

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

Domain Name: haltonpolice.ca
Complainant: The Regional Municipality of Halton Police Services Board
Registrant: Clickable Corporation
Registrar: Namespro Solutions Inc.
Panelist: Sharon Groom
Service Provider: Resolution Canada, Inc.

DECISION

A. The Parties

1. The Complainant, The Regional Municipality of Halton Police Services Board, is a statutory police services board constituted pursuant to section 27 of the *Police Services Act*, R.S.O. 1990, c. P.15, as amended. It is responsible for the provision of police services by the Halton Regional Police Service to The Regional Municipality of Halton in the province of Ontario.
2. The Registrant for the domain name is Clickable Corporation with the administrative contact being listed as IT Committee Secretary with the address referring to Namespro.ca Private Whois in B.C.

B. The Domain Name and Registrar

3. The disputed domain name is haltonpolice.ca. The Registrar for this domain name is Namespro Solutions Inc. The disputed domain name was registered on November 21, 2006.

C. Procedural History

4. This is a proceeding under the Canadian Internet Registration Authority (“CIRA”) *Domain Name Dispute Resolution Policy* (Version 1.1) (the “Policy”) and the CIRA *Domain Name Dispute Resolution Rules* (Version 1.2) (the “Rules”).
5. The history of the proceeding as provided by the dispute resolution provider, Resolution Canada, Inc., is that the Complainant filed a complaint against the Registrant with Resolution Canada, Inc. requesting that the current registration of the domain name haltonpolice.ca be

transferred to The Regional Municipality of Halton Police Services Board. The Complaint was dated November 25, 2008.

6. Resolution Canada, Inc. served notice of the Complaint to the Registrant as required by paragraph 4.3 of the Rules. Service of the Complaint was made by e mail on November 27, 2008 and by registered mail on the same day. It was picked up on December 20, 2008. Resolution Canada, Inc. also sent a copy to the administrative contact on the domain name registration, Namespro.ca Private Whois, and this copy was mailed on November 27, 2008 and picked up on December 1, 2008.

7. On December 17, 2008 an administrator for Clickable Corporation e mailed Resolution Canada, Inc. requesting a 20 day extension of time past the December 17 deadline to respond to the Complaint. The Registrant indicated that he had been out of the country for some period of time. On December 18, 2008 Resolution Canada, Inc. granted an extension of time to December 23, 2008. On December 18, 2008 Clickable Corporation then requested an additional extension of time to January 7, 2009 to file a response to the Complaint. An extension of time until January 5, 2009 was granted on December 22, 2008. No response from the Registrant was ever filed.

8. The Complainant has elected to proceed before a panel consisting of only one panellist.

D. Panelist Impartiality and Independence

9. As required by paragraph 7 of the Rules, I have submitted to Resolution Canada, Inc. a declaration of impartiality and independence in relation to this dispute.

E. Canadian Presence Requirements

10. The Complainant, The Regional Municipality of Halton Police Services Board (the “Board”), is a statutory body created under the laws of Canada. As such it meets the Canadian Presence Requirements under paragraph 2(d) of the CIRA *Canadian Presence Requirements for Registrants*, Version 1.3.

F. Factual Background

11. The Complainant is the statutory police services board responsible for the provision of police services in the regional municipality of Halton, which includes the area municipalities of Burlington, Halton Hills, Milton and Oakville, in the province of Ontario. The Board is the civilian oversight body and has various statutory responsibilities related to the operation and management of the police services in the municipality. It also provides overall direction and advice to the Chief of Police in the administration of the Halton Regional Police Service. The Halton Regional Police Service was created in 1974 and has been delivering police services to the regional municipality of Halton since that time.

12. The Complainant states that, since 1974, the mark “Halton Police” has been used by the Halton Regional Police Service in association with the provision of police services. The Board and the Halton Regional Police Service also use the following names, some of which have apparently been used since 1974: “Halton Regional Police”, “Halton Regional Police Service”, “The Regional Municipality of Halton Police Services Board” and “Halton Regional Police

Services Board”. The Complainant claims that these marks are all protected under section 9(1)(n)(iii) of the *Trade-marks Act* but no evidence of this has been provided.

13. The Complainant maintains a website relating to the Halton Regional Police Service at www.hrps.on.ca where these marks are displayed. The Complainant has also registered various other domain names incorporating “Halton Police” namely: halton-police.ca, haltonpolice.net, haltonpolice.org, haltonpoliceservice.ca, haltonpoliceservice.on.ca and thehaltonpolice.ca. The Complainant does not indicate when these domain names were registered.

14. The Complainant indicates that the Halton Regional Police badge was registered under Vol. II, page 164 of the Public Register of Arms, Flags and Badges of Canada on May 24, 1992. The badge, which appears on the website hrps.on.ca, prominently bears the words “Halton Regional Police”. The Complainant also indicates that on January 21, 2005, the Halton Regional Police Service was presented with the Queen’s Colour and Service Colours bearing the name “Halton Regional Police Service”. The Complainant claims that these are also both marks protected under section 9(1)(n)(iii) of the *Trade-marks Act* but no evidence of this has been provided.

15. The Complainant states that initially the domain name haltonpolice.ca was used to redirect traffic to a website parking page hosted by MDNH, Inc.. The Complainant made some investigations into the disputed site and made numerous attempts to contact the owner of the site between October 7 and November 17, 2008, in order to communicate the Complainant’s interest in purchasing the domain name, but they did not receive any response to these inquiries.

16. Concurrently with these inquiries however, on or about October 22, 2008, the content of the site haltonpolice.ca was changed to redirect to a site displaying unauthorized and incorrect Halton Regional Police Service content, including the names of Halton Regional Police Service Officers (some of whom had retired and were private citizens), the Halton Regional Police Service crest and other trade-marked and/or police service specific information. The domain had a notation in the top corner stating “This domain name may be for sale”.

G. CIRA Domain Name Dispute Resolution Policy

17. Under paragraph 3.1 of the Policy it requires that the Complainant establish 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 no legitimate interest in the domain name as described in section 3.6; and
- c) the Registrant has registered the domain name in bad faith as described in section 3.7.

18. According to paragraph 4.1 of the Policy the Complainant must establish points (a) and (b) above on the balance of probabilities and for point (c) it must provide some evidence that the Registrant has no legitimate interest in the domain name.

H. Analysis

Confusingly Similar

19. The Complainant has to show that it has rights in a mark that is confusingly similar to the domain name and that these rights pre-date the date of registration of the disputed domain name.

20. The date of registration of the domain name is November 21, 2006 therefore this is the relevant date for this analysis.

21. The Complainant has listed a number of marks and names in which it claims to have rights. The definition of a “mark” is set out in paragraph 3.2 of the Policy and it appears that the Complainant’s marks fall under paragraph 3.2(a) as they are trade-marks and trade names that have been used by the Board to distinguish the services provided by the Halton Regional Police Service from the services provided by others. Evidence of this use is provided by the material on the website www.hrps.on.ca as it shows “Halton Police”, “Halton Regional Police”, “Halton Regional Police Service”, “The Regional Municipality of Halton Police Services Board” and “Halton Regional Police Services Board” being used in association with the services provided by the Halton Regional Police Service.

While the Complainant has alleged that some of these marks are protected under section 9(1)(n) of the Trade-marks Act, no evidence of this has been provided and a search of the online Canadian Trade-marks register does not demonstrate that any of these marks have been given public notice by the Registrar of Trade-marks.

22. The criteria for determining whether a Complainant has “rights” in a mark are set out in paragraph 3.3 of the Policy and in this case I find that the Complainant does have rights in the marks shown in paragraph 21 above pursuant to subparagraph 3.3(a) as the marks have been used in Canada by the Complainant in association with the provision of police services to the regional municipality of Halton.

23. I find that the marks “Halton Regional Police Service” and “Halton Regional Police” have been used since 1974 by the Complainant or a predecessor in title as this was the date that the police service was formed and this information is corroborated on the website www.hrps.on.ca. Also, I find that the name “Halton Regional Police Services Board” and “The Regional Municipality of Halton Police Services Board” have been used since 1990 since that is the date that the Board was created by statute. The Complainant also alleges that the badge incorporating the words “Halton Regional Police” was registered in 1992. However this is not supported by any evidence nor is the date of creation mentioned specifically on the website www.hrps.on.ca. Therefore I cannot conclude that this mark was used prior to 2006, although it seems very likely. There is also no specific evidence relating to the date of first use of “Halton Police”. It is likely that its use came into existence concurrently with the term “Halton Regional Police Service” as a short form, but this has not been supported in the evidence, therefore I will not consider this short form in determining the rest of the case.

24. The Complainant has thus established rights in the marks and names “Halton Regional Police”, “Halton Regional Police Service”, “The Regional Municipality of Halton Police Services Board” and “Halton Regional Police Services Board” since prior to 2006. The question

then is whether these marks and names are confusingly similar to the domain name haltonpolice.ca. I find that the domain name is confusingly similar to the Complainant's marks and names. It incorporates the most distinctive elements of the Complainant's marks, namely the words "Halton" and "police", and anyone seeing that domain name is going to assume that it is affiliated with the Halton Regional Police Service.

Legitimate Interest

25. Paragraph 3.6 provides six possible manners in which a Registrant may have a legitimate interest in a domain name. The submissions made by the Complainant indicate that the domain name pointed to a website parking page until October 2008 when it started providing unauthorized information about the Halton Regional Police.

26. The domain name is therefore not being used as a mark by the Registrant, so paragraph 3.6(a) is not satisfied. Also, the Registrant does not appear to have used the domain name in good faith in association with any wares, services or business. The domain name was not used for anything other than a website parking page until after the Complainant had contacted the Registrant and this subsequent change in use appears to have been as a direct result of the Complainant's contact, therefore this does not constitute use in good faith. In any event, even if it was use in good faith, the use is not related to any wares or services provided by the Registrant, nor does it relate to a business provided by the Registrant. Therefore this Registrant's use does not fall under subparagraphs 3.6(b) or (c). Nor was the Registrant using the domain name in good faith in association with criticism, review or news reporting (paragraph 3.6(d)). Finally, the domain name is not the legal name or other identifier of the Registrant (3.6(e)), nor is it the geographical name of the location of the Registrant's place of business (3.6(f)). Therefore, none of the criteria in section 3.6 have been satisfied and I find that the Registrant had no legitimate interest in the domain name.

Bad Faith

27. The Complainant has to provide some evidence that the domain name was registered in bad faith. Paragraph 3.7 deals with the grounds which constitute bad faith. I do not find any evidence that the Registrant's activities support bad faith under subparagraph 3.7(a) as there is no evidence that the Registrant offered to sell the domain name to the Complainant for more than the Registrant's actual costs in registering it. The Complainant did not receive any response from the Registrant when it contacted the Registrant in an attempt to buy the domain name. Also, while the Registrant did have a notice on the website indicating that the domain name was for sale, there is nothing to indicate that the Registrant intended to sell it for more than the Registrant's actual costs.

28. With regard to subparagraph 3.7(b), the Complainant asserts that the Registrant has registered more than 142 other domain names and that among these are the domain names burlingtonpolice.ca, miltonpolice.ca and oakvillepolice.ca. These are all names that the Complainant would be likely to want given the fact that its police services cover each of these locations. I therefore find that the Complainant has demonstrated some evidence which points to the fact that the Registrant has registered this domain name to prevent the Complainant from registering its marks as a domain name, and that the Registrant has engaged in a pattern of

registering domain names for this purpose. I therefore do not need to consider subparagraph 3.7(c).

I. Conclusion and Decision

29. In conclusion, I find that the Complainant does have rights in the marks and names “Halton Regional Police”, “Halton Regional Police Service”, “The Regional Municipality of Halton Police Services Board” and “Halton Regional Police Services Board” which predate the registration of the domain name. I also find that the domain name is confusingly similar to the Complainant’s marks and names and that the Registrant had no legitimate interest in the domain name. Finally, I find that the Complainant has provided some evidence indicating that the Registrant registered the domain name in bad faith.

30. I therefore order, pursuant to paragraph 4.3 of the Policy, that the registration of the domain name haltonpolice.ca be transferred to the Complainant, The Regional Municipality of Halton Police Services Board.

Dated January 26, 2009

Sharon Groom

Sharon Groom
January 26, 2009