



ADMINISTRATIVE PANEL DECISION

Under the ICANN Uniform Domain Name Dispute Resolution

Complainant: **JAMES SQUIRES**
Respondent: **JOHN ZUCCARINI**
Case Number: **AF-0218**
Contested Domain Name: **peepingmoes.com**
Panel Member: **Daniel J. Greenwood**

1. Parties and Contested Domain Name

The Complainant, James Squires of Irvine California, is owner of the registered domain name "peepingmoe.com" and Respondent, John Zuccarini of Andalusia, Pennsylvania, is owner of the registered domain name "peepingmoes.com". The domain name "peepingmoes.com" is contested.

2. Procedural History

The electronic version of the Complaint form was filed on-line through eResolution's Website on May 11, 2000. The hardcopy of the Complaint Form was received on May 29, 2000. Payment was received on May 23, 2000.

Upon receiving all the required information, eResolution's clerk proceeded to:

- Confirm the identity of the Registrar for the contested Domain Name;
- Verify the Registrar's Whois Database and confirm all the required contact information for Respondent;
- Verify if the contested Domain Name resolved to an active Web page;
- Verify if the Complaint was administratively compliant.

The inquiry leads the Clerk's Office of eResolution to the following conclusions: the Registrar is Network Solutions, Inc., the Whois database contains all the required contact information but the billing contact, the contested Domain Name resolves to an active Web page and the Complaint is administratively compliant.

An email was sent to the Registrar by eResolution Clerk's Office to confirm the name of the

billing contact and to obtain a copy of the Registration Agreement on May 12, 2000. The requested information was received May 22, 2000.

The Clerk's Office then proceeded to send a copy of the Complaint Form and the required Cover Sheet in accordance with paragraph 2 (a) of the ICANN's Rules for Uniform Domain Name Dispute Resolution Policy.

The Clerk's Office fulfilled all its responsibilities under Paragraph 2(a) in connection with forwarding the Complaint to the Respondent on May 29, 2000. That date is the commencement date of the administrative proceeding.

On May 29, 2000, the Clerk's Office notified the Complainant, the Respondent, the concerned Registrar, and ICANN of the date of commencement of the administrative proceeding.

On June 15, 2000, the Respondent requested an extension to submit his Response Form. The same day, the Clerk's Office granted the Respondent a five (5) day extension, starting on June 17, to submit his Response Form.

On June 21, 2000, the Respondent submitted, via eResolution's Internet site, his response. The signed version of the response was received on June 22, 2000.

On June 28, 2000, the Clerk's Office contacted Mr. Daniel Greenwood, and requested that he acts as panelist in this case.

On July 3, 2000, Mr. Daniel Greenwood accepted to act as panelist in this case and filed the necessary Declaration of Independence and Impartiality.

3. Factual Background

On May 2nd, 1997, AWN (Active Web Networks), a United States limited liability company, registered the Website The Peeping Moe (<http://www.peepingmoe.com/>). The Peeping Moe was at the time of registration and still is an online database of international WebCams. Over the last year and a half, respondent registered ownership of over 3,000 domain names, many of which are misspellings of otherwise generic or famous domain names and trade marks. Respondent acquired ownership of www.peepingmoes.com and has configured the site associated with the disputed domain name such that users are automatically re-directed to seven other sites.

4. Parties' Contentions

The complainant contends that the respondent's domain name, [peepingmoes.com](http://www.peepingmoes.com), should be transferred to the complainant under the UDRP of ICANN. It is alleged that the respondent's domain name is confusingly similar to the domain name of the complainant, [peepingmoe.com](http://www.peepingmoe.com), and that the respondent has no legitimate rights or interest in the domain name and that the respondent has registered and used the domain name in bad faith. The respondent denies each of these claims and asserts that its use of the contested domain name is in connection with a bone fide offer of goods or services.

5. Discussion and Findings

This arbitration decision shall apply the Uniform Domain Name Dispute Resolution Policy

(UDRP) and the Rules, both approved by the Internet Corporation for Assigned Names and Number (ICANN) on October 24, 1999, as well as the eResolution Supplemental Rules. In applying the cited policy and rules to the facts presented, the Panel shall take care, according to Section 15 of the ICANN Rules, to make legal conclusions "in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable" - including principle's of equity. This Panel shall also apply, as needed, the Code of Ethics for Arbitrators in Commercial Disputes, which was prepared in 1977 by a joint committee consisting of a special committee of the American Arbitration Association and a special committee of the American Bar Association. It has been approved and recommended by both organizations. Section F. of the Code provides:

"When an arbitrator's authority is derived from an agreement of the parties, the arbitrator should neither exceed that authority nor do less than is required to exercise that authority completely. Where the agreement of the parties sets forth procedures to be followed in conducting the arbitration or refers to rules to be followed, it is the obligation of the arbitrator to comply with such procedures or rules." (see: <http://www.adr.org/roster/arbitrators/code.html>)

The purpose of arbitrating these matters, however, is not solely to slavishly carry out the letter of the policies and rules. Rather, in a fundamental sense, these proceedings are for the purpose of achieving justice while improving upon courts. It is the intention of this arbitrator to interpret all applicable policies and rules of law with these purposes in mind.

The framework of this decision shall mirror the requirements for transfer of a domain name under the ICANN UDRP and Rules. Accordingly, in order to grant the domain name transfer requested by the complainant, it must be determined whether complainant has shown:

1. that the peepingmoes.com domain name is identical or confusingly similar to its trade mark or service mark,
2. that respondent has no rights or legitimate interests in respect of the peepingmoes.com domain name, and
3. that respondent has registered and used the domain name peepingmoes.com in bad faith.

A. Similarity of domain name to mark:

In order to show similarity of the domain name peepingmoes.com to the trade or service mark of the complainant, it must first be established that the complainant in fact has a relevant trade or service mark. Complainant has not directly asserted that ownership of any such mark exists. However, in the complaint form filled out and submitted by complainant on this service provider's web site, complainant provided text in response to the following question: "Specify the trademark(s) or service mark(s) on which the complaint is based and, for each mark, describe the goods or services, if any, with which mark is used. For each mark, please identify countries involved and make suitable references to the registration certificates (if any) included in the paper annexes you are sending us."

The complainant responded only with the following text:

"On May 2nd, 1997, AWN (Active Web Networks), a United States limited liability

company, registered the Website The Peeping Moe (<http://www.peepingmoe.com/>). The Peeping Moe was at the time of registration and still is an online database of international WebCams. In addition to this database, The Peeping Moe provides information regarding the setting up WebCams and is a draw for individuals wishing to learn more about the WebCam phenomena and those behind WebCams. The Peeping Moe is world renowned for their Website and has been mentioned publicly on talk shows as well as magazine articles."

As it can be reasonably inferred that the parties are acting without counsel, based upon the lack of any mention of counsel and from the content of the complaint and response to the complaint, this Panel will afford the parties considerable latitude with respect to formal articulation of every quantum of evidence . . . but not infinite latitude. As with all the elements listed in the UDRP, sufficient evidence must exist regarding the existence of a trademark or service mark in order for this Panel to effect a transfer of the disputed domain name.

While it is questionable whether sufficient evidence exists within the text of the complaint as to the existence of a trade or service mark, the inquiry must continue to two other matters as well before a conclusion on this point is made. First, the Panel will consider the content of the complainants site to see whether trade or service marks appear to exist. Second, the Panel will consider the entire context of the complaint in order to understand the probable meaning of the text of the complainant..

1. Contextual clues from the web site: peepingmoe.com

This Panel believes that the content of a web site that is referenced via a URL within a complaint or response to a complaint can be, unless specified otherwise by the proponent of the URL, incorporated by reference into the complaint or response to the complaint. In this case, upon review of the site "peepingmoe.com" the Panel has concluded that it does appear to constitute a credible and sufficient quantum of evidence that the complainant has common law trademark or service mark rights in that domain name. The use of the name is tightly associated with several products and services, including the following: affixation to T-shirts and calendars and co-branding of book sales services with Amazon.com. In addition, several informational and commercial transaction related pages on the "peepingmoe.com" site are branded with the same images on the top of several screens (topmoe.gif), which include the name "The Peeping Moe" and, with respect to the image on the bottom of several screens (pmoe-234x60.gif) the name "The Peeping Moe" and the domain name www.peepingmoe.com are both present upon the logo. Finally, it should be noted that the site makes "banner adds" available for use on the sites of others which prominently feature the "The Peeping Moe" mark and which are intended to link to the "peepingmoe.com" site. There is a reasonable inference that can be drawn that these marks have been used continuously for some or all of the duration of the operational life of this site. As the site was founded in 1997, this can be considered a rather long time in so-called "Internet years", given how many domain names achieve legally protected prominence in less than three years.

It should be noted that Section 15(a) of the ICANN Rules provides that:

"A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable."

A more conservative reading of this rule would suggest that factual information found on a web site that was not explicitly included in a complaint should not be admissible because it does not qualify as information in "the statements or documents submitted. . ." by a party. Such reasoning is not especially persuasive to this Panel. This Panel finds that the fundamental architecture of the web includes hypertext linking and consequently envisions a ready availability and data inter-dependence or connection among records that are hyperlinked. Some applications on the market today will retrieve and render the information associated with a given URL in a pop-up screen or some other side-line viewing space. In other words, the mere inclusion of a fully qualified and available URL in a complaint or response or other document should be assumed to potentially lead the reader to perceive the data located at that URL.

Section 10 (d) of the ICANN Rules provide that:

"The Panel shall determine the admissibility, relevance, materiality and weight of the evidence."

This Section appears to create some flexibility not only in assigning weight, but also in making initial admissibility determinations with respect to evidence. Since the Parties took it upon themselves to include the URL of sites to an online arbitrator, and since the basic gravamen of this dispute revolves around the relationship between two web sites that are listed by domain name in the complaint and the response, it is held that the parties have in effect offered the sites into evidence. It is the decision of the Panel whether or not said sites shall be admissible, once offered. The Panel has exercised that discretion in favor of admissibility.

2. Contextual Clues from the Questions in the Complaint

This proceeding is not a substitute for a court of law and arbitration is intended to be more efficient and direct than formal judicial processes. For this reason, the rules of evidence, procedure and other applicable constraints upon the process of decision making are considerably loosened. As such, this Panel has determined that it may interpret the response of the complainant to the trade or service mark question in the context of the question itself. Given that the question asked explicitly for specification of " the trademark(s) or service mark(s) on which the complaint is based and, for each mark, describe the goods or services, if any, with which mark is used" it can be inferred that the complainant impliedly asserted that the domain name "peepingmoe.com" was in fact a trade or service mark. If this is not the case, then the response of the complainant to the question as asked would have been totally irrelevant.

The reply to this trademark or servicemark question in the complaint, read in the context of the question itself, sufficiently alleges trademark. The response fails to contest this point. It is not the place of this administrative proceeding to make final conclusions of law with respect to the existence or non-existence of trade marks or service marks. However, for purposes of determining whether the first element of the UDRP is met, this Panel must determine whether the contested domain name is similar to a mark. Since there is no assertion of a federally registered trade or service mark, the Panel must determine whether a common law trade or service mark exists. In conclusion for this point of inquiry, it shall be deemed that the complainant asserts that complainant has trade or service mark rights in the domain name

"peepingmoe.com".

The Complainant has provided sufficient proof of a valid trademark in the domain name peepingmoe.com. In light of the significant use to date, there is adequate evidence that the term has acquired secondary meaning sufficient to distinguish the Complainant's services from any others. This Panel is persuaded that, for purposes of this proceeding, the asserted mark exists in the complainant's domain name peepingmoe.com.

It is also held that the mark can be established based solely upon this second contextual analysis of the question and answer on the complaint and, thus, this conclusion of law is not dependent upon the relatively expansive interpretation of admissibility of cited web sites above.

The disputed name, peepingmoes.com, simply appends the letter "s" to the end of the complainant's mark. It is abundantly clear that the disputed domain name, "peepingmoes.com" is confusingly similar to the mark of the complainant. For the above reasons, the Panel concludes that complainant has succeeded in proving the first element of this cause of action.

B. Respondent's rights or legitimate interests in the domain name:

The second element of the UDRP requires that, in order to transfer a domain name from a respondent to a complainant, the respondent have no rights or legitimate interests in the domain name. The UDRP provides examples of situations wherein it can be concluded that a respondent does have a right or legitimate interest in the disputed domain name. The UDRP reads, in relevant part, as follows:

"4 (a) Any of the following circumstances, in particular but without limitation, if found by the Panel to be proved based on its evaluation of all evidence presented, shall demonstrate your rights or legitimate interests to the domain name for purposes of Paragraph 4(a)(ii):

(i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services"

While use of this site for the bona fide offering of goods or services is only one exemplary manner of showing a legitimate right or interest in the domain name, this Panel has determined that it is an entirely applicable standard in this case.

This Panel understands the second element (requiring no legitimate right or interest) to be distinct from the third element (requiring bad faith registration or use). Hence, this Panel has determined that it is possible for a respondent to meet only one of the elements, but not both. In other words, this panel interprets the second and third elements to be mutually independent. Otherwise, it is assumed, ICANN would only have created a single element and not two elements. Based upon this analysis, it appears clear that one can engage in a "bona fide offering of goods or services" while at the same time offering those goods or services in connection with "the registration and use of a domain name in bad faith" Hence, merely showing that a respondent has operated in bad faith with respect to the registration and use of a domain name shall not necessarily be sufficient to prove that the respondent has no legitimate right or interest in the domain name.

It was asserted by the complainant, that the respondent has no legitimate rights or interests in the disputed domain names for the following reasons:

"According to the Uniform Domain Name Dispute Resolution Policy as Approved by ICANN on October 24, 1999, paragraph 4, section b, subsection iv, a Website owned by AWN (Active Web Networks), The Peeping Moe (<http://www.peepingmoe.com/>), has been infringed upon by Cupcake-Party (<http://www.peepingmoes.com/>). Cupcake-Party registered <http://www.peepingmoes.com> on April 18, 1999 (almost two years after <http://www.peepingmoe.com> was registered). <http://www.peepingmoes.com> immediately redirects the visitor to the following Websites by way of pop-up windows, without the domain name <http://www.peepingmoes.com> present: <http://www.sexyblondes.net/html/pussy-spankers.html>, <http://www.karasamateurs.com/guests/index.shtml?Funplace>, <http://www.asianpleasures.com/guests/index.shtml?Funplace>, <http://www.karasxxx.com/guests/index.shtml?Funplace>, <http://www.fetishhotel.com/guests/index.shtml?Funplace>, <http://www.teensteam.com/guests/index.shtml?Funplace>, and <http://www.cupcakeparty.com/html/credit-cards.html>. Each of the above Websites pop-up automatically upon visiting <http://www.peepingmoes.com>, and give the referer Funplace aka Cupcake-Party financial compensation according to their each individual referer plans. A search of Cupcake-Party reveals a minimum of 50 other Websites based on existing renowned names (such as <http://www.pamelaanderson.com>), most of which are designed specifically for generating income. Therefore, it is concluded that Cupcake-Party (<http://www.peepingmoes.com/>), by using a domain name very similar to The Peeping Moe (<http://www.peepingmoe.com/>), has intentionally attempted to attract, for commercial gain, Internet users to their <http://www.peepingmoes.com/> web site, which rewards them financially through referers by creating a likelihood of confusion with The Peeping Moe (<http://www.peepingmoe.com/>), an internationally renowned Website since May 2, 1997. It is further damaging to The Peeping Moe's reputation should an individual be misled and go to <http://www.peepingmoes.com/> believing this to be the Website for The Peeping Moe, and instead finding themselves forced to visit numerous sexually explicit web sites. Given the dubious nature of Cupcake-Party's numerous domain name registrations, and their misrepresentations thereof, Cupcake-Party has no right to seek rewards based on the popularity of another domain name or individual and the potentially misguided visitor."

It is asserted by the complainant that the respondent is reaping "commercial gain" and that use of the site "rewards [respondent] financially". However, making profit is not, by itself, evidence that the respondent has no legitimate right or interest. The fact that a user is automatically re-directed to several different sites may, however, have some bearing upon whether respondent has exercised a legitimate right or interest in the domain name in question.

The respondent also speaks directly to this point in his response to the complaint. In pertinent part, the response reads:

". . . I am making a legitimate commercial use of the domain name. As the phrase peeping moes is a known generic phrase implying a certain type of sexual conduct, my web site displays web pages that an Internet user would expect when typing the phrase peepingmoes.com into their web browser address bar. The fact my Website redirects to

another site is due solely to one reason and should not disqualify me from owning the domain name peepingmoes.com. As I do own over 3,000 domain names and have registered them all in the last year and a half, it would be, in consideration of the amount of time needed to create and develop a web site, impossible for me to have a unique web site for each domain name registered. I can not believe it is the intention of ICANN to expect someone in the situation that I am, to have a unique Website for every domain name registered, considering the time frame that exists in the registration of the names. "

Under Section 4(c)(i), the issue for determination here is whether the respondent has "before any notice . . . of the dispute, [used], the domain name . . . in connection with a bona fide offering of goods or services". This would seem to be the clear "hook" within the policy on which to hang an argument for relief based upon this element. The other examples in this sub-section do not appear to apply. It may be useful, for purposes of clarity and completeness, to consider the sub-elements of this provision separately:

1. "before any notice . . . of this dispute"

The respondent does not appear to have been on notice of this dispute at the time of the initial use of the domain name.

2. "[used] the domain name . . . in connection with"

Whether the use of the domain name was actually connected with a bone fide offering of goods or services is questionable. There are no goods or services offered on any site branded as, or hosted under the URL, known as peepingmoes.com. This would have been a rather tight connection. Nor would a user of the peepingmoes.com site use a hypertext link to become connected to another site where goods or services are offered. This would be a looser, but still rather explicit form of connection. Nor do any of the automatically invoked sites display any visible sign of the "peepingmoes.com" name, whether in text or embedded in a banner or other image. This would be another loose, but explicit connection. Rather, the respondent simply automatically generates seven (or more) apparently unrelated pornography sites on the screen of any user who happens across the disputed domain name. The fact that all the sites portray pornography does tend to create a type of commonality among them. However, there is no evident or predictable pattern to the choice of sites, not any obvious connection to the peepingmoes.com domain.

Even with a relatively large monitor, seven separate web sites generating upon a single screen at the same time creates a sense of unconnected, chaotic and even abusive user-interface practices. There is suddenly no free screen space on a user monitor. There is no initial, co-equal or subsequent site operating under the brand "peepingmoes.com". Evidently, the only connection is a set of automatic re-direct codes that invisibly pass a would-be user through to other sites. From the point of view of a user, in other words, there is no connection at all. Rather, there is only an attempt to connect and a failure to connect to the URL peepingmoes.com. The word connection can also be understood to connote a relationship to surrounding words or concepts in accordance to a logical or cogent context. No such context or logical flow exists between the non-site "peepingmoes.com" and the several sites to which a user is instantly re-directed.

3. " a bona fide offering of goods or services"

This particular formulation of words is somewhat perplexing. It can be assumed, as noted earlier, that ICANN did not intend that every use of a domain name in bad faith should automatically constitute a failure to offer goods or services in a "bone fide" manner. Failure to use, or prepare to use, a domain name at all would presumably not qualify as the offering of goods or services. Hence, some use for the purpose of offering goods or services must be shown to qualify under this section. However, before any use can qualify, it must be "bona fide." The "Black's Law Dictionary, Abridged Fifth Edition" definition of "bona fide" follows:

"In or with good faith, honestly, openly, and sincerely; without deceit or fraud. Truly; actually; without simulation or pretense. Innocently; in the attitude of trust and confidence; without notice of fraud, etc. Real, actual, genuine, and not feigned."

It could certainly be said that the peepingmoes.com artifice of surreptitiously, and without the user's knowledge or consent, inflicting seven rapid separate screens of pornography is in fact a mere "simulation" of a site, rather than an actual site existing under the domain name in dispute. That is, there is no substantive site, only the echo or shadow of a site - a type of shallow simulation rather than a genuine offering. It could further be said that there is a certain lack of openness and existence of pretense at the core of these practices. In other words, one might conclude that the particular business model chosen and the technical implementation that was applied in this case come together to constitute a breach of the reasonable expectations of some, perhaps most, users. As such, a certain lack of good faith could be found to be present between the proprietors of peepingmoes.com and a portion of their user base.

The legal issue, however, requires an analysis of the actual parties to the commercial transaction. In this case, according to the complaint, it could be concluded that the parties are: 1. the respondent, and 2. the parties behind the web sites to which users are re-directed through the peepingmoes.com site. In pertinent part, the complaint alleged: "Each of the above Websites pop-up automatically upon visiting <http://www.peepingmoes.com>, and give the referrer Funplace aka Cupcake-Party financial compensation according to their each individual referrer plans." Evidently, the offer of services (in the form of seven individual referrals at a time) is rendered by the respondent to organizations associated with the referred web sites. There is no evidence that the transaction between Cupcake-Party and the businesses associated with the web sites to which the respondent refers users is less than a bone fide offer of services. The terms of the agreements between these parties are, of course, not known by this Panel. It is possible that the respondent is in breach of one or more terms by referring a single user to seven different sites at the same time (since that would tend to reduce the value of any given referral to each site). However, no evidence has been presented with respect to the quality or fidelity of the relationship and agreed upon electronic transactions between these parties.

It is the opinion of this Panel that applicable provisions of arbitration ethics require faithfulness to the applicable ICANN and eResolution Policy and Rules. It is true that this Panel could strain the rules by incorporating certain highly activist notions of justice found in some of the more progressive principles of legal reform. Such principles of law might result in a conclusion that the respondent had poisoned the commercial well by engaging in trade mark infringement and bad faith registration and use of the disputed domain name. As such, no offer of goods or services in connection with such a domain name usage could be deemed "bona fide". Such an analysis, however, appears to this Panel to fly in the face of the plain

meaning of the three distinct elements required by the ICANN Policy.

Even without recourse to such expansive legal interpretations, it could be concluded that the offer of services was primarily and optically toward the web-browsing user population. The service could be deemed simply as the offer of automatic links to seven web sites in return for granting attention, and hence advertising and potential sales revenue, for those sites. In the final analysis, the primary business relationship for purposes of analyzing whether the respondent enjoys any legitimate interest of right in the domain name should not be deemed to be between the respondent and the parties who are allegedly paying for the services associated with the actual use of the domain name in question. The fundamental creation of value for which third parties evidently pay the respondent relates directly to the capacity of the "peepingmoes.com" URL to attract users. For this reason, the primary business relationship is deemed to be between users and the respondent and it is held that the current lack of any site whatsoever associated with the domain name in question requires a finding that no bona fide offer of goods or services is conducted in connection with that domain. For these reasons, it is held that the second element of this cause of action is met.

C. Bad faith Registration and Use:

Under Section 4(b)(iv) of the UDRP, the following rule applies to determine whether there is evidence of registration and use in bad faith:

"by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location."

With respect to the question of bad faith registration and use, the complainant alleges such bad faith and the respondent admits in the response that:

"The fact that I do have some domain names that are similar to celebrities and other known entities is only relevant to the domain name or celebrity that particular domain name is similar to. I own many domain names that are generic words and phrases and I own many domain names that are similar to generic words and phrases. Some of the domain names I own that are made up of generic words and phrases or similar to generic words and phrases are MusicLyrics.net, Music-Downloads.com, Online-Games.org GamesMP3.com, SoundLimit.com, Muisc.com, Moive.com, Qoutes.com, RacingResults.com, Autoraceing.com, Horseraceing.com, Lyircs.com, Soccar.com, GiftCetificates.com, ConcertTickets.org, Lottary.com, VedioGames.com, MusicVedios.com, Hoildays.com, BirthdayPartys.com, Music-Online.org, FamousQoutes.com, Celebirties.com, Vedio.com, Entertament.com, Pictuers.com, Hairstlyes.com, Voice-Chat.com, Mountians.com, MovieReveiw.com One circumstance that exists today and has for many months is the complete lack of correctly spelled popular words that are unregistered as domain names that could be used as a name for a web site, therefore someone wishing to register a domain name at this point in time which would be considered a popular word can only try to get a misspelling of that word. . . I do own over 3,000 domain names and have registered them all in the last year and a half, it would be, in consideration of the the amount of time needed to create and develop a web site, impossible for me to have a unique web

site for each domain name registered."

It would certainly appear from the circumstances, including the high volume of similar conduct, that the respondent has registered and used this and other domain names for the purpose of capitalizing upon confusion and mistakes by end-users of the web who unwittingly tap into their keyboards any variation of the correct domain names. In other words, by creating a likelihood of confusion with the complainant's mark, the respondent can pose as the source of information that would otherwise come from the holder of the actual domain name. For these reasons, the Panel has determined that, under the definitions and requirements of the applicable policy and rules, respondent as made a bad faith registration and use of the domain name under dispute.

6. Conclusions

For the reasons, findings and holdings above, this Panel determines that transfer of the domain name peepingmoes.com from the respondent to the complainant is required under the applicable policy and rules.

7. Signature

This decision of the Panel in Case No. AF-00218 was rendered on the 18th day of July, 2000 and duly signed by Daniel J. Greenwood.

Cambridge, MA, USA

(s) **Daniel J. Greenwood**

Presiding Panelist