



## DECISION

TechSmith Corporation v. RUSSELL LEIGHTON

Claim Number: FA1601001657615

### PARTIES

Complainant is **TechSmith Corporation** (“Complainant”), represented by **James R. Duby** of **DUBY LAW FIRM**, Michigan, USA. Respondent is **RUSSELL LEIGHTON** (“Respondent”), United Kingdom.

### REGISTRAR AND DISPUTED DOMAIN NAMES

The domain names at issue are **<camtasiacoach.com>** and **<thecamtasiacoach.com>**, registered with **eNom, Inc.**

### PANEL

The undersigned certifies that he has acted independently and impartially and to the best of his knowledge has no known conflict in serving as Panelist in this proceeding.

Bruce E. Meyerson as Panelist.

### PROCEDURAL HISTORY

Complainant submitted a Complaint to the FORUM electronically on January 21, 2016; the FORUM received payment on January 21, 2016.

On January 25, 2016, eNom, Inc. confirmed by e-mail to the FORUM that the **<camtasiacoach.com>** and **<thecamtasiacoach.com>** domain names are registered with eNom, Inc. and that Respondent is the current registrant of the names. eNom, Inc. has verified that Respondent is bound by the eNom, Inc.

registration agreement and has thereby agreed to resolve domain disputes brought by third parties in accordance with ICANN's Uniform Domain Name Dispute Resolution Policy (the "Policy").

On January 26, 2016, the FORUM served the Complaint and all Annexes, including a Written Notice of the Complaint, setting a deadline of February 16, 2016 by which Respondent could file a Response to the Complaint, via e-mail to all entities and persons listed on Respondent's registration as technical, administrative, and billing contacts, and to [postmaster@camtasiacoach.com](mailto:postmaster@camtasiacoach.com) and [postmaster@thecamtasiacoach.com](mailto:postmaster@thecamtasiacoach.com). Also on January 26, 2016, the Written Notice of the Complaint, notifying Respondent of the e-mail addresses served and the deadline for a Response, was transmitted to Respondent via post and fax, to all entities and persons listed on Respondent's registration as technical, administrative and billing contacts.

Having received no response from Respondent, the FORUM transmitted to the parties a Notification of Respondent Default.

On February 18, 2016, pursuant to Complainant's request to have the dispute decided by a single-member Panel, the FORUM appointed Bruce E. Meyerson as Panelist.

Having reviewed the communications records, the Administrative Panel (the "Panel") finds that the FORUM has discharged its responsibility under Paragraph 2(a) of the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules") "to employ reasonably available means calculated to achieve actual notice to Respondent" through submission of Electronic and Written Notices, as defined in Rule 1 and Rule 2. Therefore, the Panel may issue its decision based on the documents submitted and in accordance with the ICANN Policy, ICANN

Rules, the FORUM'S Supplemental Rules and any rules and principles of law that the Panel deems applicable, without the benefit of any response from Respondent.

## RELIEF SOUGHT

Complainant requests that the domain names be transferred from Respondent to Complainant.

## PARTIES' CONTENTIONS

### A. Complainant

1. Complainant uses the CAMTASIA mark in connection with video capture utility software. Complainant has registered the CAMTASIA mark with the United States Patent and Trademark Office ("USPTO") (*e.g.*, Reg. No. 2,488,689, registered September 11, 2001), which demonstrates rights in the mark.
2. Respondent's <camtasiacoach.com> and <thecamtasiacoach.com> domain names, registered in December 2015, are confusingly similar to the CAMTASIA mark as they incorporate the mark entirely and add the ".com" generic top-level domain ("gTLD"), the article "the," and the generic word "coach."
3. Respondent has no rights or legitimate interests in the <camtasiacoach.com> and <thecamtasiacoach.com> domain names. Respondent is not commonly known by the disputed domain name.
4. Further, Respondent is making neither a *bona fide* offering of goods or services, nor a legitimate noncommercial or fair use through the <camtasiacoach.com> and <thecamtasiacoach.com> domain names. Rather, the domain names resolve to a website containing hyperlinks which purportedly resolve to direct competitors of Complainant and to

offerings of unauthorized versions of Complainant's software; from which Respondent presumably nets pay-per-click profits.

5. Respondent registered and is using the <camtasiacoach.com> and <thecamtasiacoach.com> domain names in bad faith. Respondent's use of the website serves as a disruption of Complainant's legitimate business purposes.
6. Respondent has also attempted to attract Internet users to its site for commercial gain by creating confusion as to the source, sponsorship, affiliation, or endorsement of the website. Further, Respondent had actual notice of the CAMTASIA mark and Complainant's rights therein.

#### B. Respondent

Respondent failed to submit a Response in this proceeding.

### FINDINGS

Respondent has consented to the transfer of the domain names to the Complainant.

### DISCUSSION

Paragraph 15(a) of the Rules instructs this Panel to "decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable."

Paragraph 4(a) of the Policy requires that Complainant must prove each of the following three elements to obtain an order that a domain name should be cancelled or transferred:

- (1) the domain name registered by Respondent is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and

- (2) Respondent has no rights or legitimate interests in respect of the domain name; and
- (3) the domain name has been registered and is being used in bad faith.

In view of Respondent's failure to submit a response, the Panel shall decide this administrative proceeding on the basis of Complainant's undisputed representations pursuant to paragraphs 5(f), 14(a) and 15(a) of the Rules and draw such inferences it considers appropriate pursuant to paragraph 14(b) of the Rules. The Panel is entitled to accept all reasonable allegations and inferences set forth in the Complaint as true unless the evidence is clearly contradictory. *See Vertical Solutions Mgmt., Inc. v. webnet-marketing, inc.*, FA 95095 (Nat. Arb. Forum July 31, 2000) (holding that the respondent's failure to respond allows all reasonable inferences of fact in the allegations of the complaint to be deemed true); *see also Talk City, Inc. v. Robertson*, D2000-0009 (WIPO Feb. 29, 2000) ("In the absence of a response, it is appropriate to accept as true all allegations of the Complaint.").

#### **Preliminary Issue: Consent to Transfer**

The FORUM was copied on documentation submitted from Respondent to the FORUM which is identified in this proceeding as "Other Correspondence." In these communications to the FORUM, Respondent indicates his consent to the transfer of the domain names.

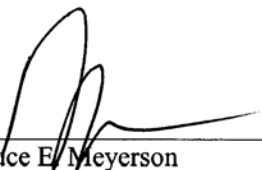
Because Respondent has not contested the transfer of the disputed domain names but instead agrees to transfer the domain names in question to Complainant, the Panel will forego the traditional UDRP analysis and order an immediate transfer of the <camtasiacoach.com> and <thecamtasiacoach.com> domain names. *See Boehringer Ingelheim Int'l GmbH v. Modern Ltd. – Cayman*

*Web Dev.*, FA 133625 (Nat. Arb. Forum Jan. 9, 2003) (transferring the domain name registration where the respondent stipulated to the transfer); *see also Malev Hungarian Airlines, Ltd. v. Vertical Axis Inc.*, FA 212653 (Nat Arb. Forum Jan. 13, 2004) (“In this case, the parties have both asked for the domain name to be transferred to the Complainant . . . Since the requests of the parties in this case are identical, the Panel has no scope to do anything other than to recognize the common request, and it has no mandate to make findings of fact or of compliance (or not) with the Policy.”); *see also Disney Enters., Inc. v. Morales*, FA 475191 (Nat. Arb. Forum June 24, 2005) (“[U]nder such circumstances, where Respondent has agreed to comply with Complainant’s request, the Panel felt it to be expedient and judicial to forego the traditional UDRP analysis and order the transfer of the domain names.”).

## DECISION

The Respondent having consented to the transfer of the <camtasiacoach.com> and <thecamtasiacoach.com> domain names, the Panel concludes that relief shall be **GRANTED**.

Accordingly, it is Ordered that the <camtasiacoach.com> and <thecamtasiacoach.com> domain names be **TRANSFERRED** from Respondent to Complainant.



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Honorable Bruce E. Meyerson  
Arbitrator

Bruce E. Meyerson, Panelist

Dated: February 22, 2016