

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

Dispute Number: DCA-2082-CIRA
Domain Name: *homedepotprint.ca*
Complainants: Home Depot International, Inc. & Home Depot of Canada Inc.
Registrant: Oliver Twist Domains Inc.
Registrar: Rebel.ca Corp.
Service Provider: British Columbia International Commercial Arbitration Centre
Panel: W.A. Derry Millar

DECISION

THE PARTIES

1. The Complainants in this proceeding are **Home Depot International, Inc.**, a company incorporated and existing under the laws of the State of Delaware in the United States of America, with its principal place of business at 2455 Paces Ferry Road, NW, Atlanta, Georgia 30339, U.S.A., (“**HDI**”), and **Home Depot of Canada Inc.**, a company incorporated under the laws of Canada, with its principal place of business at 900-1 Concorde Gate, Toronto, Ontario, M3C 4H9 (“**HD Canada**”).

2. The Complainants are represented by Brigitte Chan of Bereskin & Parr LLP.

3. The Registrant is Oliver Twist Domains Inc., 1568 Merivale Rd., Suite 424, Ottawa, Ontario, K2G 5Y7. The individual, Oliver Twist, is listed as the administrative contact for the Registrant. The Registrant’s email address is: admin@olivertwistdomains.ca.

THE DOMAIN NAME AND REGISTRAR

4. The Domain Name in issue ("**Domain Name**") in this proceeding is: *homedepotprint.ca*.

5. The Registrar is: Rebel.ca Corp.

6. The Domain Name was registered by the Registrant on August 24, 2016.

PROCEDURAL HISTORY

7. The British Columbia International Commercial Arbitration Centre (“**BCICAC**”) is a recognized service provider pursuant to the *CIRA Domain Name Dispute Resolution Policy* (“**Policy**”) of the Canadian Internet Registration Authority (“**CIRA**”).

8. The BCICAC advised the Panel that the following procedural steps took place up to April 26, 2019 with respect to this Complaint:

- (a) On April 2, 2019 the above-named Complainant filed a Complaint pursuant to the CDRP and the Rules.
- (b) In a letter dated April 4, 2019, the Centre as Service Provider, confirmed compliance of the complaint and commencement of the dispute resolution process.
- (c) As the Complaint and Annexes, A to J, were filed exclusively online; therefore, the Centre delivered the Complaint to the Registrant only via electronic transmission.
- (d) In accordance with Paragraph 2.1 of the Rules, the Centre communicated the parties in both English and French.
- (e) The Complaint and Annexes, were successfully delivered to one of the Registrant's e-mail addresses.
- (f) The Registrant has not provided a Response. As permitted given the absence of a Response, the Complainant has elected under Rule 6.5 to convert from a panel of three to a single arbitrator.
- (g) On April 26, 2019, W. A. Derry Millar was appointed sole arbitrator.¹

9. The Panel has reviewed all of the material submitted by the Complainants and the Panel is satisfied that the Complainants, HDI and HD Canada, are eligible Complainants under the Policy and Rules. The Complainant, HDI, as noted below, is the owner of the trademark HOME DEPOT registered in Canada and therefore meets the Canadian Presence Requirements. HD Canada is an active entity incorporated under the laws of Canada.

FACTS

10. The evidence of the Complainant establishes the following:

- (a) The Complainants' business, The Home Depot, was founded in the United States in 1978, and today is the world's largest home improvement specialty retailer, with more than 2,200 retail stores in the United States (including Puerto Rico and the U.S. Virgin Islands), Canada, and Mexico. The Home Depot's stock is traded on the New York Stock Exchange. It also maintains e-commerce retail website at www.homedepot.com.

¹ The appointment was completed on May 1, 2019, when the Statement of Independence and Impartiality and Acceptance of Appointment was executed by the Panel and returned to the BCICAC.

- (b) The Home Depot entered Canada in 1994. Beginning with stores in the Greater Toronto Area, The Home Depot quickly grew to become one of Canada's leading retailers, opening its first western Canadian store in Edmonton, Alberta in March of 1994. By 2000, and then operating nearly 60 stores, the company expanded east opening its first store in Quebec (Laval, QC). The Home Depot opened its 100th Canadian store in Thunder Bay, Ontario, in November 2003.
- (c) Today, The Home Depot is Canada's leading home improvement specialty retailer, with 182 stores in ten Canadian provinces. The company employs more than 27,000 Canadian associates, with an e-commerce site specifically targeting Canadians at www.homedepot.ca.
- (d) HOME DEPOT is the Complainants' corporate identity - a well-known trade name and house mark which has been used in Canada, the United States, and Mexico for decades.
- (e) The Complainant, HDI, owns both statutory and common law rights in a family of marks comprised of or containing HOME DEPOT around the world, including Canada. The Complainant is the owner of numerous Canadian trademark registrations and applications for its family of HOME DEPOT Marks, including the below registration, issued in April 1999 based on use in Canada since at least as early as 1996, upon which this Complaint is based:

Trademark	Registration no.	Services
HOME DEPOT	TMA511200	Retail sale and installation of building and decorating materials, and retail sale of hardware, tools, furniture, appliances, housewares, and garden supplies.

- (f) This trademark satisfies the definition of "Mark" as set out in Policy 3.2(c).
- (g) The Complainant, HDI, holds a number of Canadian trademark registrations and has filed applications for marks comprised of or containing HOME DEPOT.
- (h) In addition to owning trademark registrations for the HOME DEPOT Marks, HD Canada, under license from HDI, owns valid and active .CA domain names containing HOME DEPOT, including homedepot.ca, registered on October 26, 2000. The corresponding website has been active since then and receives hundreds of thousands of unique visitors every month, including Canadian visitors.
- (i) The Complainants first became aware of the Domain Name registration in April 2016 when it was operated by a company named Instant Imprints to advertise and offer printing services using the HOME DEPOT Marks. The Complainants sent a

cease & desist letter to Instant Imprints, in response to which Instant Imprints indicated that it cancelled the Domain Name registration and no longer owned it. However, it did not comply with the Complainants' request to transfer the Domain Name to the Complainants in order to prevent future misleading use of the Domain Name. The Complainants were left to back order the Domain Name registration, but instead the Respondent obtained registration of the domain on August 24, 2016. At that time, the Domain Name did not revert to an operational website.

- (j) In or around December 2018, the Complainants learned that the Domain Name reverted to an operational website that advertised services of others, unrelated to the Complainants. Upon access to the website <homedepotprint.ca>, visitors were provided links to custom printing services of others, such as www.Vistaprint.ca, www.autualcard.ca/print-shop and www.captainprint.com, to name a few. The Respondent's use of the domain name continually changes. It sometimes reverts to a website that offers the domain for sale to any interested buyer. The Complainants provided pages displaying the links and webpages of others to which Internet users, when entering the Domain Name, were at times re-directed, and pages where the Domain Name is advertised for sale by indicating: *This domain may be for sale. Click here for more information.*
 - (k) A search report from CIRA dated January 22, 2019 was obtained by the Complainants pursuant to a request for a list of dot-ca domain names registered in the Respondent's name. The report shows that the Respondent owns over 1500 dot-ca domain names, many incorporating third-party trademarks.
11. The evidence of the Complainant also establishes:
- (a) The Registrant's domain name, homedepotprint.ca, was registered on August 24, 2016.
 - (b) In or around December 2018, the domain name, <homedepotprint.ca>, resolved to an operational website that advertised services of others, unrelated to the Complainants. Upon access to the website, visitors were provided links to custom printing services of others, such as www.Vistaprint.ca, www.autualcard.ca/print-shop and www.captainprint.com among others.
 - (c) The Respondent's use of the Domain Name continually changes. It sometimes resolves to a website that offers the domain name for sale to any interested buyer or displays links and webpages of others to which Internet users, when entering the Domain Name, were at times re-directed, and pages where the Domain Name

is advertised for sale by indicating: *This domain may be for sale. [Click here for more information.](#)*

- (d) The Domain Name at times resolves to a pay-per-click parking page with links categorized under various headings and leading to sites of others, unrelated to the Complainants.
- (e) The Respondent has never been licensed or authorized to use the HOME DEPOT Marks in any manner, in Canada or otherwise, including in, or as part of a domain name, nor have the Complainants provided their consent to the use or display of any HOME DEPOT Marks on the Respondent's <homedepotprint.ca> website.
- (f) The Respondent owns *many* domain names containing registered trademarks of third parties, or common misspellings of such marks, including well-known marks. Some of the domain names owned by the Respondent with corresponding third-party trademark rights and owners, are listed below, and none of these domains revert to a legitimate site of the trademark owner.

	Domain Name	Canadian Trademark Reg. No.	Owner
1.	Torontobluejays.ca	TORONTO BLUE JAYS TMA276539	Rogers Blue Jays Baseball Partnership
2.	watchnetflixcanada.ca	NETFLIX TMA789958	NETFLIX, INC.
3.	Simonfraser.ca	SIMON FRASER UNIVERSITY 0902237	SIMON FRASER UNIVERSITY
4.	Exxon.ca	EXXON TMA223254	Exxon Mobil Corporation
5.	CBCthenational.ca	CBC 914739 THE NATIONAL 909870	Canadian Broadcasting Corporation
6.	Astonmartin.ca	ASTON MARTIN TMA288624	ASTON MARTIN LAGONDA LIMITED
7.	Fibeoptictv.ca	FIBE TMA776664	Bell Canada
8.	Montrealexpos.ca	MONTREAL EXPOS TMA182496	BASEBALL EXPOS, L.P.
9.	Warnerbrothers.ca	WARNER BROS TMA317977	Warner Bros. Entertainment Inc.

10.	Yellowpage.ca	YELLOWPAGES.CA TMA815790	Yellow Pages Digital & Media Solutions Limited
		YELLOW PAGES TMA815798	
12.	Mcdonaldscoupons.ca	MCDONALD'S TMA394442	MCDONALD'S CORPORATION
13.	Ontariohydro.ca	ONTARIO HYDRO ENERGY 915841	Hydro One Inc.
14.	Ebya.ca	EBAY TMA684590	eBay Inc.
15.	Walmartl.ca	WALMART TMA870322	Walmart Apollo, LLC

ANALYSIS AND FINDINGS

12. Under paragraph 3.1 of the Policy, a Registrant must submit to a Proceeding if a Complainant asserts in a Complaint submitted in compliance with the Policy and the Resolution Rules that:

- (a) the Registrant's dot-ca 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;
- (b) the Registrant has no legitimate interest in the domain name as described in paragraph 3.4; and
- (c) the Registrant has registered the domain name in bad faith as described in paragraph 3.5.

13. Under paragraph 4.1 of the Policy, the Complainant must prove on a balance of probabilities that:

- (a) the Registrant's dot-ca 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; and
- (b) the Registrant has registered the domain name in bad faith as described in paragraph 3.5;

and the Complainant must provide some evidence that:

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

14. Paragraph 4.1 of the Policy also provides:

Even if the Complainant proves (a) and (b) and provides some evidence of (c), the Registrant will succeed in the Proceeding if the Registrant proves, on a balance of probabilities, that the Registrant has a legitimate interest in the domain name as described in paragraph 3.4.

15. As the Registrant did not file a Response, it has not provided any evidence that it has a legitimate interest in the Domain Name.

CONFUSINGLY SIMILAR - PARAGRAPH 4.1 (a) OF THE POLICY

16. The Complainants submit:

- (a) The Registrant's registered domain name, homedepotprint.ca, is confusingly similar to the Complainants' HOME DEPOT Trademarks and that the Complainants have prior rights to the HOME DEPOT mark.
- (b) Prior to the date of registration, namely August 24, 2016, the Complainant, HDI, and/or its predecessor-in-title, Homer TLC, Inc., had, and to this day continues to have, both common law and statutory rights to the trademark and name HOME DEPOT in Canada in accordance with the Policy.
- (c) The Complainant, HDI, owns active registered Canadian trademarks for HOME DEPOT, including TMA511200, which was issued in 1999 and remains active. As such, the Complainants' use and registered rights in HOME DEPOT date back to the 1990s, *years* prior to the registration of the Domain Name.
- (d) Pursuant to 3.3 of the Policy, "confusing similarity" will be established where the domain name "so nearly resembles the Mark in appearance, sound or the ideas suggested by the Mark as to likely be mistaken for the Mark". A "Mark" as defined by 3.2 of the Policy is "a trade-mark...or trade name that has been used in Canada" or "a trade-mark...that is registered in CIPO". The test to be applied when considering "confusing similarity" is one of first impression and imperfect recollection (*McKee Homes Ltd v. Gerlinde Honsek*, (2007) CIRA Decision No. 00079, at para 41) and, pursuant to the Policy at 1.2, the ".ca" suffix of the domain name is to be excluded from consideration.
- (e) The domain name [<homedepotprint.ca>](http://homedepotprint.ca) is confusingly similar with the Complainants' trademark and trade name, HOME DEPOT. Specifically, the Domain Name incorporates the whole of the Complainants' HOME DEPOT trademark.

- (f) The domain name <homedepotprint.ca> resolves to a website, the focus of which is to provide links to services of others. The Respondent intended for there to be an instant association between the Domain Name and the Complainants' HOME DEPOT business, since it would easily capture high web traffic and visitors through a simple search for HOME DEPOT. The Respondent, in fact, has a pattern of registering domains containing trademarks of others, as discussed below in the "bad faith" section of this Complaint.

17. The Panel agrees that HOME DEPOT is a "Mark" within the meaning of paragraphs 3.2(a) and (c) of the Policy.

18. As noted above, the domain name, homedepot.ca, was created on October 26, 2000 and has been used in association with the HOME DEPOT Trademark since then.

19. The Complainants have established that the Registrant's domain name "*homedepotprint.ca*" is confusingly similar to the Complainants' Mark.

20. Paragraph 3.3 of the Policy defines "confusingly similar" as follows:

In determining whether a domain name is '**Confusingly Similar**' to a Mark, the Panel shall only consider whether the domain name so nearly resembles the Mark in appearance, sound or ideas suggested by the Mark as to be likely to be mistaken for the Mark.

21. The Panel agrees with the Complainants' submission that the test of whether a domain name is "confusingly similar" to a Mark is one of resemblance based on the first impression and imperfect recollection. The Panel also agrees that the inclusion of additional words will not prevent a domain name from being confusingly similar to a trademark. Adding the word "print" to the Complainants' Mark "HOME DEPOT" does not make the Registrant's Domain Name any less "Confusingly Similar" to the Complainants' Marks.

22. The test to be applied in determining the issue of "confusingly similar" is set out in paragraph 66 of the decision in *Government of Canada v. David Bedford, c.o.b. Abundance Computer Consulting*²:

The test for "Confusingly Similar" under Policy paragraph 3.4 is one of resemblance based on first impression and imperfect recollection. Accordingly, for each domain name the Complainant

² BCICAC Case No. 00011 (May 27, 2003). See also: *McKee Homes Ltd v. Gerlinde Honsek*, (2007) CIRA Decision No. 00079, at para 41, and *Sittercity Inc. v. Mocilac* CIRA Dispute No. 00169 (2011 LNCIRA 8) at paras 18 to 20.

must prove on a balance of the probabilities that a person, on a first impression, knowing the Complainant's corresponding mark only and having an imperfect recollection of it, would likely mistake the domain name (without the .ca suffix) for the Complainant's corresponding mark based upon the appearance, sound or ideas suggested by the Mark.

23. While there has been a minor change in the wording of what is now paragraph 3.3 of the Policy, the test as set out in the *Government of Canada* case is still applicable. In the Panel's view, a person knowing the Complainants' Mark "HOME DEPOT" only and "having an imperfect recollection of it would likely mistake the domain name (without the .ca suffix)", *homedepotprint*, "for the Complainants' corresponding mark based upon the appearance, sound or ideas suggested by the Mark."

BAD FAITH - PARAGRAPH 4.1(b) OF THE POLICY

24. In order to establish bad faith, the Complainant must establish on the balance of probabilities, one of paragraphs 3.5(a), (b), (c) or (d) of the Policy.

25. Paragraph 3.5 defines "registration in bad faith" for the purposes of the Policy as follows:

For the purposes of paragraph 3.1(c) and 4.1(b), 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:

- (a) the Registrant registered the domain name, or acquired 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;
- (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 is engaged in a pattern of registering domain names in order to prevent persons who have rights and 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.

26. The Complainant relies on paragraphs 3.5(b), 3.5(c) and 3.5(d) for its submission that the Registrant registered the Domain Name in bad faith.

27. The Complainants submit:

- (a) On a balance of probabilities, the Respondent was well aware, at the time of registering the Domain Name, that the Complainants owned prior trademark rights in the HOME DEPOT mark and trade name, and was aware of the Complainants' business in view of the Complainants' trademark registrations, domain name registrations and widespread use of the HOME DEPOT name and mark throughout Canada for *years* prior to the registration of the Domain Name, as described above.
- (b) Under 3.5(b) of the Policy, the Respondent plainly registered and maintained the Domain Name registration to prevent the Complainants from registering the Mark in its entirety with only the additional term "print" as a domain name, as demonstrated by the Respondent's engagement in a pattern of registering domain names consisting of third-party trademarks (i.e. cybersquatting) and misspellings of third-party trademarks as in the Domain Name at issue (i.e. typo-squatting). In *Yamaha Corp. v. Yoon*, (2007) CIRA Dispute No. 00089, the Panel held that a registrant owning as few as *two* domain names containing registered trademarks of third parties may be relied upon as demonstrating a pattern of cybersquatting.
- (c) The Respondent owns *many* domain names containing registered trademarks of third parties, or common misspellings of such marks, including well-known marks. To name but a few, domain names owned by the Respondent with corresponding third-party trademark rights and owners, as set out above, and none of these domains revert to a legitimate site of the trademark owner.
- (d) Such an extensive portfolio of domain name registrations incorporating the marks of third parties, or misspellings thereof, clearly indicates that the Respondent is a cyber and typo-squatter, and satisfies the test of a "pattern" of registering domain names in order to prevent persons who have rights in corresponding marks from

registering the marks (or their common misspellings) as domain names, as contemplated by the Policy.

- (e) The Respondent has been in at least one previous domain name dispute. Specifically, a dispute brought in 2017 by the Queen's University at Kingston in respect of the domain name <queensuniversity.ca> where the Panel found that the registrant, Oliver Twist Domains Inc. c/o Oliver Twist, registered the confusingly similar domain name in bad faith and without legitimate interest, and ordered that the domain name at issue be transferred to the complainant. As stated at page 8 of this decision³:

It is fair to assume that the Registrant profits from at least some of the third party links, but even if it does not, the Registrant's active use of the Domain Name via the website magnifies the initial misappropriation and misrepresentation effected by registering the Domain Name.

It is also fair to assume that the Registrant's use of the Domain Name at the website was calculated to bring the Domain Name to the attention of the Complainant, which is exactly what has happened. It is also reasonable to assume that the purpose of bringing the Domain Name to the attention of the Complainant is to prompt the Complainant to buy the Domain Name at a price substantially above cost. In these circumstances, it is difficult to imagine any use of the Domain Name by the Registrant that is not predicated on bad faith.

- (f) Under 3.5(c) of the Policy, the Respondent registered or acquired the Domain Name primarily for the purpose of disrupting the business of the Complainants. As described above, the Domain Name has also been used to redirect consumers, intending to visit a website owned and operated by the Complainants in connection with its HOME DEPOT brand, to other unrelated companies.
- (g) The Respondent is taking advantage of the reputation and goodwill associated with the HOME DEPOT Marks by exploiting the Internet traffic that was intended for a domain name corresponding to the HOME DEPOT Marks and business. Such a clear attempt to deceive consumers intending to locate the authorized Home Depot website demonstrates that the Respondent is competing with the Complainant for internet traffic. Moreover, such use, over which the Complainants have no control, interferes with the Complainants' HOME DEPOT business, brand, internet traffic, reputation and customer relations. Customers of the Complainants who mistakenly arrive at the website at the Domain Name are misled into thinking that it is operated by the Complainants, and as a result, may

³ *Queen's University at Kingston v. Oliver Twist Domains Inc.*, (2017) CIRA Decision No. 00353.

be deterred or prevented from arriving and shopping at the Complainants' legitimate website.

- (h) Under 3.5(d) of the Policy, the Respondent has also intentionally attempted to attract, for commercial gain, Internet users to the Respondent's website by creating a likelihood of confusion as to the source of the website. It is well established 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 types of websites put registrants in a position to gain financially from referral fees and, as is the case here, do so by trading upon the goodwill and reputation in the complainant's mark. [*Behr Process Corp. v. Riatharshan Gnanendran* (2015), CIRA Dispute No. 00304. See also *S. Taus, S.L. v GnanavannanRatnasabapathi* (2015), CIRA Dispute No. 00302 at para. 48 and *Meguiar's, Inc v Interex Corporate Registration Services Inc*, (2015), CIRA Dispute No. 00279 at para. 38.]
- (i) Here, the Domain Name at times resolves to a pay-per-click parking page with links categorized under various headings and leading to sites of others, unrelated to the Complainants. Such behavior demonstrates that the Respondent registered and is using the Domain Name in bad faith.
- (j) All of these actions demonstrate the Respondent's bad faith intentions and conduct with respect to the Domain Name.

28. The Panel agrees with the submissions of the Complainants and finds that the Registrant registered the domain name, *homedepotprint.ca*, in bad faith under paragraphs 3(b), 3(c) and 3(d) of the Policy.

LEGITIMATE INTERESTS IN DOMAIN NAME PARAGRAPH 4.1(C) OF THE POLICY AND PARAGRAPH 3.4 OF THE POLICY

29. The Panel finds that the Complainant has met its burden under paragraph 4.1(c) of the Policy to provide some evidence that the Registrant does not have a legitimate interest in the Domain Name.

30. The Complainants submit:

- (a) The Respondent lacks a legitimate interest in the Domain Name.
- (b) The continually changing content at the website of the Domain Name, as described above, in-and-of-itself demonstrates the clear absence of a legitimate single interest.

- (c) The Respondent has never been licensed or authorized to use the HOME DEPOT Marks in any manner, in Canada or otherwise, including in, or as part of a domain name, nor have the Complainants provided their consent to the use or display of any HOME DEPOT Marks on the Respondent's <homedepotprint.ca> website.
 - (d) None of the circumstances listed in 3.4 of the Policy that could be relied on to show a registrant's "legitimate interest" in a domain name applies to the Respondent.
31. The Panel agrees with the submissions of the Complainants:
- (a) With respect to paragraph 3.4(a):
 - (i) The Respondent never had rights in the Mark.
 - (ii) The Respondent does not own any trademarks that include HOME DEPOT or HOME DEPOT PRINT nor any other trademark applications or registrations.
 - (iii) There is no meaning to the terms "HOME DEPOT PRINT" other than reference to the Complainant's HOME DEPOT mark/name.
 - (iv) The Registrant has no rights to the HOME DEPOT Trademark and is not using it in good faith. Therefore, paragraph 3.4(a) does not apply.
 - (b) With respect to paragraph 3.4(b):
 - (i) Neither HOME DEPOT nor HOME DEPOT PRINT has any clearly descriptive meaning in either English or French. Rather, HOME DEPOT is a registered mark owned by the Complainant, HDI, and such registration indicates that the Canadian Intellectual Property Office has determined it is a distinctive and registrable mark.
 - (ii) The exact terms of the Domain Name have no meaning whatsoever, and rather is a direct reference to the HOME DEPOT mark. As such, the Domain Name cannot be considered "clearly descriptive" of anything.
 - (iii) For both these reasons, paragraph 3.4(b) does not apply.
 - (c) With respect to paragraph 3.4(c):
 - (i) Neither "HOME DEPOT" nor "HOME DEPOT PRINT" is the generic name for anything in any language, nor is it understood to be the generic name for any goods, services, or business in Canada. HOME DEPOT is a registered trademark owned by the Complainant, HDI, and is distinctive of the Complainant, HDI.


- (ii) The evidence does not establish that the Registrant registered the Domain Name in good faith in association with any *bona fide* wares, services or business.
- (iii) For both of these reasons, paragraph 3.4(c) does not apply.
- (d) With respect to paragraph 3.4(d):
 - (i) There is no evidence that the Respondent has used, is using, or is preparing to use, the Domain Name for a legitimate non-commercial use.
 - (ii) Therefore, paragraph 3.4(d) does not apply.
- (e) With respect to paragraph 3.4(e):
 - (i) “HOME DEPOT PRINT” is not the legal name of the Respondent, nor is it a name, surname, or other reference by which the Respondent is commonly identified.
 - (ii) Therefore, paragraph 3.4(e) does not apply.
- (f) With respect to paragraph 3.4(f):
 - (i) The Domain Name is not the geographical name of the Registrant’s activity or place of business.
 - (ii) The address associated with the Respondent does not include any reference to “HOME DEPOT”.
 - (iii) Therefore, paragraph 3.4(f) does not apply.

32. As noted in paragraph 8(f) above, as the Registrant did not file a Response, it has not provided any evidence that it has a legitimate interest in the Domain Name.

ORDER

33. The Complainants have met the requirements of paragraph 4.1 of the Policy. The Panel orders that the registration of the domain name “*homedepotprint.ca*” be transferred from the Registrant to the Complainant, HD Canada.

Dated: May 23, 2019. ·



W. A. Derry Millar