



WIPO Arbitration and Mediation Center

ADMINISTRATIVE PANEL DECISION

Great Lakes Services, LLC v. LaPorte Holdings

Case No. D2005-1174

1. The Parties

The Complainant is Great Lakes Services, LLC, Madison, Wisconsin, United States of America, represented by Bryan Cave, LLP, United States of America.

The Respondent is LaPorte Holdings, Los Angeles, California United States of America.

2. The Domain Name and Registrar

The disputed domain name <greatwolfresort.com> is registered with NameKing.com.

3. Procedural History

The Complaint was brought pursuant to the Uniform Domain Name Dispute Resolution Policy (the “Policy”), which was adopted by the Internet Corporation for Assigned Names and Numbers (ICANN) on August 26, 1999, and approved on October 24, 1999, and in accordance with the Rules for Uniform Domain Name Dispute Resolution Policy (“Rules”) as approved on October 24, 1999, and the World Intellectual Property Organization Supplemental Rules for Uniform Domain Name Dispute Resolution Policy in effect as of December 1, 1999 (the “Supplemental Rules”).

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) in email form on November 10, 2005, and in hard copy form on November 16, 2005, along with Annexes 1-14.

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 three-member panel.

After receiving the Complaint, the Center, in accordance with paragraph 5 of the Supplemental Rules, determined whether that Complaint fully complied with the formal

requirements of the Rules and the Supplemental Rules. In that regard, on November 14, 2005, the Center requested confirmation from the Registrar of information set forth in the Complaint relative to the disputed domain name; specifically, contact and registrant information for that domain name, as well as whether the Registrar received a copy of the Complaint from the Complainant. The Center also requested the Registrar to specify: (a) whether the Policy applies to the disputed domain name, (b) whether the registrant has submitted, in its registration agreement, to the jurisdiction at the location of the principal office of the registrar for court adjudication of disputes concerning or arising from the use of the domain name, (c) the language of the registration agreement, and (d) whether the domain name will remain “locked” during the proceeding.

Subsequently, on November 14, 2005, the Registrar provided its response to the Center through which the Registrar specified name and contact information pertinent to the disputed domain name, to the extent present in its WhoIS database, confirmed that NameKing.com is the registrar of that name and stated that: it had received a copy of the Complaint, the Policy applied to the disputed domain name and the name was then held in a “locked” status. The Registrar also provided a copy of the registration agreement then in effect. That agreement is in English. From that agreement, the Center determined that the Respondent had not submitted to the jurisdiction at the location of the principal office of the Registrar for court adjudication of disputes concerning or arising from the use the disputed domain name and thus court jurisdiction could only be had at the office of the Respondent for the domain name registration as evidenced by the Registrar’s WhoIs record.

In response to a notification by the Center and dated November 17, 2005, that the Complaint was administratively deficient owing to its omission of a mutual jurisdiction clause, the Complainant filed an amendment to the Complaint on November 28, 2005, through which it consented to court jurisdiction at the Respondent’s address then shown on its domain name registration.

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

On December 2, 2005, the Center notified the Respondent of the filing of the Complaint, including an indication that the Center was forwarding a complete copy of the Complaint and its amendment, by courier and email (the latter being without the Annexes), to the Respondent. 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 December 2, 2005, under paragraph 4(c) of the Policy, this administrative proceeding is deemed to have commenced on that date.

Having reviewed the Complaint and all preceding and succeeding correspondence between the Center and the Registrar, in detail, 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 December 22, 2005, to file its Response with the Center and serve a copy of the Response on the Complainant.

As of December 22, 2005, the Center had not received a Response to the Complaint from the Respondent; hence, the Center, in an email letter dated December 23, 2005, notified the Complainant and Respondent of the default of the Respondent.

On January 31, 2006, the Center appointed Peter L. Michaelson, Robert A. Badgley and Lynda J. Zadra-Symes as panelists in this matter. The Panel finds that it was properly constituted. Each member of the Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with paragraph 7 of the Rules.

Based on the deadline set forth in paragraph 15 of the Rules, a decision was to be issued by the Panel to the Center on or before February 14, 2006.

This dispute concerns one domain name, specifically: <greatwolfresort.com>.

The language of this proceeding is English.

4. Factual Background

A copy of the WhoIS registration records for the disputed domain name appears in Annex 1 to the Complaint. As indicated on these records, the Respondent registered the disputed domain name on November 9, 2002.

A. Complainant's GREAT WOLF Marks

The Complainant owns two federal trademark registrations for its marks that contain the term "GREAT WOLF" and on which this dispute is based. The Complainant has provided, in Annexes 4 and 5 to the Complaint, hard-copy printouts of entries for these marks from the publicly accessible Trademark Electronic Search System (TESS) database maintained by the United States Patent and Trademark Office (US PTO). These registrations are as follows:

- (a) GREAT WOLF LODGE (stylized with logo)
United States registration 2,941,852; registered: April 19, 2005
filed: January 22, 2004

This service mark was registered for use in connection with "entertainment services in the nature of a water park" in international class 41; and "hotels, resort hotels, provision of conference facilities and related hospitality services, namely, serving of food and drink, fast food restaurants and snack bars, and restaurant services" in international class 43. The registration states that first use and first use in commerce of the mark for the services in all three classes commenced as of July 31, 2000.

- (b) GREAT WOLF LODGE (block letters)
United States registration 2,643,850; registered: October 29, 2002
filed: July 6, 2000

This service mark was registered for use in connection with "entertainment services, namely, water parks" in international class 41; and "hotel, resort and conference center services, providing convention facilities" in international class 42. The registration states that first use and first use in commerce of the mark for the services in all three classes commenced as of January 1, 2000.

The Complainant also claims common law trademark rights that began at least as early as January 2000 in the term “GREAT WOLF” when used in conjunction with various resort, lodging, hospitality and entertainment services.

Furthermore, the Complainant owns 26 domain names, all of which include the term “GREAT WOLF”, including <greatwolfresorts.com>, <greatwolfresort.net> and <greatwolfresorts.net>, and has provided, in Annex 6 to the Complaint, a list of all those names.

B. The Parties and their activities

The Complainant operates a large number of indoor water park resorts in the United States with locations in the Wisconsin Dells, Wisconsin; Williamsburg, Virginia; Sandusky, Ohio; Kansas City, Kansas; Traverse City, Michigan; and Pocono Mountains, Pennsylvania. Each resort is a full-service, year-round family destination which attempts to capture the atmosphere and adventure of the north woods. Each resort includes, e.g., large indoor and outdoor water and entertainment parks, spas, salons, cafes, restaurants, fitness centers, arcades, gift shops, meeting space and business center services. From as early as November 1999, the Complainant has provided those services using its GREAT WOLF Marks. Currently, the Complainant, (and its related companies) employs over 2,000 individuals in its corporate offices and throughout its resort locations.

Through the Complainant’s website at <greatwolflodge.com> (and through related sites accessible through others of its domain names), users can perform various functions, such as, for example: obtaining information about the Complainant’s various resorts, including information on resort room rates, restaurants, bars, entertainment and other amenities; reserving rooms for lodging and meeting space for conferences; and obtaining information on local attractions within close proximity to each of these resorts. A copy of a hard-copy printout of the home page of the website resolvable through <greatwolflodge.com> appears in Annex 7 to the Complaint.

The Complainant states that for the past six years, it has expended and continues to expend a substantial amount of resources, money, time and effort in promoting, marketing, advertising and building consumer recognition and goodwill in its GREAT WOLF Marks.

During or about October 2005, the Complainant first discovered that the Respondent had registered and was using the disputed domain name for a website which offers, among other services and through various links to third-party providers, resort, lodging and entertainment services which directly compete with those of the Complainant. Copies of hard-copy printouts of the home page, showing a search box and various hyperlinked service headings and categories, and also various sub-pages of that website appear in Annex 8 to the Complaint.

Specifically, under various headings including “Popular Links”, “Popular Categories” and “Favorite Categories”, the Respondent’s website includes numerous links to third-party websites that offer services that directly compete with the Complainant’s resort, lodging and entertainment services, and appear to imitate what a user would expect to see on the Complainant’s website. In that regard, the Respondent’s hyperlinked headings include “Great Wolf in Wisconsin Dells”, “GreatWolfResort”, “Williamsburg Great Wolf”, “GreatWolfResortPA”, “Sandusky Ohio”, “Williamsburg”, “Wisconsin Dells Hotels”, and “Wisconsin Dells”. Each of these headings directly corresponds to one of the Complainant’s resort locations. A number

of the Respondent's hyperlinks link to sub-pages which, in turn, display further hyperlinks to third-party websites that offer resort, lodging and entertainment services in the Wisconsin Dells, Williamsburg, Virginia and Sandusky, Ohio areas, and in direct competition with the Complainant. The Respondent's website also provides additional links (in a somewhat smaller, less prominent font) to third-party commercial websites for travel, insurance, financial, automotive, gambling and other services.

Furthermore, the Respondent's website prominently displays a "Search" box in the lower-portion of the home page. If an Internet user were to enter, as search terms, "Wisconsin Dells" into the search box, the Respondent's search function will then display links to third-party providers of resort and vacation packages, lodging and entertainment in the Wisconsin Dells area and which compete directly with the Complainant's resorts and services. However, none of those providers is associated with or endorsed by the Complainant.

Moreover, each of the sub-pages appearing in Annex 8 show the disputed domain name conspicuously displayed in the upper-left corner of the page with below it, in smaller text, the slogan "For all your entertainment needs".

5. Parties' Contentions

A. Complainant

(i) Identical or Confusingly Similar

The Complainant contends that the disputed domain name is both confusingly similar and identical to the Complainant's GREAT WOLF Marks.

In that regard, the Complainant states that the name incorporates the Complainant's mark GREAT WOLF. Further, the Complainant alleges that the addition of the generic term "resort" to the name does not eliminate any user confusion and, by virtue of the lodging and resort services offered by the Complainant, actually serves to accentuate such confusion.

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, for several reasons, the Respondent has no rights or legitimate interests in the disputed domain name pursuant to paragraph 4(a)(ii) of the Policy.

First, the Complainant alleges since the Respondent chose a name that incorporates the Complainant's mark, the Respondent intentionally sought to cause user confusion and, by doing so, mislead and divert Internet users, who seek the Complainant's website, to the Respondent's site instead at which those users will be offered services directly competitive with those of the Complainant, thus injuring the Complainant and tarnishing its marks.

Furthermore, the Respondent makes absolutely no effort to disclose on its website that it has no relationship with the Complainant. Consequently, since the Respondent is exploiting the good will of the Complainant, such use of the disputed domain name

does not constitute a *bona fide* offering of goods or services, or a legitimate non-commercial or fair use.

Second, the Complainant states that the Respondent is not associated in any way with the Complainant and has neither sought nor received any authorization or license from the Complainant to use its GREAT WOLF Marks in any manner.

Third, the Complainant alleges that the Respondent is not known, never has been known and can never be known by the term "GREAT WOLF RESORT" as the rights in that term exclusively reside in the Complainant. In that regard, the Complainant contends that the Respondent has not sought nor has it procured any registrations for any trade names, corporate names, or trademarks with any Secretary of State, the US PTO or any foreign trademark office for either the term "GREAT WOLF RESORT" or any similar term.

(iii) Registered and Used in Bad Faith

The Complainant contends that, for several reasons, the Respondent has registered and is now using the disputed domain name in bad faith under paragraph 4(a)(iii) of the Policy.

First, the Complainant alleges that the Respondent is intentionally attempting to divert, for commercial gain, Internet users away from the Complainant's websites and, via the Respondent's website, to one or more competing websites (some of which are third party "sponsors" and presumably compensate the Respondent for driving Internet traffic to their sites) to intentionally confuse and mislead consumers. This, in turn, causes the Complainant to lose sales, hence causing financial injury, and also damages the Complainant's good will in its GREAT WOLF Marks thus tarnishing those marks. Moreover, the Complainant states that Respondent's bad faith is further exemplified, and the likelihood of confusion and diversion exacerbated by, the Respondent's adoption and use of the most popular ".com" version of a mark identical to the mark GREAT WOLF.

Second, the Complainant alleges that since, to its knowledge and belief, the Respondent has no legitimate trademark, service mark or other intellectual property rights in or to the disputed domain name, or any similar marks or names, this further demonstrates the Respondent's bad faith, particularly its opportunistic exploitation, in having chosen a domain name with which the Complainant is highly associated but with which the Respondent has no connection whatsoever.

Third, the Complainant alleges that since the Respondent registered the disputed domain name approximately three years after the Complainant started using its GREAT WOLF Marks and receiving notoriety, endorsements and industry recognition of its GREAT WOLF branded lodging and entertainment services, the Respondent clearly knew of the Complainant's prior use of the those marks but in spite of that knowledge and that it had no right, title or interest in any of those marks, it proceeded to register the disputed domain name. Further, since the Respondent's website contains links labeled by locations which match those where the Complainant's resorts are situated and through each of which the Respondent offers competing services to those offered by the Complainant's resort at the corresponding location, the Complainant contends that this further proves that the Respondent was aware of the Complainant and its GREAT WOLF branded services when the Respondent registered the name.

Lastly, the Complainant alleges that the Respondent has engaged in a pattern of abusive domain name registrations of which its actions surrounding the present disputed domain name are merely one more example. In that regard, the Complainant points to other UDRP decisions in which panels ruled against “LaPorte Holdings” and ordered transfer of the domain name then at issue, namely: *Fashion Seal Corporation v. LaPorte Holdings, LLC*, WIPO Case No. D2005-0435 (June 30, 2005) (<fashionsealuniforms.com>); *Krome Studios Pty, Ltd. v. LaPorte Holdings, Inc.*, WIPO Case No. D2004-0707 (December 12, 2004) (<tythetasmaniantiger.com>); *Adorama, Inc. v. LaPorte Holding, Inc.*, WIPO Case No. D2005-0240 (June 1, 2005) (<adarama.com>); *Medco Health Solutions, Inc. v. LaPorte Holdings, Inc.*, WIPO Case No. D2004-0800 (December 22, 2004) (<medcohealth.com>); *Société des Hôtels Méridien v. LaPorte Holdings, Inc.*, WIPO Case No. D2004-0849 (December 16, 2004) (<lemeriden.com>); and *Nokia Corporation v. Horoshiy, Inc., LaPorte Holdings*, WIPO Case No. D2004-0851 (December 31, 2004) (<howtonokia.com>, <nokiapcsuite.com>, <nokiasoftwaremarket.com> and <nokiausa.com>). Furthermore, the Complainant notes that more than one previous WIPO UDRP panel found direct links between the Respondent and an individual named Henry Chan, who is a serial cyber-squatter. In that regard, the Complainant cites to *Fashion Seal Corporation*, cited *supra*, where the panel stated:

“This Panel will also take note, as others have, that there is a burgeoning collection of WIPO UDRP cases finding bad faith registrations on the part of one Henry Chan. See e.g., *Lowen Corporation d/b/a Lowen Sign Company v. Henry Chan*, WIPO Case No. D2004-0430, and cases cited therein. There are other cases in which a respondent called Hiroshiy, Inc. has been directly linked to Henry Chan. *Pearson Education, Inc. v. Horoshiy, Inc.*, WIPO Case No. D2004-0942; *Medco Health Solutions, Inc. v. Horoshiy, Inc.*, WIPO Case No. D2004-0625. Henry Chan has also been linked to a respondent called LaPorte Holdings, Inc. [citation omitted]... the Panel finds it a reasonable inference that Henry Chan is behind LaPorte Holdings LLC and that this case thus represents but another entry on the growing list of Henry Chan bad faith registrations.”

B. Respondent

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

6. Discussion and Findings

In view of the lack of a Response filed by the Respondent as required 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 is directed to decide this administrative proceeding on the basis of the Complainant’s undisputed representations. In that regard and apart from judging this proceeding through mere default of the Respondent, the Panel makes the following specific findings.

A. Identical or Confusingly Similar

The Panel finds that confusion is likely to arise as a result of the Respondent’s use of the disputed domain name.

The disputed domain name can be viewed as being formed by having substituted one generic word in the Complainant’s mark GREAT WOLF LODGE with a synonymous

generic word, “resort”, and then appending the “.com” gTLD to the resulting term. Such a change is not only clearly inconsequential in ameliorating user confusion, but, owing to its synonymous nature, will actually and is likely intended to exacerbate that confusion. Furthermore, the domain name can alternatively be viewed as simply the addition of a generic term “resort” and a gTLD to the Complainant’s mark GREAT WOLF. Here, the addition of the generic term, particularly in light of the resort and lodging services offered by the Complainant through its GREAT WOLF marks, both registered and at common law, not only fails to dispel any user confusion but again intentionally accentuates it. The addition of any gTLD itself is completely ignored in assessing identity/similarity under paragraph 4(a)(i) of the Policy.

It is now clearly well-established in UDRP precedent, including numerous decisions previously rendered by various members of this Panel, that minor variations, such as adding short letter or number groups or even generic words to a mark are each 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 name to avoid user confusion. “Resort” is certainly such a generic word. See, e.g., *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); and *National Collegiate Athletic Association v. Dusty Brown*, WIPO Case No. D2004-0491 (August 30, 2004). This result follows from a simple comparison of the disputed domain name against the Complainant’s marks.

Such confusion, should it occur, would undoubtedly cause Internet users intending to access the Complainant’s website, but who were to reach the Respondent’s site resolvable through the disputed domain name and therethrough various third-party websites, to think that an affiliation of some sort exists between the Complainant and either the Respondent and/or any of the third-parties linked to the Respondent’s site, when, in fact, no such relationship would exist at all. See, also, e.g., *Cheesecake Factory, Napster, Caesars Entertainment, Lockheed v. Skunkworx*, and *Lockheed v. Teramani*, all cited *supra*; *Register.com, Inc. v. Wolfgang Reile a/k/a RWG Internet et al*, FA208576 (National Arbitration Forum, January 27, 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*, FA 173362 (National Arbitration Forum, September 16, 2003); *American Family Life Assurance Company of Columbus v. defaultdata.com aka Brian Wick*, FA 123896 (National Arbitration Forum, October 14, 2002); *AT&T Corp. v. Roman Abreu d/b/a Smartalk Wireless*, WIPO Case No. D2002-0605 (September 11, 2002); *L.F.P., Inc. v. B and J Properties*, FA 109697 (National Arbitration Forum, May 30, 2002); *Peter Frampton v. Frampton Enterprises, Inc.*, WIPO Case No. D2002-0141 (April 17, 2002); *Spence-Chapin Services to Families and Children v. Stanley Wynman*, FA 100492 (National Arbitration Forum, December 10, 2001); *Meijer, Inc. v. Porksandwich Web Services*, FA 97186 (National Arbitration Forum, July 6, 2001); *MPL Communications, Limited et al v. IWebAddress.com*, FA 97092 (National Arbitration Forum, June 4, 2001); *American Home Products Corporation v. Ben Malgioglio*, WIPO Case No. D2000-1602 (February 19, 2001); *Surface Protection Industries, Inc. v. The Webposters a/k/a Mark’s Paint Store, Inc.*, WIPO Case No. D2000-1613 (February 5, 2001); *Dollar Financial Group, Inc. v. VQM NET*, FA 96101

(National Arbitration Forum, January 25, 2001); *eBAY Inc. v. G L Liadis Computing, Ltd. and John L. Liadis d/b/a G L Liadis Computing Ltd.*, WIPO Case No. D2000-1463 (January 10, 2001); *Treeforms, Inc. v. Cayne Industrial Sales Corp.*, FA 95856 (National Arbitration Forum, December 18, 2000); see also *Pep Boys Manny, Moe and Jack of CA v. E-Commerce Today, Ltd.*, AF-0145 (eResolution, May 3, 2000).

Therefore, the Panel finds that the disputed domain name sufficiently resembles the Complainant's GREAT WOLF Marks as to cause confusion; hence, the Complainant has shown sufficient similarity between the disputed domain name and the Complainant's marks under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Panel believes that not only has the Respondent not provided any basis that would legitimize any claim it has to the disputed domain name, but also it is extremely unlikely that the Respondent could ever make such a claim.

The simple reason is that the disputed domain name contains the Complainant's mark GREAT WOLF under which the Complainant provides its services and has continuously done so since at least as early as January 2000 – which predates, by approximately three years, the date, November 9, 2002, on which the Respondent registered the disputed domain name.

Moreover, the recognition and notoriety in the resort and lodging industry which the Complainant had developed in its GREAT WOLF Marks prior to November 2002 is further evidenced by the Respondent having a series of links on its website, where each link carries, as its label, the name of a location at which one of the Complainant's resorts or lodges is situated and, through that link, a third-party offers services to Internet users which directly compete with those provided and offered for sale by the Complainant at its corresponding resort or lodge. This supports this Panel's view that the Respondent was very likely to have been well aware of the Complainant's services and its marks prior to having registered the disputed domain name and, given that knowledge, intended to and did, in fact, exploit those marks for its own pecuniary benefit – and in the absence of any Response it is quite reasonable for the Panel to infer as such.

Furthermore, the Complainant has never authorized the Respondent to utilize any of its GREAT WOLF Marks or any mark confusingly similar thereto in conjunction with the specific services which the Complainant provides under its marks, nor does the Complainant have any relationship or association whatsoever with the Respondent.

Hence, any use to which the Respondent were to put the GREAT WOLF Marks or one confusingly similar thereto, in connection with the resort, lodging and related services provided by the Complainant through those marks would directly violate the exclusive trademark rights now residing in the Complainant. See, e.g., *Cheesecake Factory, Napster and Caesars Entertainment*, cited *supra*; *Pelmorex Communications Inc. v. weathernetwork*, WIPO Case No. D2004-0898 (December 18, 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); *MPL Communications, Limited and MPL Communications, Inc. v. LOVEARTH.net*, FA 97086 (National Arbitration Forum, June 4, 2001); *Leiner Health Services Corp., AT&T Corp. and MPL Communications*, all cited *supra*; *America Online, Inc. v. Xianfeng Fu*, WIPO Case No. D2000-1374 (December 11, 2000); and *Treeforms, Inc.*, cited *supra*. Consequently, the Respondent

could not legally acquire any public association between it and the GREAT WOLF Marks and hence could never be commonly known or recognized by any of those marks and thus could never fall within paragraph 4(c)(ii) of the Policy.

Thus, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name within paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel believes that the Respondent's actions constitute bad faith registration and use of the disputed domain name.

As discussed in the preceding section, the Panel infers – and it strains belief to think otherwise – that the Respondent was fully aware of the Complainant's marks GREAT WOLF and GREAT WOLF RESORTS when the Respondent registered the disputed domain name on November 9, 2002, and particularly the reputation which those marks had attained as a result of the Complainant's lodge, resort and entertainment services starting some three years earlier.

In fact, this Panel believes that the Respondent not only knew of the Complainant's prior and ongoing activities but also intentionally chose the disputed domain name to substantially mimic the Complainant's marks in order to trade off the Complainant's reputation and divert users, seeking the Complainant's website, to the Respondent's site instead – thus implying in the minds of those users that a relationship or affiliation of some sort existed between the Respondent or any of its third-party sponsors linked through its site and the Complainant when, in actuality, no such relationship or affiliation existed at all. Once at the Respondent's site, an Internet user, through entry of a location of the Complainant's resorts and lodges in the Respondent's search function, would be directed to a third-party website through which that user would then be offered services directly competitive with those of the Complainant. Though no Response was filed, it is eminently reasonable for this Panel to infer that the Respondent gains monetary compensation from such referrals, in the form of some type of referral fee from a third-party, whenever a user was directed through the Respondent's site, to that third-party's website and/or if that user actually booked services through that site. See, e.g., *Cheesecake Factory*, cited *supra*.

Clearly, the Respondent, by not only registering the disputed domain name but also using it in the manner he did, intended to and actually did opportunistically exploit the inevitable user confusion that resulted from its use of this particular domain name to the Complainant's detriment, both financially in terms of lost sales and also tarnishment of its marks and reputation. See, e.g., *Sound Unseen, Ltd.; Apple Bottoms, LLC; and Cornell Haynes p/k/a "Nelly" v. Patrick Vanderhorst*, WIPO Case No. D2005-0636 (August 18, 2005).

In addition, the Panel concludes that the Respondent has registered the disputed domain name in order to prevent the Complainant from reflecting its mark in a corresponding domain name, and that the Respondent has manifestly engaged in a pattern of such conduct.

Hence, the Panel views the Respondent's actions as constituting bad faith registration and use in violation of paragraph 4(a)(iii), and specifically under both paragraphs 4(b)(ii) and 4(b)(iv) of the Policy.

Thus, the Panel concludes that the Complainant has provided sufficient proof of its allegations 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 now grants the relief sought by the Complainant.

The disputed domain name, <greatwolfresort.com>, is ordered transferred to the Complainant.

Peter L. Michaelson
Presiding Panelist

Robert A. Badgley
Panelist

Lynda J. Zadra-Symes
Panelist

Dated: February 14, 2006