide* offering of goods or services and is also evidence that the domain name was registered and used in bad faith. Respondent's registration and use of the Domain Name in connection with an infringing website is intended to disrupt Complainant's business. *See EthnicGrocer.com, Inc. v. Unlimited Latin Flavors, Inc.*, FA 94385, (Nat. Arb. Forum July 7, 2000) (finding that the minor degree of variation from the Complainant's marks suggests that the respondent registered the name primarily for the purpose of disrupting the Complainant's business).

Respondent's registration and use of the Domain Name, despite knowledge of Complainant's rights in the mark, represents bad faith under Policy ¶ 4(a)(iii). *See Entrepreneur Media, Inc. v. Smith*, 279 F.3d 1135, 1148 (9th Cir. Feb. 11, 2002) (finding that "[w]here an alleged infringer chooses a mark he knows to be similar to another, one can infer an intent to confuse"); *see also Samsonite Corp. v. Colony Holding*, FA 94313 (Nat. Arb. Forum Apr. 17, 2000) (finding that evidence of bad faith includes actual or constructive knowledge of a commonly known mark at the time of registration).

Respondent had actual notice of Complainant's rights and knowingly attempted to reach Complainant's current and potential customers and suppliers. Even if Respondent's purpose was to voice concerns or criticism about Complainant, registration and use of the Domain Name that was identical to Complainant's Mark and confusingly similar to the Mark is considered bad faith. *See Compagnie de Saint Gobain v. Com-Union Corp.*, D2000-0020 (WIPO Mar. 14, 2000) (finding bad faith where Respondent knowingly chose a domain name, identical to Complainant's

mark, to voice its concerns, opinions, and criticism about Complainant); *see also* *Compagnie Generale des Matieres Nucleaires v. Greenpeace Int'l*, D2001-0376 (WIPO May 14, 2001) (stating that although Respondent's complaint website did not compete with Complainant or earn commercial gain, Respondent's appropriation of Complainant's trademark with a view to cause "damage and disruption to [Complainant] cannot be right, still less where the use of the Domain Name will trick internet users intending to visit the trademark owner's site into visiting the registrant's site" in holding that the disputed domain name was registered in bad faith); *see also* *Jenner & Block LLC v. Defaultdata.com*, FA 117310 (Nat. Arb. Forum Sept. 27, 2002) ("Respondent's argument that there is an inherent conflict between the Internet and the Constitutional right to free speech at the address to a business sounds impressive but is no more correct than the argument that there is a Constitutional right to intercept telephone calls to a business in order to speak to customers. Respondent's conduct is not the equivalent of exercising the right of free speech outside Complainant's business street address but of impermissibly blocking traffic to that street address."); *see also* *Mission KwaSizabantu v. Rost*, D2000-0279 (WIPO June 7, 2000) (finding that Respondent registered the domain names <kwasizabantu.com>, <kwasizabantu.org>, and <kwasizabantu.net> in bad faith where Respondent published negative comments regarding Complainant's organization on the confusingly similar website). *See also* *Entrepreneur Media, Inc. v. Smith*, 279 F.3d 1135, 1148 (9th Cir. 2002) ("Where an alleged infringer chooses a mark he knows to be similar to another, one can infer an intent to confuse."); *see also* *Samsonite Corp. v. Colony Holding*, FA 94313 (Nat. Arb. Forum Apr. 17, 2000) (finding that evidence of bad faith includes actual or constructive knowledge of a commonly known mark at the time of registration); *c.f.* *Pfizer, Inc. v. Suger*, D2002-0187 (WIPO Apr. 24, 2002) (finding that because the link between Complainant's mark and the content advertised on Respondent's website was obvious, Respondent "must have known about the Complainant's mark when it registered the subject domain name"); *see also* *Albrecht v. Natale*, FA 95465 (Nat. Arb. Forum Sept. 16, 2000) (finding registration in bad faith based where there is no reasonable possibility, and no evidence from which to infer that the domain name was selected at random since it entirely incorporated Complainant's name).

Finally, Respondent registered the Domain Name using a privacy service, concealing the Respondent's identity (A copy of Whois information relating to the Domain Name is attached as Exhibit D). The fact that the Domain Name was registered using a privacy service to obscure the identity of the registrant supports the Complainant's submission that the disputed domain name has been registered in bad faith, *See N. M. Rothschild & Sons Limited v. Domain Administrator, PrivacyGuardian.org / Albert Rothschild*, WIPO Case No. D2018-0652. *See also* *Ascend Capital, LLC v. Emily MUHLEMAN / Ascend Capital Partners*, FA1711001757853 (National Arbitration Forum December 12, 2017) (finding that where a respondent used a WHOIS privacy service to register the disputed domain name, such an act raises a rebuttable presumption of bad faith registration and use).

The above facts establish that Respondent registered and used the Domain Name in bad faith.

[8.] **REMEDY SOUGHT**

The Complainant requests that the Panel issue a decision that the domain-name registration be transferred to Complainant. UDRP Rule 3(b)(x); UDRP Policy ¶ 4(i).

[9.] **OTHER LEGAL PROCEEDINGS**

No other legal proceedings have commenced. UDRP Rule 3(b)(xi).

[10.] **MUTUAL JURISDICTION**

The Complainant will submit, with respect to any challenges to a decision in the administrative proceeding canceling or transferring the domain name, to [*choose one jurisdiction*]:

 x a) *the location of the principal office of the concerned registrar or*

 b) *where the Respondent is located, as shown by the address(es) given for the domain name holder in the Whois Database at the time of the submission of the Complaint to FORUM.* UDRP Rule 3(b)(xii).

[11.] **CERTIFICATION**

Complainant agrees that its claims and remedies concerning the registration of the domain name, the dispute, or the dispute's resolution shall be solely against the domain-name holder and waives all such claims and remedies against (a) the FORUM and panelists, except in the case of deliberate wrongdoing, (b) the registrar, (c) the registry administrator, and (d) the Internet Corporation for Assigned Names and Numbers, as well as their directors, officers, employees, and agents.

Complainant certifies that the information contained in this Complaint is to the best of Complainant's knowledge complete and accurate, that this Complaint is not being presented for any improper purpose, such as to harass, and that the assertions in this Complaint are warranted under these Rules and under applicable law, as it now exists or as it may be extended by a good-faith and reasonable argument.

Respectfully Submitted,

/Renee Reuter/_____
[Signature]

Renee Reuter_____
[Name]

May 23, 2022_____
[Date]

Schedule of Exhibits

Exhibit A: Complainant's trademark registration

Exhibit B: Screenshot of Complainant's Site

Exhibit C: Screenshot of Respondent's website

Exhibit D: Whois records Domain Name

Exhibit E: UDRP Policy

UDRP Rule 3(b)(xiv).