



WIPO Arbitration and Mediation Center

ADMINISTRATIVE PANEL DECISION

Altria Group v. Daniel Cheng

Case No. D2009-1764

1. The Parties

The Complainant is Altria Group of Richmond, Virginia, United States of America, represented by Arnold & Porter, United States.

The Respondent is Daniel Cheng of Washington, District of Columbia, United States.

2. The Domain Name and Registrar

The disputed domain names, <altriacannabis.com> and <altriamarijuana.com>, are registered with Wild West Domains, Inc. (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-G, was filed with the WIPO Arbitration and Mediation Center (the "Center") by email on December 22, 2009.

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 original Complaint, the Center, in accordance with paragraph 5 of

the Supplemental Rules, verified that the Complaint complied with the formal requirements of the Rules and the Supplemental Rules. In that regard, on December 23, 2009, 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 the Complaint relative to each of the disputed domain names, and whether each such 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 December 23, 2009, 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. Further, the Registrar stated that: it had received a copy of the Complaint, the Respondent was listed as the registrant for each of the domain names, and both domain names are registered with Wild West Domains, Inc. The Registrar’s response further indicated that: (a) the registrations for both domain names were created on March 30, 2009 and will expire on March 30, 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.

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

On December 29, 2009, 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 December 29, 2009, 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 January 18, 2010, to file his Response with the Center and the Complainant. In response to a request by the Respondent, this deadline was subsequently extended by the Center to February 10, 2010.

As of February 10, 2010, the Center had not received a formal Response to the Complaint from the Respondent; hence, the Center, in an email letter dated February 11, 2010, notified the Respondent of his default. Subsequently, on February 11, 2010, the Complainant electronically filed a Supplemental Submission with the Center.

Accordingly, pursuant to the Rules and Supplemental Rules, by email letter dated February 16, 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 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 February 19, 2010, notified the Parties of the appointment of Mr. Michaelson as sole Panelist.

Based on the deadline set forth in paragraph 15 of the Rules, a decision is to be issued by the Panel before March 5, 2010.

This dispute concerns two domain names, specifically <altriacannabis.com> and <altriamarijuana.com>.

4. Factual Background

As indicated in the WhoIs registration records for both disputed domain names provided in Annex A to the Complaint, the disputed domain names were both registered on March 30, 2009.

A. Complainant's ALTRIA Marks

The Complainant owns two United States registrations for the mark ALTRIA by itself in block letters, or combined with a design. The Complainant has provided, in Annex C to the Complaint, a copy of the registration certificates along with entries for these registrations from the publicly available on-line TESS (Trademark Electronic Search System) database provided by the United States Patent and Trademark Office. Pertinent details of each of these registrations are as follows:

1. ALTRIA (block letters)

United States Registration No. 3,029,629; registered December 13, 2005

This service mark is registered for use in connection with: “conducting applicants shareholder and investor relations, namely providing shareholder record keeping and corporate information and analyses” in international class 35; “administration of employee benefit and pension plans, namely dividend reinvestment plan, retirement plan, deferred profit-sharing plan, flexible spending accounts for dependent card and/or health care, group life insurance coverage and stock option program, providing grants to charities and charitable groups, providing grants to charities and charitable groups in the field of hunger, domestic violence, culture and the arts, aids, humanitarian aid, environment, agriculture, cultural diversity, financial sponsorship of cultural events, namely visual arts, dance, theater” in international class 36; and “charitable and philanthropic services, namely providing food, clothing, shelter” in international class 42. The record indicates that both first use and first use in commerce of this mark, when used in conjunction with the services in all these three classes, commenced at least as of January 27, 2003.

2. ALTRIA (with design)

United States Registration No. 3,073,900; registered March 28, 2006

This service mark is registered for use in connection with: “conducting applicants shareholder and investor relations, namely providing shareholder record keeping and corporate information and analyses” in international class 35; “administration of

employee benefit and pension plans, namely dividend reinvestment plan, retirement plan, deferred profit-sharing plan, flexible spending accounts for dependent card and/or health care, group life insurance coverage and stock option program, providing grants to charities and charitable groups, providing grants to charities and charitable groups in the field of hunger, domestic violence, culture and the arts, aids, humanitarian aid, environment, agriculture, cultural diversity, financial sponsorship of cultural events, namely visual arts, dance, theater” in international class 36; and “charitable and philanthropic services, namely providing food, clothing, shelter” in international class 42. The record indicates that both first use and first use in commerce of this mark, when used in conjunction with the services in all these three classes, commenced at least as of January 27, 2003.

B. The Parties and their Activities

The Complainant, Altria Group, is the parent company of Philip Morris USA Inc., John Middleton Co., U.S. Smokeless Tobacco Company LLC, John Middleton Co., and Ste. Michelle Wine Estates, among other entities. Certain of the Complainant’s predecessors-in-interest date back over 180 years. The Complainant’s operating companies are market leaders and successful businesses with their annual revenues amounting to billions of US dollars.

The Complainant extensively uses its ALTRIA Marks. It invests large sums of money to promote and develop its mark through the print media and the Internet and widely uses those marks in connection with shareholder and investor relations and the sponsorship of numerous charitable organizations.

In connection with its company and its subsidiary businesses, the Complainant has established a website at “www.altria.com”. This site enables Internet users to access information concerning the Complainant and its various subsidiaries. Financial and shareholder information as well as business strategies, media releases, and other information about Complainant are available on that site. A printout of the home page of the Complainant’s website appears in Annex D to the Complaint.

The Complainant’s counsel, after learning that the Respondent had registered the disputed domain names, sent a letter to the Respondent on June 3, 2009 requesting that the Respondent permanently refrain from using the ALTRIA Marks or any other confusingly similar names or marks, and immediately transfer all rights in the domain names to the Complainant. A copy of this letter appears in Annex E to the Complaint.

On or about June 3, 2009, both domain names resolved to the Respondent’s website which was a parked web page that provided commercial pay-per-click (sponsored) links to and advertisements for various third-party websites. Several of those websites apparently contained information relating to the Complainant; other such websites did not and bore no relation to the Complainant. A copy of the home page from the Respondent’s website appears in Annex F to the Complaint.

The Respondent never replied to the Complainant’s June 3rd letter. Instead, the Respondent drastically changed his website, to which both domain names then resolved, to one which provided content ostensibly devoted to fighting the legalization of marijuana. A copy of the home page of the Respondent’s changed website appears in Annex G to the Complaint. The Respondent’s website currently exists in this fashion.

5. Parties' Contentions

A. Complainant

(i) Identical or Confusingly Similar

The Complainant contends that each of the disputed domain names is confusingly similar to the Complainant's ALTRIA Marks.

Specifically, the Complainant alleges that the separate inclusion of the drug name "cannabis" and "marijuana" after the Complainant's mark ALTRIA to form each corresponding one of the disputed domain names fails to adequately distinguish the resulting disputed domain name from the mark. Further, the Complainant alleges that each of these names creates a false impression in the minds of Internet users to the effect that those users, who reach Respondent's website through either of these names, might think that the Complainant is setting forth its position regarding these substances when, in fact, Complainant is making no such position, thus aggravating user 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 any of several reasons, 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 Respondent has no connection or affiliation with the Complainant, its subsidiaries or any of the many products and services provided by the Complainant and its subsidiaries under its ALTRIA Marks.

Also, the Respondent was never known by any name or trade name that incorporates the word "Altria." In that regard, there is no information on the Respondent's website, as it currently stands, that refers to the Complainant, any of its subsidiaries or the products and services which either provides.

Further, the Respondent has never sought or obtained any trademark registrations for "Altria" or any variation thereof, and indeed could never do so given the Complainant's pre-existing and exclusive rights to this mark throughout the United States. Nor has the Respondent ever received any license, authorization, or consent - express or implied - to use the ALTRIA Marks in a domain name or in any other manner either at the time Respondent registered and began using the disputed domain names or thereafter.

Moreover, the Complainant alleges that the Respondent's sole objective at the outset, in using the disputed domain names to resolve to a parked website containing a page of sponsored links, was to draw advertising revenues from Internet users who were lured to his site by the inclusion of the Complainant's mark ALTRIA in each of those names. Such misappropriation of the Complainant's mark does not give rise in the Respondent to any right or legitimate interest, but rather reflects bad faith. The Respondent's attempt, after having received the Complainant's cease and desist letter, to "legitimize" his use of those names by changing his website to one that ostensibly provides political commentary against legalization of marijuana, is merely an attempt to hijack the Complainant's mark ALTRIA to advance his own political agenda. Since the

Respondent's website is totally devoid of any mention of the Complainant, its subsidiaries or the services which the Complainant provides under its mark ALTRIA and the Respondent's political agenda has nothing to do with the activities of the Complainant and its subsidiaries, then the Respondent's use of the Complainant's mark ALTRIA within each of the disputed domain names is merely a sham.

(iii) Registered and Used in Bad Faith

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

First, given the fame which the Complainant's ALTRIA Marks have achieved in the United States, it is inconceivable that the Respondent registered the domain names without any prior knowledge of those marks. This is reflected by references in the Respondent's website to the "tobacco industry" and "big business".

Inasmuch as the Respondent registered two names that each includes the mark ALTRIA, this demonstrates a pattern of conduct which prevented Complainant from reflecting its mark in corresponding domain names, thus further reflecting bad faith registration.

Respondent's use of both names in connection with his parked website of sponsored links, some of which pointed to third-party sites containing information about the Complainant and others pointed to commercial third-party sites, reflects bad faith use. Bad faith use is not altered by the Respondent having replaced his parked site with political content inasmuch as that replacement occurred only after the Respondent received the Complainant's cease and desist letter and thus is nothing more than a disguised attempt to retain the domain names.

Moreover, even if Respondent legitimately intended to develop his political content website, there is no connection whatsoever between the content on that site, i.e., commentary against the legalization of marijuana, and the Complainant, and thus no legitimate reason for the Respondent to have incorporated the Complainant's mark ALTRIA in either of the disputed domain names. The only reason that Respondent did so was to use that mark, and illicitly take advantage of its reputation, to attract greater user attention to his website than would otherwise have occurred, thus further evincing Respondent's bad faith. Furthermore, by incorporating Complainant's mark into the names, the Respondent intentionally caused confusion of Internet users who might think a connection exists between that site and the Complainant - when in actuality no such connection did, to the Respondent's ultimate benefit and the Complainant's detriment.

Lastly, the Complainant views the Respondent's offer to transfer the domain name to the Complainant for USD 2500 - a sum far in excess of the latter's cost of registration as bad faith. This offer occurred on February 9, 2010 - one day prior to the end of the extended response period, and is forth in the Complainant's Supplemental Filing.

B. Respondent

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

C. Complainant's Supplemental Submission

Inasmuch as this submission is based on Respondent's conduct that occurred only after the Complaint was filed and thus the evidence it contains could not be raised by the Complainant at any earlier point in the proceeding, the Panel, in exercise of its sole discretion, has fully considered this submission.

In essence, the Complainant reports that on February 9, 2010, the Respondent, through an e-mail message, containing a facsimile message from the Respondent, sent to the Complainant's counsel, offered to transfer the disputed domain names for USD 2500 as: (a) a "small donation" from the Complainant to its charitable goal of "positively impacting arts, cultures, education, youth development and other causes", and (b) also to cover, for the Respondent, "all the domain registration cost, and maintain & development of our future websites". A copy of that message appears as Annex A to the Supplemental Submission.

Complainant views this offer as further evidence of the Respondent's bad faith.

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 each of the disputed domain names is confusingly similar to the Complainant's ALTRIA Marks.

From a simple comparison of each of those names to the Complainant's mark ALTRIA, no doubt exists that both of the domain names are confusingly similar to the Complainant's marks.

The primary difference between each of the disputed domain names and the mark ALTRIA is the appending of the terms "cannabis" and "marijuana" to form a separate corresponding composite term along with, secondarily, appending the gTLD (generic top level domain) ".com" to each such composite term to form the disputed domain names - with the last addition being 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 short letter or number groups or even common, 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 name to avoid user confusion. Here, appending either of the terms "cannabis" and "marijuana" to the mark ALTRIA clearly resulted in such a minor variation. See, e.g., *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. D2007-1347 (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, as the Complainant contends, by including either of the terms “cannabis” and “marijuana” with the Complainant’s mark ALTRIA to form each of the disputed domain names, the potential for user confusion is likely to be exacerbated, not reduced. By appending either of those terms to the Complainant’s mark, an Internet user seeing these names would likely be deceived into thinking that the Respondent’s website resolvable through those names, is providing a an official position of Complainant regarding marijuana - which, in fact, Complainant is not providing; or that the Respondent’s website is somehow affiliated, related to or sponsored by the Complainant - which, in fact, it is not. Including both of those terms with the Complainant’s mark only increases the likelihood that user confusion will occur and does so to the Respondent’s ultimate benefit and the detriment of Complainant. See *Burberry, Krispy Kreme, Dreamworks and MySpace*, all cited *supra*.

Therefore, the Panel finds that both of the disputed domain names are confusingly similar to the Complainant’s mark ALTRIA as to cause confusion; 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 mark ALTRIA in any manner, let alone in conjunction with any of the services with which the Complainant uses that mark, nor does the Complainant apparently have any relationship or association whatsoever with the Respondent. As such, any use to which the Respondent were to put the Complainant’s mark ALTRIA or one confusingly

similar thereto in connection with the identical or even similar services to those currently provided by the Complainant, as recited in any of its trademark registrations, may in circumstances as are present here violate the exclusive trademark rights now residing with the Complainant. See, e.g., *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. FA 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. FA 97092 (June 4, 2001); *Treeforms, Inc. v. Cayne Industrial Sales, Corp.*, NAF Claim No. FA 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 the mark ALTRIA or one similar thereto, and certainly not for the services provided by the Complainant under its mark.

Further, there is absolutely no evidence of record that the Respondent has ever been commonly known by either of the disputed domain names or more generally the mark ALTRIA. Nor could the Respondent in the Panel's view likely ever become commonly known by either of these names or the mark without infringing on the exclusive trademark rights of the Complainant. This is so in light of the notoriety, reputation and fame which the Complainant's mark has achieved in the United States, if not elsewhere in the world. See, e.g., *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.

Lastly, the Panel infers two aspects from the lack of any Response.

First, the Respondent knew of the Complainant's ALTRIA Marks at the time he registered both of the disputed domain names, but, in spite of that knowledge and without any authorization from the Complainant, he nevertheless proceeded to register and then use those domain names to resolve to his commercial website which provided sponsored links, some of which resolved to website providing information concerning the Complainant and others did not. Inasmuch as such use directly infringes the Complainant's mark ALTRIA, 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.

Second, the Respondent's actions in using both domain names to first resolve to a website containing sponsored links and then changing his site, only after receiving the Complainant's cease and desist letter, to one that merely provides political commentary is nothing but an intentional subterfuge patently designed to disguise Respondent's true intent to retain the domain names for subsequent commercial use, presumably in a

manner commercially beneficial to the Respondent, by causing confusion and misleadingly diverting Internet users to his website, but injurious to the Complainant and the reputation of its marks. If this was not the intention of the Respondent, then why would the Respondent incur the time and effort to change his website? The Panel can think of no other plausible reason. Hence, while use of a domain name to resolve to a website that merely provides political commentary can well be a legitimate noncommercial or fair use of the domain name, the particular circumstances here convince the Panel that the Respondent's use of both domain names in that fashion was nothing more than a sham and, as such, was not *bona fide*.

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 the disputed domain name, constitute bad faith registration and use.

As noted above, the Panel infers that the Respondent was well aware of the Complainant's mark ALTRIA when the former registered both of the disputed domain names. Yet, in spite of that knowledge, the Respondent intentionally registered the domain names in an effort to opportunistically exploit the Complainant's reputation and goodwill in that mark. This is rather evident in the Respondent having actually used both domain names in conjunction with his parked website through which he provided sponsored links, even though he had no authorization from the Complainant to do so and had no legitimate relationship whatsoever with the Complainant. Obviously, the Respondent did so to divert Internet users from the Complainant's website and, by so doing, commercially benefit from that exploitation, by increased traffic, to the detriment of the Complainant.

There can be little question that the Respondent's conduct, in changing the entire tenor of his website to a political commentary site only after it received the Complainant's cease and desist letter, was nothing more than a calculated maneuver to retain by subterfuge, that which he could not retain legitimately, for subsequent commercial use in some manner beneficial to him and ultimately injurious to the Complainant. The fact that Respondent, after having realized the futility of his ruse, offered, nearly at the end of the response period, to transfer both domain names to the Complainant for a sum of USD 2500 - which likely well exceeded his cost of registration of the names, corroborates this view. It also reflects the Respondent's lingering illicit intention to still extract whatever remaining monetary benefit he felt he could from those names. Given that the Complainant had exclusive rights in the ALTRIA Marks and had already filed the Complaint against the Respondent, the Respondent likely perceived that his sole option was then to turn directly to the Complainant for remuneration. He did so by making his offer. Regardless of the use to which the Respondent desired to put this sum - whether ultimately for charitable purposes or not, the simple fact remains that he was neither entitled to that sum nor did he have any right to compel the Complainant to expend that or any sum in any fashion.

Hence, the Panel concludes that the Respondent violated paragraph 4(a)(iii) of the Policy including specifically paragraphs 4(b)(i), 4(b)(ii) and 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, <altriacannabis.com> and <altriamarijuana.com>, are ordered transferred to the Complainant.

Peter L. Michaelson
Sole Panelist

Dated: March 4, 2010