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

Dispute Number:	DCA-1829-CIRA
Domain Name:	huronconsultinggroup.ca
Complainant:	Huron Consulting Group, Inc.
Registrant:	Martine Colas
Registrar:	Domain Robot Enterprises, Inc.
Panel:	Melvyn J. Simburg
Service Provider:	British Columbia International Commercial Arbitration Centre

DECISION

THE PARTIES

1. The Complainant in this proceeding is Huron Consulting Group, Inc., a U.S. company incorporated in the State of Delaware and located at 550 West Van Buren St., Chicago, IL 60607, USA ("Huron" or "Complainant").

The Registrant is Martine Colas, an individual with a listed residence address of 206 Blvd J-A Paré, Repentigny, Quebec, J5Z 4H8.

THE DOMAIN NAME AND REGISTRAR

2. The Domain Name in issue in this proceeding is huronconsultinggroup.ca (the "Domain Name"). The Registrar is: Domain Robot Enterprises, Inc. The Domain Name was registered by the Registrant on July 8, 2016.

PROCEDURAL HISTORY

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

4. According to the information provided by BCICAC:

a. The Complainant filed a Complaint with respect to the Domain Name in accordance with the Policy on October 20, 2016.

b. BCICAC as Service Provider reviewed the Complaint and found it to be compliant. By letter dated October 25, 2016, to Complainant and Registrant, BCICAC confirmed compliance of the Complaint and commencement of the dispute resolution process.

c. BCICAC sent the Complaint, together with its annexes, to the Registrant by e-

mail and letter on October 25, 2016.

d. The Registrant did not reply to that communication and did not provide a Response to the Complaint.

e. On November 15, 2016, BCICAC sent a second letter to the parties informing them that the Registrant failed to submit a response by the due date of November 14, 2016, that the Complainant had the right to elect to convert from a three person tribunal to a single arbitrator, and that the Registrant may send a written request to accept a late response. The Registrant did not reply.

f. As permitted under CIRA Domain Name Dispute Resolution Rules (the "Rules") Complainant elected under Rule 6.5 to convert from a panel of three to a single Arbitrator.

g. On November 18, 2016, BCICAC named Melvyn J. Simburg as the Panel. On November 20, 2016, the undersigned signed an Acceptance of Appointment as Arbitrator and Statement of Independence and Impartiality, thereby comprising the Panel.

h. 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

i. In accordance with Rule 5.8, where, as here, no Response is submitted, the Panel decides the Proceeding on the basis of the Complaint.

FACTS

5. The facts set out below are taken from the Complaint and related documents.

a. Huron is a global professional services firm with offices in Canada, the United States, and elsewhere in the world. Huron was formed in 2002 and has conducted business in Canada since at least 2005. Huron is well known and successful in its market throughout the world.

b. Huron is the owner of one "word mark" and two "design mark" Canadian trademark registrations (the "Huron Trademarks"):

Trademark	**Registration No.**	**Registration Date**
HURON CONSULTING GROUP	TMA929163	February 17, 2016
Huron CONSULTING GROUP	TMA929183	February 17, 2016
Huron	TMA929148	February 17, 2106

All marks remain in effect.

c. Huron registered the domain <huronconsultinggroup.com> on March 26, 2002, which it has used thereafter as the main website to advertise the brand Huron Consulting Group ever since. The website prominently features Huron's trademarks and promotes its businesses in association with those trademarks. Prospective employees are able to view employment opportunities and submit resumes and applications to Huron through its website. Huron also operates a YouTube channel, a Facebook account and a Twitter account providing information about Huron's products and services.

d. In addition to its trademark registrations in Canada, between 2002 and 2016 Huron has registered over forty (40) other Huron, Huron Consulting Group or related Huron trademarks throughout the world

e. Without permission of Huron, Registrant registered the disputed Domain Name on July 8, 2016.

f. Registrant's identity is "privacy protected" and is not visible to the public through publicly accessible WHOIS searches. In response to a request for disclosure of Registrant information, CIRA provided the name of the Registrant, Martine Colas as well as a postal address and an e-mail address.

g. Registrant's Domain Name resolved to a replica of the Huron website, and contained an exact copy of content from Huron's official website. Registrant's website prominently featured Huron's Trademarks and Huron's business address.

h. Huron sent the Registrant a demand letter on September 29, 2016. Registrant's website then became deactivated and since that time the Domain Name has been "parked" and does not resolve to any active website.

i. Since the date of the Domain Name registration, someone purporting to act on behalf of Huron sent third parties fraudulent emails in the nature of "phishing" emails, purportedly offering employment with Huron and soliciting employment applications and other materials from the recipients. The solicitations used Huron's trademarks, but referenced Registrant's Domain Name.

j. The solicitations of employment included names of individuals purported to be employees or executives of Huron, which they are not. Completing the application form and employment contract would require the recipient to provide Registrant with confidential personal and financial information, including personal banking information. The solicitation email specifically directs recipients to visits the Domain Name website.

k. In purporting to be communications from Huron, the materials are fraudulent and are intended to deceive Internet users, particularly prospective Canadian employees of Huron, into providing Registrant with confidential information. Employment-related "phishing" scams

are a common problem on the Internet. Registrant appears to be using Huron's name and trademarks in furtherance of such a phishing scheme.

l. On September 29, 2016 and September 30, 2016, Huron sent correspondence to the Registrant and to the web host demanding that they take steps to stop use of the unauthorized Domain Name.

m. On October 11, 2016, Complainant sent further correspondence to the Registrant via CIRA's messenger service. No response has been received from the Registrant.

POSITION OF THE COMPLAINANT

6. Complainant submits as follows:

a. Huron is the owner of registered trademark rights for the Huron Trademarks as well as unregistered common law rights arising from many years of extensive and continuous use of those trademarks in Canada and throughout the world.

b. Registrant registered the Domain Name on July 8, 2016, over 10 years after Huron first used Huron-related trademarks in Canada.

c. The Huron Trademarks remain in use and their associated Canadian trademark registrations are in good standing. Accordingly, Huron has and continues to have enforceable prior trademark rights in the Huron Trademarks in accordance with paragraph 3.2(c) of the Policy.

d. The disputed Domain Name is substantively identical to one of the Huron Trademarks. Consumers are bound to mistake it for Complainant's mark and assume the website belongs to Complainant or is authorized by Complainant. The Domain Name is confusingly similar to Complainant's trademarks both individually and collectively under paragraph 3.3 of the Policy.

e. There is no indication that the Domain Name has been legitimately used as a mark by Registrant for the purposes of distinguishing goods or services of, or business of, Registrant or of others. The only business Registrant appears to conduct through its website is directly copied from Huron's official website located at <www.huronconsultinggroup.com> and the use of Huron's business name on the fake website actually refers to Complainant's website rather than to Registrant's. Registrant does not appear to have a legitimate interest in the Domain Name under 3.4(a) of the Policy.

f. Complainant's Trademarks are comprised of a unique coined phrase, "Huron Consulting Group," which is inherently distinctive. The Registered Domain Name is not descriptive and is not being used in association with any goods or services business in Canada. There can be no finding of good faith or legitimate interest in the Domain Name under paragraph 3.4(b) of the Policy.

g. The Domain Name is not generic of any goods, services or businesses in Canada and therefore there is no good faith or legitimate interest in the Domain Name under paragraph 3.4 (c) of the Policy.

h. Registrant's use of the Domain Name does not disclose any legitimate noncommercial activity such as criticism, review, or news reporting and therefore there is no good faith or legitimate interest under paragraph 3.4 (d) of the Policy.

i. The Domain Name is not a legal name, surname, or other reference by which the Registrant is commonly identified. Registrant has used the Domain Name to be intentionally confused with and to fraudulently exploit the trademarks and reputation of the Complainant for the benefit of the Registrant. Therefore, the Domain Name was not acquired in good faith or for a bona fide purpose under paragraph 3.4(e) of the Policy.

j. The Domain Name is not the geographical name of the location of the Registrant's noncommercial activity or place of business and there can therefore be no finding of good faith or legitimate interest in the Domain Name under paragraph 3.4 (f) of the Policy.

k. Huron has provided considerable evidence that Complainant enjoys significant rights in the Huron Trademarks and that Complainant's trademarks have acquired significant reputation in Canada and worldwide. The evidence suggests that Registrant had knowledge of the Huron Trademarks at the time of the Domain Name registration. Registrant is not licensed or authorized to register or use any of the Huron Trademarks in any manner, including as part of a domain name. The Domain Name is being used in association with a fraudulent phishing scam intended to deceive Internet users, particularly prospective employees of Complainant, into providing confidential information. Registrant's use of the Domain Name is intended to trade off or disrupt the goodwill and reputation in Huron's trademarks.

l. Registrant has registered the Domain Name in bad faith. Registrant has attempted to take advantage of the goodwill and Complainant's trademarks in an attempt to exploit, for commercial gain, Internet users who are likely to believe there is some connection between Registrant's use of the Domain Name and Complainant's business.

m. Use of the Domain Name is disruptive to the Complainant, as Internet users are likely to be confused into falsely believing that Registrant's activities are carried out, affiliated with, or endorsed or sponsored by Huron. Registrant's activities are certain to harm the valuable goodwill Huron has in its trademarks, and the actions constitute a serious disruption to Complainant's business. In these circumstances, it is reasonable to infer that Registrant not only knew that its fraudulent activities targeting prospective employees of Huron would be disruptive, but Registrant intended them to be so, all in violation of paragraph 3.5(c) of the Policy.

n. Registrant's activities also demonstrate bad faith under paragraph 3.5(d) of the Policy. The Domain Name has taken the whole of, and is confusingly similar to, the Huron Trademarks, is used to host Registrant's fake website, and is referenced in fraudulent materials

sent to third parties falsely offering employment with Complainant. Registrant is using the Domain Name and has registered it for the express purpose of perpetrating a phishing scam by misleading Internet users and prospective employees of Huron to provide their confidential personal and financial information, all in connection with the Domain Name. Registrant has demonstrated bad faith in its attempt to attract Internet users for its own commercial gain.

DISCUSSION

CANADIAN PRESENCE REQUIREMENTS

7. The Panel finds that Complainant is an Eligible Complainant (see paragraph 1.4 of the Policy) and has met the Canadian Presence Requirements by virtue of the fact that the Complainant is the owner of the Huron Trademarks, has an office in and does business in Canada.

(A) CONFUSINGLY SIMILAR

8. Under paragraph 4.1 of the Policy the Complainant must prove on the balance of the 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

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."

9. Registrant has filed no response to the Complaint and accordingly Registrant has provided no evidence of legitimate use.

10. The panel finds that the Domain Name is confusingly similar to the Complainant's Huron Trademarks, and each mark is "A Mark in which the Complainant had Rights prior to the date of registration of the Domain Name and continues to have such rights." This conclusion is based on the following.

a. Complainant is the owner of the Huron Trademarks, which it registered on February 17, 2016, and continues to use the marks in trade within Canada.

b. Accordingly, the Panel finds that Complainant has rights in the Huron Trademarks and continues to have such rights.

c. The test of whether a Domain Name is confusingly similar with a mark or trade name, pursuant to paragraph 3.3 of the Policy, is if it so nearly resembles the Mark in appearance, sound or in the ideas suggested so as to be likely to be mistaken for the mark.

d. Paragraph 1.2 of the Policy provides that a Domain Name is defined so as to exclude the "dot-ca" suffix.

e. The Panel has undertaken a comparison between the disputed Domain Name and the Huron Consulting Group trademark and finds that the Domain Name so nearly resembles the trademark in appearance, sound and the ideas suggested as to be likely to be mistaken for the mark. The Huron name is clearly well established and so prestigious that the objective bystander would naturally assume that the Huron of the Domain Name was invoking the Huron of the trademark and that it was an official Huron Domain Name leading to an official Huron website.

f. Moreover, if the trademark is included in the disputed Domain Name, a Registrant cannot avoid a finding of confusion by appropriating another's entire mark in a Domain Name. *RGIS Inventory Specialists v. AccuTrak Inventory*, BCICAC Case No. 00053; *Glaxo Group Ltd. v. Defining Presence Marketing Group, Inc. (Manitoba)*, BCICAC Case No. 00020. Applying that principle to the present case, the disputed Domain Name incorporates the whole of the registered Huron trademark. Accordingly, the Panel finds that the Registrant cannot avoid a finding of confusion as it has misappropriated the entirety of the Huron trademark.

(B) NO LEGITIMATE INTEREST IN THE DOMAIN NAME

11. Paragraph 4.1(c) of the Policy requires Complainant to provide some evidence that the Registrant has no legitimate interest in the Domain Name as described in paragraph 3.4. The Panel finds that Complainant has provided such evidence. Complainant's case in this regard is as follows:

a. There has never been any relationship between the Complainant and the Registrant, and the Registrant has never been licensed or otherwise authorized to use the Complainant's Huron Trademarks in Canada or elsewhere, in any manner, including as part of a domain name. The Panel accepts this submission as evidence and so finds.

b. The Complainant has been selling services in Canada in association with its trademarks since at least 2005. Huron is a substantial and successful business and is well known in its markets in Canada and elsewhere. The Panel accepts this submission as evidence and so finds.

c. Registrant registered the Domain Name on July 8, 2016 without the knowledge or permission of the Complainant and resolved it to a website copied from Complainant's website and appearing to be a website for Complainant's services. It means that the Registrant was aware

of the existence of the Huron brand and Huron Trademarks when registering the Domain Name <huronconsultingroup.ca>.. The Panel accepts this submission as evidence and so finds.

The same result on this issue is reached by an examination of the various criteria set out in paragraph 3.4 of the Policy:

(a) Registrant has not used the Domain Name as a mark in good faith with Registrant having rights in the mark within the meaning of subparagraph 3.4(a).

(b) There is no evidence that Registrant registered the Domain Name in association with any particular wares, services or business of Registrant and the term "Huron" is not clearly descriptive of, or a generic name for, any wares, services or business under subparagraphs 3.4(b) and (c) of the Policy.

(c) There is no evidence that the Domain Name is being used for non-commercial activity, or for fair use, within the meaning of subparagraph 3.4(d).

(d) There is no evidence that the Domain Name is a legal name of Registrant or the name or surname or other reference by which Registrant is or was commonly known within the meaning of subparagraph 3.4(e).

(e) Subparagraph 3.4(f) of the Policy does not apply because the term Huron is not a geographical location.

12. The Panel accepts the submission of the Complainant and the evidence adduced in its support and concludes that these matters constitute evidence that Registrant has no legitimate interest in the disputed Domain Name.

13. Moreover, Registrant has not filed a response to the Complaint or sought to rebut the above evidence and has thus provided no evidence of legitimate use. In addition, in light of the facts set forth above, it is inherently unlikely that Registrant has or could establish a legitimate interest in the Domain Name.

(C) REGISTRATION OF DOMAIN NAME IN BAD FAITH

14. The Panel now turns to consider whether the disputed Domain Name was registered in bad faith. The Panel finds that Registrant registered the disputed Domain Name in bad faith.

15. Complainant's case in support of bad faith is as follows:

a. Registrant intentionally attempted to attract Internet users by creating a likelihood of confusion with the Complainant's trademark.

b. Registrant is not using the disputed Domain Name for any bona fide commercial offering; nor is it using it for any legitimate non-commercial or fair use. Rather, it is using the Complainant's Domain Name and Mark improperly to obtain confidential personal and financial

information of third parties, thus disrupting the business of Complainant for purposes of Registrant's financial gain.

c. Complainant sent a cease and desist communication to Registrant on September 30, 2016. After receiving no response, Complainant sent a follow up letter on October 11, 2016 via CIRA Message Delivery. To date Complainant has received no response from Registrant.

d. The website currently occupying the Domain Name is not active.

16. The Registrant has filed no response to the Complaint and therefore provided no evidence on the issue of bad faith. The Panel therefore accepts the evidence and the inferences upon the evidence show bad faith registration on the part of Registrant.

GENERAL

17. The Panel has reviewed all information submitted by the Complainant and finds that apart from and in addition to the liability of Registrant pursuant to paragraphs 3.5(c) and (d) of the Policy, Registrant registered the disputed Domain Name in bad faith within the generally accepted meaning of that expression.

18. In particular, Complainant's trademark is well known and has been for many years; Complainant has spent significant funds and resources over the years on development and marketing of the Mark and its brand; Registrant has taken Complainant's trademark to use as a Domain Name without approval or consent of Complainant; Registrant has offered no Response or any other legitimate argument or reason for its actions and accordingly adverse inferences may be drawn from that fact.

19. These being the facts, the Panel finds that Registrant registered the disputed Domain Name in bad faith within the generally accepted meaning of that expression.

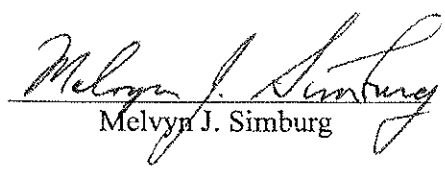
DECISION

20. The Panel finds that Complainant has met the requirements of Paragraph 4.1 of the Policy and is entitled to the relief it seeks.

ORDER

The Panel directs that the registration of the Domain Name <huronconsultinggroup.ca> be transferred from Registrant to Complainant.

Date: December 13, 2016



Melvyn J. Simburg