



WIPO Arbitration and Mediation Center

ADMINISTRATIVE PANEL DECISION

Intelligent Medical Objects, Inc. v. Domains by Proxy, Inc. / Atif Zafar

Case No. D2009-1342

1. The Parties

The Complainant is Intelligent Medical Objects, Inc. of Northbrook, Illinois, United States of America, represented by Pattishall, McAuliffe, Newbury, Hilliard & Geraldson, United States of America.

The Respondent is Domains by Proxy, Inc. of Scottsdale, Arizona, United States of America / Atif Zafar of Carmel, Indiana, United States of America.

2. The Domain Name and Registrar

The disputed domain name <intelligentmedicalobjects.com> is registered with GoDaddy.com, 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 1, 1999 (the “Supplemental Rules”).

The Complaint, with accompanying Annexes A-F, was filed with the WIPO Arbitration and Mediation Center (the “Center”) by email on October 9, 2009 and subsequently by hardcopy on October 13, 2009. On October 14, 2009, the Registrar transmitted by email to the Center its verification response, disclosing registrant and contact information for the disputed domain name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the

Complainant on October 16, 2009, providing the registrant and contact information disclosed by the Registrar and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint, with the Center, by email on October 21, 2009. Accordingly, all references hereafter to the Complaint will be to the Complaint as well as the amendment to the Complaint unless specific reference indicates otherwise.

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 October 12, 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 the disputed domain name, and whether the domain name is indeed registered with the Registrar. The Center also requested the Registrar to specify for the disputed domain name: (a) the dates on which the registrant registered the domain name (or acquired the registration) and when the registration will expire, (b) whether the Policy applies to the domain name, (c) the language of the registration agreement, and (d) whether the domain name will remain "locked" during the proceeding.

Subsequently, on October 14, 2009, the Registrar provided its response to the Center through which it specified name and contact information pertinent to the disputed domain name 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, specified on the originally filed Complaint, was not listed as the registrant for the domain name, and the domain name is registered with the Registrar. The Registrar's response further indicated that: (a) the registration was created on May 28, 2007 and will expire on May 28, 2010, (b) the Policy applies to the domain name, (c) the registration agreement is in English, and (d) the domain name 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 October 22, 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 post or courier and 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 October 22, 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 November 11, 2009, to file its Response with the Center and the Complainant.

On November 11, 2009, the Respondent filed its Response with the Center which, in turn, acknowledged that filing in an email letter dated November 12, 2009.

Accordingly, pursuant to the Rules and Supplemental Rules, by email letter dated November 13, 2009, the Center contacted the undersigned, Mr. Peter L. Michaelson, Esq., requesting his service as sole Panel for this dispute. Subsequently, on November 16, 2009, 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 November 16, 2009, notified the Parties of the appointment of Mr. Michaelson as sole Panelist.

On November 19, 2009, the Complainant filed, by email, a Reply to the Response. The Center, through an email message dated November 20, 2009, acknowledged receipt of the Reply. The Panel, acting within its sole discretion under Rule 12, has considered the Reply.

Based on the deadline set forth in paragraph 15 of the Rules, a decision is to be issued by the Panel to the Center on or before November 30, 2009.

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

4. Factual Background

As indicated in the WhoIs registration records provided in Annex A to the Complaint, the disputed domain name was registered on May 28, 2007.

A. Complainant's INTELLIGENT MEDICAL OBJECTS Marks

The Complainant owns three United States registrations for the mark INTELLIGENT MEDICAL OBJECTS by itself in block letters, or combined with a design. The Complainant has provided, in Annex E to the Complaint, printouts of 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. INTELLIGENT MEDICAL OBJECTS (block letters)

United States Registration No. 3,142,888; registered September 12, 2006

This trademark is registered for use in connection with “[c]omputer software for use in maintaining medical records; interactive electronic publications, namely reference books featuring medical information; and medical applications systems, namely databases and enhanced medical vocabularies recorded on CD ROMs or in downloadable computer files for use in managing patient records” in international class 9. The record 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, 1995.

2. INTELLIGENT MEDICAL OBJECTS (block letters)

United States Registration No. 2,845,067; registered May 25, 2004

This service mark is registered for use in connection with “[c]omputer consulting and software design services in the fields of medical education and medical application systems” in international class 42. The record indicates that both first use and first use in commerce of this mark, when used in conjunction with these services, commenced at least as of December 31, 1995.

3. INTELLIGENT MEDICAL OBJECTS (text and design)

United States Registration No. 2,639,927; registered October 22, 2002

This trademark is registered for use in connection with “[c]omputer software for use in maintaining medical records; interactive electronic publications, namely reference books featuring medical information; and medical applications systems recorded on CD ROMs or in downloadable computer files for use in managing patient records” in international class 9. The record 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, 1995.

B. The Parties and their activities

The Complainant is a healthcare company which provides communication-improving technologies to the healthcare industry. Specifically, the Complainant develops, manages and licenses medical vocabularies and software, and provides tools necessary for health care organizations to support uniform labeling of health profiles (a hard-copy printout of various pages from the Complainant’s website “www.e-imo.com” which describes the Complainant’s business appears in Annex D to the Complaint). The Complainant has used the domain name and mark INTELLIGENT MEDICAL OBJECTS since 1995 in connection with its healthcare goods and services.

The Respondent is a practicing physician who intends to design and manufacture medical devices which can be used in, e.g., highly complex surgical procedures. Though the Respondent has yet to implement an operational website through the domain name, his intention is to use the site to introduce Internet users to various medical devices which he will have developed by then and/or educate those users to various other such devices which he either will or will not develop by himself. The Respondent does not intend to sell anything through that site.

Since its registration, the disputed domain name has only resolved to a parking page (a screen shot of which appears in Annex F to the Complaint) provided by the Registrar, not the Respondent, and which lists various sponsored links. These links are to various third-party providers of medical insurance. The Respondent is neither affiliated with any of these third-parties nor does he receive any revenue from any of these links.

5. Parties’ Contentions

A. Complainant

(i) Identical or Confusingly Similar

The Complainant contends that the disputed domain name is confusingly similar to the Complainant's mark INTELLIGENT MEDICAL OBJECTS.

Specifically, the Complainant alleges that the domain name not only incorporates the entirety of that mark but also, with exception of the ".com" generic top level domain, is identical to that mark.

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

Specifically, the Complainant states that the Respondent is neither affiliated nor related to the Complainant, nor is Respondent licensed by the authorized to use any of the Complainant's marks.

Further, the Complainant alleges that the Respondent is not generally known by the domain name and has not acquired any trademark or service mark rights in the Complainant's name or its INTELLIGENT MEDICAL OBJECTS marks.

Additionally, the Complainant alleges the Respondent is not offering goods or services at issue, but is merely using the domain name to list links to external websites, including links to businesses in the healthcare industry. Thus, the Complainant concludes that the Respondent has registered and is using the domain name to improperly divert Internet users who seek the Complainant's website. Such a use is not a *bona fide* offering of goods or services, a legitimate noncommercial or a fair use of the domain name.

(iii) Registered and Used in Bad Faith

Lastly, the Complainant contends that the Respondent registered and is now using the disputed domain name in bad faith under paragraph 4(a)(iii) of the Policy, and specifically paragraph 4(b)(iv) thereof.

Specifically, the Complainant alleges that the Respondent is intentionally using the domain name for commercial gain to attract Internet users to the Respondent's website based on a likelihood of confusion with Complainant's mark INTELLIGENT MEDICAL OBJECTS. Doing so apparently generates revenue for the Respondent when confused consumers "click through" to sites offering the goods and services of third parties, including those in the health care industry. Such use of the Complainant's mark INTELLIGENT MEDICAL OBJECTS to generate "click through" revenue constitutes bad faith.

Further, the Complainant contends that the Respondent acquired and began its unauthorized use of the domain name long after the Complainant adopted and registered its INTELLIGENT MEDICAL OBJECTS marks. In addition, by the time the Respondent registered the domain name, the Complainant had already made substantial use of its marks in the United States. Therefore, the Respondent must have had actual

notice of the Complainant's rights in its marks when the Respondent selected and registered the domain name. There is no plausible reason why the Respondent would have selected that domain name if not to deliberately and unfairly profit from any resulting confusion with the Complainant's marks that would likely arise in the minds of Internet users.

B. Respondent

(i) Identical or Confusingly Similar

The Respondent appears to dispute that the disputed domain name is confusingly similar to the Complainant's marks.

Specifically, the Respondent points a disclaimer in Complainant's United States trademark Registration No. 3,142,888 which states: "No claim is made to the exclusive right to use INTELLIGENT MEDICAL apart from the mark as shown".

Further, the Respondent contends that the Complainant's website "www.e-imo.com" and the Respondent's website "www.intellegentmedicalobjects.com" are not similar in any way.

Also, the Respondent contends that both parties do not compete with each other or pursue the same business model: the Complainant develops, manages, and licenses vocabularies and software while the Respondent will develop and manufacture surgical devices for use in an operating theater.

(ii) Rights or Legitimate Interests

The Respondent appears to take the position that it has rights or legitimate interests in the disputed domain name.

Specifically, the Respondent contends that the "Complainant's name is not commonly recognized or well known". Moreover, the Respondent had no knowledge of the Complainant's company or its business prior to receiving the Complaint.

Further, the Respondent intends to use his website to introduce Internet users to various medical devices which he has then developed and/or educate those users to various other such devices which he either will or will not develop by himself. The Respondent does not intend to sell anything through that site but merely intends the site to be educational in nature.

(iii) Registered and Used in Bad Faith

The Respondent appears to dispute the Complainant's allegation that the Respondent registered and used the disputed domain name in bad faith. Apart from the allegations made in the preceding two sections which the Respondent repeated here, he makes the following additional allegations.

The Respondent registered the domain name on May 28, 2007 without any prior knowledge of the Complainant's company or its marks.

Further, the Respondent contends that although the Complainant has been using its mark since 1995, it failed to register the domain name for any purpose. In that regard, an initial

search which the Respondent performed, on the Registrar's search engine, to locate the Complainant's website "yielded zero results that identified the Complainant's current business." The Complainant's website suggests that its commonly used name is "IMO" as there is little reference either on that site or in the Complainant's literature to the words "Intelligent Medical Objects".

Lastly, the Respondent is not responsible for any of the third-party links which appear on the parking page which currently form his website as all those links were placed there by the Registrar as part of its normal practice. The Respondent is neither affiliated with any of those third-parties nor does he receive any revenue from any of these links.

C. Complainant's Supplemental Filing (Reply)

Since the Reply basically amplified the Complainant's prior allegations, it will be ignored and not summarized herein.

6. Discussion and Findings

A. Identical or Confusingly Similar

The Panel finds that the disputed domain name is identical to the Complainant's mark INTELLIGENT MEDICAL OBJECTS.

From a simple comparison of the domain name and the mark, there is no doubt that the disputed domain name is, for all practical purposes, identical to the Complainant's mark INTELLIGENT MEDICAL OBJECTS. The only difference between the domain name and the mark is the appending of the gTLD ".com" to the mark, with that difference being irrelevant in assessing confusing similarity or identity under paragraph 4(a) of the Policy and thus generally ignored. See, e.g., *Delta Compression S.R.L. v. Targon Ltd.*, WIPO Case No. D2008-1934 (March 30, 2009); and *Pernod Ricard v. Tucows.com Co*, WIPO Case No. D2008-0789 (August 21, 2008).

Therefore, the Panel finds that the disputed domain name is identical to the Complainant's mark INTELLIGENT MEDICAL OBJECTS 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 legitimize a claim by the Respondent to the disputed domain name under paragraph 4(c) of the Policy.

The Complainant has never authorized the Respondent to utilize its mark INTELLIGENT MEDICAL OBJECTS in conjunction with any of the products or 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 marks or one confusingly similar thereto in connection with the identical or even similar products or 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 Limited v. Domain Admin*, WIPO Case No. D2009-0703 (August 11, 2009); *Starline Publications*,

Inc. v. Unity, WIPO Case No. D2008-1823 (February 2, 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); *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); *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. and The Cheesecake Factory Assets Co., LLC v. Say Cheesecake*, WIPO Case No. D2005-0766 (September 12, 2005); *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); *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 INTELLIGENT MEDICAL OBJECTS or one similar thereto, at least for the products and services provided by the Complainant.

Further, there is absolutely no evidence of record that the Respondent has ever been commonly known by the disputed domain name or more generally the mark INTELLIGENT MEDICAL OBJECTS.

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

Lastly, the use here of the disputed domain name to resolve to a parking page of third-party links in a field, here being medical insurance, which is sufficiently related to that of the Complainant as to be likely to cause confusion of Internet users who seek the Complainant's website but reach the Respondent's site instead does not constitute a *bona fide* offering of goods or services, let alone one that occurred prior to receiving any notice of this dispute. Nor does such use constitute either a legitimate noncommercial or fair use of the domain name, without intent on the Respondent for commercial gain to misleadingly divert consumer or tarnish any of the Complainant's marks. 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 the disputed domain name 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.

The evidence of record indicates that, ever since the Respondent registered the disputed domain name on May 28, 2007, he has not used the domain name to resolve to an operational website, hence just passively holding the domain name since its registration nearly three years ago. While the Respondent expressed his intention to eventually use the domain name to resolve to a non-revenue producing educational site for various medical devices, those intentions – which further have not been supported by any evidence – are nothing more than mere expectations – expectations that may never become reality. As such, the Panel looks at past and present, but not possible future, use. Given this, the Respondent states that he had no knowledge of the Complainant or its marks when he registered the disputed domain name on May 28, 2007.

Yet, there is no evidence of record, whether a statement or other factual offer of proof made by the Respondent, which would indicate that the Respondent had no knowledge of the Complainant or any of its marks at any time during a time period between the date he registered the domain name on May 28, 2007 until the date he received notice of the Complaint on or about October 22, 2009. Consequently, the Panel infers from the evidence, that the Respondent more likely than not was aware of the Complainant and of its marks when the Respondent registered the disputed domain name. Thus, in spite of having that knowledge the Respondent nevertheless continued to passively hold the disputed domain name thereafter to the present. Under the facts here, the Panel views the Respondent's knowledge of the Complainant and its mark which was followed by passive holding thereafter as constituting bad faith use and registration under paragraph 4(a)(iii) of the Policy. See, e.g., *National Football League and Cheesecake Factory*, both cited *supra*; also *Bayer Aktiengesellschaft v. H. Monssen*, WIPO Case No. D2003-0275 (May 30, 2003); *Lake at Las Vegas Joint Venture v. Principal Equiti, Inc.*, WIPO Case No. D2002-0758 (October 4, 2002); *America Online, Inc. v. Curtis Woods*, WIPO Case No. D2001-0555 (June 13, 2001); *Awesome Kids LLC and/or Awesome Kids L.L.C. v. Selavy Communications*, WIPO Case No. D2001-0210 (April 16, 2001); *402 Shoes, Inc. dba Trashy Lingerie v. Jack Weinstock and Whispers Lingerie*, WIPO Case No. D2000-1223 (January 2, 2001); *Liberty Public Limited Company v. Thomas Guarrera*, NAF Claim No. FA 95103 (August 17, 2000); *V&S Vin & Sprit Aktiebolag v. Gunnar Hedenlans Peev*, NAF Claim No. FA 95078 (August 9, 2000); *Revlon Consumer Products Corporation v. Yoram Yosef aka Joe Goldman*, WIPO Case No. D2000-0468 (July 27, 2000); *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. D2000-0003 (February 18, 2000); *Mary-Lynn Mondich and American Vintage Wine Biscuits, Inc. v. Shane Brown, doing business as Big Daddy's Antiques*, WIPO Case No. D2000-0004 (February 16, 2000).

Further, while the Respondent argues that it should not be liable for any of the third-party links placed by the Registrar, its view is sorely misplaced.

The Registrar acts as an agent of the Respondent not only in registering the domain name upon an express instruction of the Respondent but also for any and all content which the Registrar posts to a parking page that it provides for the Respondent regardless of whether the Respondent specifically authorized the Registrar to do so or, as here, simply acquiesced to the Registrar's actions. In such instances, the Respondent is liable to third-parties for whatever harm results from that content. The Respondent here is held to a duty to the Internet user community of exercising due vigilance over its website in supervising the actions of the Registrar to ensure that the Respondent's website, specifically its parking page, did not include any unauthorized, let alone objectionable, content posted by the Registrar, and to remove all such content found and expressly instruct the Registrar not to post any further such content going forward. Clearly, the

Respondent here did not fulfill its duty and thus is liable for its omission. Any other result would permit a respondent to escape responsibility for any harm caused to a trademark owner by content posted to its website simply because its registrar posted that content – an untenable result which could readily circumvent the goals of the Policy. In that regard, see *Patek Philippe S.A. v. General Estates*, WIPO Case No. D2008-1192 (October 22, 2008) where this Panel, when faced with a respondent’s website that consisted of parking page (to which a disputed domain name there resolved) containing registrar-provided links to third-party sites, stated the following – which is equally applicable to the present facts:

The [r]espondent’s position, if carried to its logical extreme, would mean that in situations where a domain name, which incorporates a mark owned by a complainant, resolves to a parking page maintained and operated by a registrar, then that respondent could escape liability under the Policy by for example simply having the registrar select and provide the site content. Such an outcome would eviscerate protection accorded trademark owners under the Policy. A sound approach is to place liability squarely on the [r]espondent for such actions taken by the [r]egistrar, effectively acting here as the [r]espondent’s agent, inasmuch as the [r]espondent, being the registrant, continuously exerts control over the use of the domain name and by doing so can not only instruct the [r]egistrar to cease use of any parking page or objectionable links thereon but also and even more importantly change a corresponding DNS (domain name system) record maintained by the [r]egistrar such that the [domain] name resolves to a different page or even an operative website such that the Respondent’s ensuing activities would not run counter to the Policy. See *e.g.*, *Grundfos A/S v. Texas International Property Associates*, WIPO Case No. D2007-1448.

The record is remiss of any proof, let alone credible, that the [r]espondent, from at any time since the date the [domain] name was registered to the date the [c]omplaint was filed, ever objected to the parking page posed by the [r]egistrar or the content, including the objectionable links, which the [r]egistrar placed thereon. Consequently, the [r]espondent having provided its consent, through at least its acquiescence, to the [r]egistrar’s actions, is responsible for the website which the [r]egistrar established, the content it placed thereon, and the adverse effects caused thereby.

The Panel views that these links were selected or generated for their potential to cause inevitable user confusion and subsequently and opportunistically exploit that confusion by diverting sales away from the [c]omplainant’s authorized retailers and distributors to third-parties associated with those links. Whether the links were generated by the [r]egistrar or some other party, the arrangement is to someone’s ... ultimate financial benefit.”

Hence, the Panel concludes that the Respondent violated paragraph 4(a)(iii) of the Policy.

Thus, the Panel concludes that the Complainant has provided sufficient proof of its allegations, with respect to the disputed domain name, 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 name, <intelligentmedicalobjects.com>, is ordered transferred to the Complainant.

Peter L. Michaelson
Sole Panelist

Dated: November 23, 2009