



WIPO Arbitration and Mediation Center

ADMINISTRATIVE PANEL DECISION

Gulf Craft Inc. Co. (LLC) v. PrivacyProtect.org / Domain, Stocker

Case No. D2010-0504

1. The Parties

The Complainant is Gulf Craft Inc. Co. (LLC) of Ajman, United Arab Emirates, represented by Al Tamimi & Company, United Arab Emirates.

The Respondent is PrivacyProtect.org of Moergestel, the Netherlands / Domain, Stocker of Rochdale, Richmond upon Thames, United Kingdom of Great Britain and Northern Ireland.

2. The Disputed Domain Names and Registrar

The disputed domain names <majesty-yachts.com> and <gulfcraftboats.com> are registered with Directi Internet Solutions Pvt. Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was brought pursuant to the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), which was adopted by the Internet Corporation for Assigned Names and Numbers (“ICANN”) on August 26, 1999, and approved on October 24, 1999, and also in accordance with the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”) as approved on October 24, 1999, and the World Intellectual Property Organization (“WIPO”) Supplemental Rules for Uniform Domain Name Dispute Resolution Policy in effect as of December 14, 2009 (the “Supplemental Rules”).

The Complaint, with accompanying Annexes A-Q (with sub-annexes), was filed with the WIPO Arbitration and Mediation Center (the “Center”) by email on April 1, 2010.

Pursuant to paragraph 4(d) of the Policy, the Complainant selected the Center as the ICANN approved administrative dispute resolution service provider to administer this proceeding. Through the Complaint, the Complainant requested a single-member panel.

After receiving the Complaint, the Center, in accordance with paragraph 5 of the Supplemental Rules, verified that the original Complaint complied with the formal requirements of the Rules and the Supplemental Rules. In that regard, on April 1, 2010 and again on April 7, 2010, the Center requested confirmation from the Registrar as to: whether the Registrar received a copy of the Complaint from the Complainant, contact and registrant information set forth in that Complaint relative to each of the disputed domain names, and whether each such domain name is indeed registered with the Registrar. The Center also requested the Registrar to specify for each of the disputed domain names: (a) the dates on which the registrant registered that domain name (or acquired the registration) and when the registration will expire, (b) whether the Policy applies to that domain name, (c) the language of the registration agreement, and (d) whether that domain name will remain “locked” during the proceeding.

Subsequently, on April 7, 2010, the Registrar provided his response to the Center through which it specified name and contact information pertinent to the disputed domain names to the extent, as it then existed, in its WhoIs database. The contact and registrant information which the Registrar provided differed from that set forth in the original Complaint. Further, the Registrar stated that: it had not received a copy of the Complaint. The Registrar’s response further indicated that: (a) the registrations for both domain names were created on August 1, 2004 and will expire on August 1, 2010, (b) the Policy applies to both domain names, (c) the registration agreement for each name is in English, and (d) both domain names will remain locked during the proceeding.

Through an email on April 7, 2010, the Center notified the Complainant of the registrant and contact information provided by the Registrar, and accordingly invited the Complainant to file an amended complaint to correct the registrant information. The Complainant did so on April 12, 2010. Accordingly, for simplicity, all subsequent references to the “Complaint”, unless the context specifically indicates otherwise, will be to the amended Complaint.

The Center verified that the Complaint satisfied the formal requirements of the Policy, the Rules and the Supplemental Rules.

On April 13, 2010, the Center formally notified the Respondent of the filing of the Complaint, including an indication that the Center was forwarding a complete copy of the Complaint to the Respondent, together with all its annexes, by email. The Complaint and its accompanying documents, and all subsequent communications associated therewith, were provided in the preferred manners and to the addresses as mandated by paragraphs 2(a), 2(b) and 4(a) of the Rules.

Hence, the notification to the Respondent having occurred on April 13, 2010, under paragraph 4(c) of the Rules, this administrative proceeding is deemed to have commenced on that date.

Having reviewed the Complaint and all the correspondence, including that between the Center and the Registrar, the Panel agrees with the determination of the Center that the Complaint and its handling met the requirements of the Rules and the Supplemental Rules.

The Respondent was then provided with a 20 calendar day period, expiring on May 3, 2010, to file his Response with the Center and the Complainant.

As of May 4, 2010, the Center had not received a formal Response to the Complaint from the Respondent. Hence, the Center, in an email letter dated May 4, 2010, notified the

Respondent of his default.

Pursuant to the Rules and Supplemental Rules, by email letter dated May 7, 2010, the Center contacted the undersigned, Mr. Peter L. Michaelson, Esq., requesting his service as sole Panel for this dispute. Subsequently, on the same date, Mr. Michaelson accepted and, pursuant to the requirements of paragraph 7 of the Rules, returned, by email attachment to the Center, a fully executed Statement of Acceptance and Declaration of Impartiality and Independence. The Center, through an email letter dated May 10, 2010, notified the Parties of the appointment of Mr. Michaelson as sole Panelist. The Panel finds that it was properly constituted.

Based on the deadline set forth in paragraph 15 of the Rules, a decision is to be issued by the Panel before May 24, 2010. Owing to unexpected time conflicts experienced by the Panel all of which constituted unforeseen circumstances, the Center, at the request of the Panel, extended this due date.

This dispute concerns two domain names, specifically <majesty-yachts.com> and <gulfcraftboats.com>.

4. Factual Background

As indicated in the WhoIs registration records in Annexes A2 and A4 to the Complaint, the disputed domain names <majesty-yachts.com> and <gulfcraftboats.com> were both registered on August 1, 2004 and will both expire on August 1, 2010.

A. Complainant's Marks

The Complainant owns a number of national and European (CTM) trademark registrations for its MAJESTY YACHTS mark, in block letters and both with and without a design element, and its GULF CRAFT mark in stylized fashion with a design element. The Complainant has provided, in Annexes B and C to the Complaint, copies of its registrations for those marks. Pertinent details of some of those registrations are as follows:

1. **MAJESTY YACHTS** (with design)
India registration 1362249
filed and registered: June 7, 2005

This mark is registered for use in connection with “boats and yachts” in international class 12.

2. **MAJESTY YACHTS** (with design)
CTM registration 004512935; filed: June 28, 2005
registered: August 2, 2006

This mark is registered for use in connection with “boats and yachts and all related goods” in international class 12.

The Complainant also has counterpart registrations for these marks in Kuwait, Qatar, Oman and Bahrain.

3. **GULF CRAFT INC.** (stylized and with design)
India registration 1362250

filed and registered: June 7, 2005

This mark is registered for use in connection with “boats and yachts” in international class 12.

4. **GULF CRAFT INC.** (stylized and with design)
CTM registration 004512943; filed: June 28, 2005
registered: April 28, 2006

This mark is registered for use in connection with “boats and yachts; funnels; fenders, boat hooks, screw propellers, steering gear for ships, timbers for ships” all in international class 12.

5. **GULF CRAFT** (stylized with design)
United States Registration No. 3,282,632; filed: February 8, 2006
registered: August 21, 2007

This trademark is registered for use in connection with: “boats and yachts” in international class 12. The registration indicates that both first use and first use in commerce of this mark, when used in conjunction with these goods, commenced at least as of December 31, 1982.

The Complainant also has counterpart registrations for these marks in Saudi Arabia, Kuwait, Qatar, Oman and Bahrain.

B. The parties and their activities

On May 8, 2008, Mr. E. Bamps, Executive Manager of the Complainant and acting on the Complainant’s behalf, opened a customer account with eNom (the original registrar of both disputed domain names) and then transferred the two disputed domain names to the that registrar. Copies of e-mail correspondence between Mr. Bamps and Mr. Gomez of eNom appear in Annex E to the Complaint.

On May 9, 2008, eNom sent an email (a copy of which appears in Annex F to the Complaint) to Mr. Bamps confirming renewal of the disputed domain names for another year, i.e. to August 1, 2009, and also noted the corresponding charges then made to Mr. Bamps’ credit card for the renewals.

During August 2009, the Complainant noticed its website was no longer accessible through <majesty-yachts.com> or <gulfcraftboats.com> and instead each name resolved to a parking page which provided access to a commercial search engine. At that time, the Complainant also realized that not only had the August 1st renewal deadline past but also eNom had apparently never sent the Complainant, specifically Mr. Bamps, any prior notice concerning impending expiration of the registration for the domain names -- as required by the ICANN Expired Domain Deletion Policy.

Mr. Bamps also found that he could no longer logon to his account at eNom. In response, the Complainant sent urgent email messages (on August 4th and 18th, 2009) and a fax message (on August 19, 2009 -- copies of all these messages appear in Annex G to the Complaint) to eNom to effectuate renewal of <majestyachts.com> domain name during a 45-day re-activation period as provided by eNom pursuant to its registration agreement with the Complainant and the ICANN Expired Domain Name Policy.

As a result of WhoIS searches performed by the Complainant (copies of which appear in

Annexes A and D to the Complaint) in August 2009, the Complainant discovered that it did not own either of the two domain names but rather those domain names were owned by the Respondent, a privacy service, and both domain names then carried a renewal date of August 1, 2010. The Complainant had never utilized a privacy service, much less that provided by the Respondent, nor did it authorize the transfer of either of the two domain names to the Respondent. Obviously, the registrations for these domain names had been renewed but not by the Complainant.

Consequently during mid-August, Mr. Bamps thought that his credit card may have been used to provide payment for the renewals. He then contacted his bank and was informed that, on August 5, 2009, the bank had received a request from eNom to charge his credit card USD 59.90 but that the bank had refused the request inasmuch as one digit of the security code for the card did not match that in the request. On August 25, 2009, Mr. Bamps contacted the online support center at eNom and requested a new password to his eNom account.

On August 26, 2009, after receiving appropriate logon parameters from eNom, Mr. Bamps logged on to his eNom account and learned that the account then held no domain names, and both names were renewed on August 14, 2009 and then transferred out of that account on August 20, 2009 under instructions provided by the administrative contact then listed on the account.

The Complainant, suspecting it was a victim of domain hijacking, sent an email (a copy of which appears in Annex T to the Complaint) on August 28, 2009 to eNom and the Respondent informing both of the underlying facts and demanding transfer of both of the disputed domain names back to the Complainant.

On August 28, 2009, the Complainant submitted an Abuse/Fraud complaint to the current registrar, Directi Internet Solutions, as *per* the latter's procedure. That registrar, a Respondent here, suggested that the Complainant submit a transfer undo request to eNom. Subsequently, on August 28, 2009, an individual named "Cam" at eNom responded back, by email, to the Complainant requesting that the Complainant verify various documents it had submitted with its request. The Complainant provided that verification by email on September 2, 2009. Copies of these emails appear in Annex L to the Complaint.

On September 3, 2009, Cam, through an email message to the Complainant, requested the Complainant formally submit a transfer undo request affidavit essentially repeating the information in its Abuse/Fraud complaint.

On September 9, 2009, Mr. A. Parekh (Operations Associate) of Respondent Directi Internet Solutions responded to Mr. Bamps and also suggested that he submit a transfer undo request form to eNom. Mr. Bamps responded to that message stating that he has already alerted eNom. Copies of this correspondence appear in Annex O to the Complaint.

The Complainant formally filed the requested affidavit with eNom on October 15, 2009. Thereafter, Cam responded back and stated: "We were unable to resolve the issue with registrar Directi. You will need to contact them directly to try and recover the domains. I also suggest seeking legal advice on how to proceed". Copies of these messages, including the transfer undo affidavit, appear in Annex M to the Complaint.

The Complainant requested an explanation from eNom which specifically included the following questions and requests:

- “1. Did you tell Directi that I have been the Registered Name Holder for the domain names in question as per your records?
2. Did you explain to Directi that the transfer of the domain names in question was fraudulent?
3. Kindly could you send over to me the copies of the entire correspondence you have had with Directi.”

Subsequently, during October and November 2009, Cam responded back, by email, to the Complainant stating, on behalf of eNom: “We provided Directi the documents they requested, but they have decided not to return the domain. I suggest seeking legal advice on how to proceed”. A copy of the correspondence between the Complainant and eNom, occurring between October and November 2009, appears in Annex N to the Complaint.

As of April 1, 2010, the filing date of the Complaint, the Respondent uses the disputed domain name <majesty-yachts.com> to resolve to a parking page, a copy of which appears in Annex P to the Complaint, which depicts a cut-away image of a pleasure boat and the text:

“New Web site coming soon.
For details and inquiries please contact info@majesty-yachts.com”

The Respondent also attempted to auction this name for sale with a starting price of USD 35,000 -- as reflected in a web page copy provided in Annex P to the Complaint.

Further, as of April 1, 2010, the Respondent uses the disputed domain name <gulfcraftboats.com> to resolve to a web page (a copy of which appears in Annex Q to the Complaint) that provides links for searching various marine-related products and services related to boating, boat purchasing and yachting, as well as to various unrelated subject matter categories, and also a separate link for purchasing, at auction, “.biz” domain names.

5. Parties’ Contentions

A. Complainant

(i). Identical or Confusingly Similar

The Complainant contends that the disputed domain names are identical or confusingly similar to the Complainant’s Marks.

Specifically, the domain names include the textual marks MAJESTY YACHTS and GULF CRAFT along with apparently insignificant additions, such as a hyphen between the words “Majesty” and “Yachts” and the addition of the generic word “boats” after the mark GULF CRAFT -- all of which, so the Complainant implies, are inconsequential.

Hence, the Complainant believes that it has satisfied the confusing similarity/identity requirement in paragraph 4(a)(i) of the Policy.

(ii). Rights or Legitimate Interests

The Complainant contends that the Respondent has no rights or legitimate interests in either of the disputed domain names pursuant to paragraph 4(a)(ii) of the Policy.

First, the Complainant alleges that the prior registrar's, eNom's, opportunistic registration of both names with subsequent transfer of those names to the Respondent clearly demonstrates a lack of any rights or legitimate interests.

Second, the Complainant alleges that inasmuch as the Respondent has only used the domain names to resolve to web pages that carry either third-party links or offers to sell other domain names, such use is not sufficient to confer on the Respondent any rights or legitimate interests in the names. Nor, is the Respondent known by either of the names as it has not used that name in connection with its own goods or services.

(iii). Registered and Used in Bad Faith

Lastly, the Complainant contends that the Respondent registered and is now using each of the disputed domain names in bad faith under paragraph 4(a)(iii) of the Policy.

First, the Complainant alleges that fraudulent transfers are themselves evidence of bad faith registration, with any subsequent use of the transferred domain name amounting to bad faith use.

Second, although the Complainant had inadvertently allowed its registrations for both disputed domain names to expire, nevertheless the prior registrar's, eNom's, actions in registering the domain names as soon as it did -- apparently on the same day the registrations expired -- reflected bad faith because it had knowledge that: (a) both domain names previously belonged to the Complainant, (b) both domain names reflected the Complainant's marks, and (c) the Complainant has a fully functional website to which each domain name had resolved and which the Complainant used to promote its business, and in spite of that knowledge, the prior registrar, eNom, subsequently transferred each domain name out of the Complainant's account during its registration re-activation period to the Respondent.

B. Respondent

The Respondent failed to file any Response to the contentions raised in the Complaint.

6. Discussion and Findings

In view of the lack of a Response filed by the Respondent as permitted under paragraph 5 of the Rules, this proceeding has proceeded by way of default. Hence, under paragraphs 5(e), 14(a) and 15(a) of the Rules, the Panel may in its discretion decide this administrative proceeding on the basis of the Complainant's undisputed factual representations.

A. Identical or Confusingly Similar

The Panel finds that the disputed domain names <majesty-yachts.com> and <gulfcraftboats.com> are confusingly similar to the Complainant's MAJESTY YACHTS and GULF CRAFT marks.

From a simple comparison of each of the disputed domain names to its corresponding one of the Complainant's Marks, no doubt exists that each of the domain names is confusingly similar to that mark.

The primary differences between the MAJESTY YACHTS mark and the disputed

domain name <majesty-yachts.com> is the inclusion of a hyphen between the two words of that mark and between the GULF CRAFT mark and the disputed domain name <gulfcraftboats.com> is the appending of the generic word “boats” to that mark -- apart from the appending of the gTLD (generic top level domain) “.com” in each case to form the disputed domain names. The addition of the gTLD is irrelevant in assessing confusing similarity or identity under paragraph 4(a) of the Policy and thus ignored.

It is now very well-established in UDRP precedent, including numerous decisions previously rendered by this Panel, that a minor variation, such as adding a short letter or number groups, symbols, punctuation marks or even generic or highly descriptive words, or country names to a mark, is usually insufficient in and of itself, when used in forming a domain name that results from modifying the mark, to confer requisite and sufficient distinctiveness to that domain name to avoid user confusion.

Here, the inclusion of the hyphen in one case and the appending of the word “boats” in another to form the disputed domain names are clearly no more than minor variations of no practical significance. See, e.g., *Advanced Reading Solutions LLC d/b/a Urok Learning Institute v. Vrvv Inc.*, WIPO Case No. D2009-1418 (January 4, 2010); *Oakley, Inc. v. Kate Elsberry, Elsberry Castro*, WIPO Case No. D2009-1286 (November 18, 2009); *Burberry Limited v. Domain Admin*, WIPO Case No. D2009-0703 (August 11, 2009); *Krispy Kreme Doughnuts, Inc. v. John Sharp*, WIPO Case No. D2009-0099 (April 20, 2009); *MasterCard International Incorporated v. Global Prepaid*, WIPO Case No. D2008-2008 (March 25, 2009); *HRB Innovations Inc., Express Tax Service Inc. v. Calvin Brown*, WIPO Case No. D2008-1072 (September 4, 2008); *Dreamworks Animation, LLC v. Creahq, Mike Furlong*, WIPO Case No. D2008-0505 (May 28, 2008); *Marvel Manufacturing Company Inc. v. Koba Internet Sales, LP*, WIPO Case No. D2008-0265 (May 5, 2008); *MySpace, Inc. v. Edwin De Jesus, EDJ Associates Inc.*, WIPO Case No. D2007-1878 (March 12, 2008); *Blackrock, Inc. v. blackrockfinancialservices.com*, WIPO Case No. D2007-1627 (January 4, 2008); *F. Hoffmann-La Roche AG v. Transliner Consultants*, WIPO Case No. D2007-1359 (November 14, 2007); *National Football League v. Peter Blucher d/b/a BluTech Tickets*, WIPO Case No. D2007-1064 (September 24, 2007); *Toilets.com, Inc. v. Rons Porta Johns*, WIPO Case No. D2007-0952 (August 27, 2007); *Associated Bank Corp. v. Texas International Property Associates*, WIPO Case No. D2007-0334 (June 28, 2007); *Gerber Childrenswear Inc. v. David Webb*, WIPO Case No. D2007-0317 (April 24, 2007); *SPX Corporation v. Hevun Diversified Corporation*, NAF Claim No. FA 791657 (November 13, 2006); *Google Inc. v. Jennifer Burns*, NAF Claim No. FA 726096 (August 16, 2006); *The Cheesecake Factory Inc. and The Cheesecake Factory Assets Co., LLC v. Say Cheesecake*, WIPO Case No. D2005-0766 (September 12, 2005); *Napster, Inc. v. Giovanni Vinscani*, WIPO Case No. D2005-0531 (July 19, 2005); *Caesars Entertainment, Inc. v. Nova Internet Inc.*, WIPO Case No. D2005-0411 (June 22, 2005); *Lockheed Martin Corporation v. The Skunkworx Custom Cycle*, WIPO Case No. D2004-0824 (January 18, 2005); *Lockheed Martin Corporation v. Deborah Teramani*, WIPO Case No. D2004-0836 (December 1, 2004); *National Collegiate Athletic Association v. Dusty Brown*, WIPO Case No. D2004-0491 (August 30, 2004); *Lane-Labs USA, Inc. v. Powell Productions*, NAF Claim No. FA 155896 (July 1, 2003); and particularly *Cable News Network LP, LLP v. Elie Khouri d/b/a Channel News Network et al.*, NAF Claim No. FA 117876 (December 16, 2002).

Moreover, by adding the word “boats” with the Complainant’s mark GULF CRAFT to form the corresponding disputed domain name, <gulfcraftboats.com>, the potential for user confusion is greatly exacerbated, not reduced. By appending that word to the Complainant’s mark, an Internet user would clearly be deceived into thinking that the Respondent’s site and the products and services offered there through were somehow

affiliated, related to or sponsored by or even originating from the Complainant when, in fact, they are not. This clearly is the Respondent's intended result inasmuch as the Complainant manufactures pleasure boats and Respondent's website, resolvable through the disputed name <gulfcraftboats.com>, depicts lists various categories of marine products, including boats, and related services.

Therefore, the Panel finds that the disputed domain names <majesty-yachts.com> and <gulfcraftboats.com> are confusingly similar to the Complainant's corresponding marks so as to cause confusion in each instance. Hence, the Complainant has satisfied its burden under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Based on the evidence of record here, the Panel finds that no basis exists which would appear to legitimize a claim by the Respondent, were it to have made one, to either of the disputed domain names under paragraph 4(c) of the Policy.

The Complainant has never authorized the Respondent to utilize its marks MAJESTY YACHTS or GULF CRAFT in conjunction with any of the products or services with which the Complainant uses those marks, nor does the Complainant apparently have any relationship, affiliation or association whatsoever with the Respondent. As such, any use to which the Respondent were to put the Complainant's marks or one confusingly similar thereto -- as in the disputed domain names -- in connection with the identical or even similar goods and services to those currently provided by the Complainant, as recited in any of its trademark registrations, might likely (as in circumstances present here) violate the exclusive trademark rights now residing with the Complainant. See, e.g., *Clearwire Legacy, LLC v. Leon Ganesh*, WIPO Case No. D2010-0148 (March 17, 2010); *Burberry, HRB Innovations Inc., Dreamworks, MySpace, Blackrock, F. Hoffmann-La Roche AG, National Football League, Toilets.com, Inc., and Associated Bank*, all cited *supra*; also *Starline Publications, Inc. v. Unity*, WIPO Case No. D2008-1823 (February 2, 2009); *GoDaddy.com, Inc., v. GoDaddysDomain.com, Clark Signs, Graham Clark*, WIPO Case No. D2007-0303 (May 7, 2007); *Citgo Petroleum Corporation v. Richard Antinore*, WIPO Case No. D2006-1576 (March 14, 2007); *New Destiny Internet Group, LLC and Xplor Media, Inc. v. SouthNetworks*, WIPO Case No. D2005-0884 (October 14, 2005); *The Cheesecake Factory Inc., Napster and Caesars Entertainment, Inc.*, all cited *supra*; *Pelmorex Communications Inc. v. weathernetwork*, WIPO Case No. D2004-0898 (December 28, 2004); *Sybase, Inc. v. Analytical Systems*, WIPO Case No. D2004-0360 (June 24, 2004); *Caesars World, Inc. and Park Place Entertainment Corporation v. Japan Nippon*, WIPO Case No. D2003-0615 (September 30, 2003); *Leiner Health Services Corp. v. ESJ Nutritional Products*, NAF Claim No. 173362 (September 16, 2003); *AT&T Corp. v. Roman Abreu d/b/a Smartalk Wireless*, cited *supra*; *MPL Communications, Limited et al v. IWebAddress.com*, NAF Claim No. 97092 (June 4, 2001); *Treeforms, Inc. v. Cayne Industrial Sales, Corp.*, NAF Claim No. 95856 (December 18, 2000); and *America Online, Inc. v. Xianfeng Fu*, WIPO Case No. D2000-1374 (December 11, 2000). Consequently, in the Panel's view, the Respondent could not legitimately acquire any public association between it and either of the Complainant's marks MAJESTY YACHTS or GULF CRAFT or one similar thereto, and certainly not for the goods and services provided by the Complainant under those marks.

Further, there is absolutely no evidence of record that the Respondent has ever been commonly known by either of the disputed domain names. Nor could the Respondent in the Panel's view likely ever become commonly known by either of these domain names without likely infringing on the exclusive trademark rights of the Complainant. See, e.g.,

Clearwire, Burberry, Starline Publications, HRB Innovations Inc., MySpace and Treeforms, Inc., all cited *supra*.

Hence, based on the evidence before the Panel, the Respondent does not fall within paragraph 4(c)(ii) of the Policy.

Moreover, it is beyond any credible doubt that the Respondent had actual knowledge of the Complainant's marks and the Complainant's exclusive rights in those marks at the time it registered, on its own behalf, both disputed domain names. Yet, in spite of that knowledge, it proceeded to register the domain names anyway. This is particularly evident in that the Respondent's website resolvable through the domain name <majesty-yachts.com> contains a cut-away depiction of a pleasure boat -- possibly one which a potential Internet viewer might perceive as being similar to one which the Complainant then manufactures, as well as a link, for further information, to the address "info@majesty-yachts.com". Hence, the Respondent provided a website which that viewer could reasonably perceive as being associated with or related to the Complainant in some fashion -- when in actuality it was not. The Panel infers, from the lack of any Response, that the Respondent's primary motivation in doing so was to create and then opportunistically exploit inevitable user confusion for the Respondent's own pecuniary benefit -- possibly by convincing the Complainant to purchase the domain name from the Respondent at a substantial price in order to halt any further confusion and injury to its marks and reputation. Inasmuch as such use is likely to directly infringe the Complainant's marks, it does not constitute a *bona fide* offering of goods or services, let alone one that occurred prior to receiving any notice of this dispute.

Consequently, the Respondent's conduct does not fall within paragraph 4(c)(i) or 4(c)(iii) of the Policy either.

Accordingly, the Panel concludes that the Respondent has no rights or legitimate interests in either of the disputed domain names within paragraph 4(a)(ii) and 4(c) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that the Respondent's actions, with respect to both of the disputed domain names, constitute bad faith registration and use.

Here, the prior registrar, eNom, acting on its own behalf registered, as registrant, the disputed domain names on August 1, 2009, the very same day those registrations expired. A few days later, ownership of those domain names was transferred to the privacy service Respondent PrivacyProtect.org -- either through the prior registrar's own initiative or on specific instruction of the privacy service. The registrations for these domain names themselves were moved from that prior registrar to the registrar Directi Internet Solutions.

Inasmuch as no response was filed, the Panel infers that both the privacy service Respondent and the current registrar are possibly affiliated or related, including possibly through the prior registrar, eNom. As such, in this exceptional case the Panel finds it appropriate that knowledge regarding the Complainant and its prior rights and all actions taken by eNom regarding the disputed domain names will be imputed to the Respondents.

The ICANN Expired Domain Deletion Policy (EDDP), which has been incorporated into the Registrar Accreditation Agreement, requires, in paragraph 3.7.5, that before a registrar can

cancel a domain name registration, owing to failure of the registered name holder to timely renew the registration, the registrar must have previously sent two notices or reminders to that holder concerning the upcoming expiration of the registration.

The Complainant states that it never received any written notice from the prior registrar, eNom, concerning the expiration of both the disputed domain names before their underlying registrations expired on August 1, 2009 -- which is undisputed owing to the Respondent's failure to file any response.

Accordingly, the Panel simply concludes that the failure of the original registrar, eNom, to provide requisite notice, as required by the EDDP, of the impending expiration of the registrations of both disputed domain names coupled, upon the expiration of those registrations, with the renewal of both domain names apparently to intentionally and opportunistically exploit those domain names (either directly or through the Respondents as its related entities) for its and/or the Respondent's own pecuniary benefit, constitutes bad faith registration.

Regarding bad faith use with respect to the disputed name <majesty-yachts.com>, the Respondent uses that domain name to resolve to a parking page which depicts a cut-away image of a pleasure boat and provides a contact link to "info@majesty-yachts.com". Being that the Respondent, rather than the Complainant, is the registrant for this domain name, all inquiries from Internet users to that address for further information on the Complainant's boats will instead resolve to and be received by the Respondent, not as those viewers would naturally expect, the Complainant. There is no evidence in the record that the Respondent ever provided any email inquiry it received (assuming there were any) from any such viewer to the Complainant. Respondent is a privacy service and a domain name registrar; obviously and as the Panel infers, neither entity is engaged in manufacturing boats.

As such, the Panel views the Respondent's primary, if not sole, reason in intentionally diverting such email traffic to itself as being to opportunistically exploit the ensuing confusion experienced by those Internet viewers through financial injury resulting from increasing disruption caused to the Complainant's business. Specifically, the Respondent's diversion of email traffic from those viewers effectively denies the Complainant legitimate sales inquiries and ultimately ensuing sales and revenues that might otherwise arise from those viewers. Over time, this exerts escalating financial pressure on the Complainant which the Respondent likely believed would eventually reach a level sufficient to persuade the Complainant to purchase that domain name from the Respondent at a substantially inflated price -- if only to cease any further disruption and added injury to the Complainant's business and reputation. This view is buttressed by the fact that the Respondent offered to sell the domain name through an auction website for a minimum price of \$ 35,000 -- which, by any measure, vastly exceeds any documented out-of-pocket costs the Respondent likely incurred in connection with that name. As such, the Respondent's conduct with respect to the domain name <majesty-yachts.com> contravenes paragraph 4(b)(i), (iii) and (iv) of the Policy.

With respect to the other disputed domain name, <gulfcraftboats.com>, the Respondent uses this domain name to resolve to a web page that provides links for searching various categories of marine-related products and services associated with boating, boat purchasing and yachting, as well as to various unrelated subject matter categories, and also a separate link for purchasing, at auction, ".biz" domain names. The Panel infers that all or some of these links are sponsored, thus providing revenue to the Respondent whenever a Internet viewer clicks on one of them. Through this conduct, the Respondent is intentionally diverting Internet traffic, destined to the Complainant, to the Respondent for its own pecuniary benefit. Furthermore, the Respondent uses this domain name,

which previously resolved to the Complainant's website -- but owing to the Respondent's improper acquisition of this domain name -- no longer does, to intentionally disrupt the Complainant's business. This conduct contravenes paragraphs 4(b)(iii) and (iv) of the Policy.

Moreover, the Respondent's conduct encompasses multiple domain names, thus establishing a pattern. That conduct has effectively precluded the Complainant from reflecting its marks in those domain names -- domain names which it previously owned but by virtue of improper registration by eNom and subsequent acquisition by the Respondent of those domain names, it does not. Hence, the Respondent has also violated paragraph 4(b)(ii) of the Policy.

Consequently, the Panel concludes that the Respondent violated paragraph 4(a)(iii) of the Policy including specifically each of paragraphs 4(b)(i) through 4(b)(iv) thereof.

Thus, the Panel concludes that the Complainant has provided sufficient proof of its allegations, with respect to both disputed domain names, to establish a case under paragraph 4(a) of the Policy upon which the relief it now seeks can be granted.

7. Decision

Accordingly, under paragraphs 4(i) of the Policy and 15 of the Rules, the Panel grants the relief sought by the Complainant.

The disputed domain names, <majesty-yachts.com> and <gulfcraftboats.com>, are ordered transferred to the Complainant.

Peter L. Michaelson
Sole Panelist

Dated: June 3, 2010