



NATIONAL ARBITRATION FORUM

DECISION

Nortel Networks Limited v. BuyMeBuyMe.com Inc.
Claim Number: FA0604000671847

PARTIES

Complainant is **Nortel Networks Limited** ("Complainant"), represented by **Lisa P London**, of **Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P.**, 901 New York Avenue NW, Washington, DC 20001. Respondent is **BuyMeBuyMe.com, Inc.** ("Respondent"), 1243 52nd Street, Suite 2, West Palm Beach, FL 33407.

REGISTRAR AND DISPUTED DOMAIN NAMES

The domain names at issue are <**nortelphones.com**> and <**norstarphones.com**>, registered with **Enom, Inc.**

PANEL

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

Houston Putnam Lowry, Chartered Arbitrator, as Panelist.

PROCEDURAL HISTORY

Complainant submitted a Complaint to the National Arbitration Forum electronically on April 5, 2006; the National Arbitration Forum received a hard copy of the Complaint on April 6, 2006.

On April 6, 2006, Enom, Inc. confirmed by e-mail to the National Arbitration Forum that the <**nortelphones.com**> and <**norstarphones.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-name disputes brought by third parties in accordance with ICANN's Uniform Domain Name Dispute Resolution Policy (the "Policy").

On April 6, 2006, a Notification of Complaint and Commencement of Administrative Proceeding (the "Commencement Notification"), setting a deadline of April 26, 2006 by which Respondent could file a response to the Complaint, was transmitted to Respondent via e-mail, post and fax, to all entities and persons listed on Respondent's registration as technical, administrative and billing contacts, and to postmaster@nortelphones.com and postmaster@norstarphones.com by e-mail.

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

On May 2, 2006, pursuant to Complainant's request to have the dispute decided by a single-member Panel, the National Arbitration Forum appointed Houston Putnam Lowry, Chartered Arbitrator, as Panelist.

Having reviewed the communications records, the Administrative Panel (the "Panel") finds that the National Arbitration 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." Therefore, the Panel may issue its decision based on the documents submitted and in accordance with the ICANN Policy, ICANN Rules, the National Arbitration 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 name be transferred from Respondent to Complainant.

PARTIES' CONTENTIONS

A. Complainant makes the following assertions:

A. Nortel and its Goods and Services

1. Nortel is a global leader in telephony, data, wireless and wireline solutions for the Internet. Nortel has offices and facilities in Canada, Europe, Asia-Pacific, Caribbean and Latin America, the Middle East, Africa, and the United States, and serves customers in 150 countries.

2. Nortel offers an enormous array of goods and services in the telecommunications field, which can be divided into the following categories: telephone and accessories; access; business applications and services; components, data and Internet; directory and operator services; intelligent networks; Internet telephony; managed application services; optical networks, professional services; routers; serviceware; small office and residential; switching; video and cable; and wireless and mobility.

3. Nortel owns the trademark and trade name NORTEL, which it first began using as its name and to identify its goods and services in the mid-to-late 1980s. Nortel filed its first trademark application for the NORTEL mark in Canada in 1975, and in 1991, began its formal worldwide trademark registration program for the NORTEL mark.

4. Nortel owns the mark NORSTAR, which it has used since at least as early as 1987 to identify its telephone products.

5. Nortel devotes significant resources each year to advertise and promote its corporate name and its NORTEL and NORSTAR-branded products and services.

6. Nortel also extensively advertises and promotes its products and services under the NORTEL and NORSTAR marks on the Internet at Nortel's website, accessible via the domain names NORTEL.COM and NORTELENETWORKS.COM. Nortel has used its website as a worldwide information and distribution channel for its business for many years.

7. By virtue of the arbitrary nature, and hence the inherent strength, of the NORTEL and NORSTAR marks as applied to Nortel's products and services, Nortel's extensive sales, and Nortel's substantial use and promotion of its NORTEL and NORSTAR marks, those marks have become famous.

B. Nortel's Trademark Holdings

8. Nortel owns numerous registrations and applications for its NORTEL mark, including the following representative examples:

- a. U.S. Registration No. 2,001,714 for the mark NORTEL in block letters, first used June 26, 1995, filed December 27, 1991, issued September 17, 1996, covering goods and services in International Classes 9 (telephone and telecommunications equipment and electrical equipment) and 37 (telecommunications services).
- b. U.S. Registration No. 2,184,321 for the mark NORTEL & Design, first used November 15, 1995, first used November 15, 1995, filed November 16, 1994, issued August 25, 1998, covering goods in International Class 9 (telecommunications equipment and electrical equipment).
- c. U.S. Registration No. 1,980,303 for the mark NORTEL in block letters, first used December 13, 1994, filed December 27, 1991, issued June 11, 1996, covering goods in International Class 9 (telecommunications equipment and electrical equipment).

9. Nortel owns many registrations and applications for its NORSTAR mark including, for example, U.S. Registration No. 1,509,113, first used December 18, 1987, filed March 25, 1988, issued October 18, 1988, covering goods in International Class 9 (telephone sets and service units).

10. Nortel's assignment of a security interest in its U.S. trademark registrations to JP Chase Bank N.A. does not affect Nortel's standing to bring this UDRP Complaint. Nortel owns its NORTEL and NORSTAR marks, and enforces its trademarks and trademark registrations.

11. Nortel's registrations for the NORTEL and NORSTAR marks on the Principal Register constitute prima facie evidence of the validity of those marks and Nortel's exclusive rights to use those marks throughout the United States. (15 U.S.C. § 1057(b)). Nortel's registrations also constitute constructive notice of Nortel's claim of ownership in the NORTEL and NORSTAR marks, as to eliminate any defense of good faith adoption and use made as of the date of registration. (15 U.S.C. § 1772).

12. Registration of a trademark on the Principal Register statutorily provides nationwide rights as of the filing date of the application. 15 U.S.C. §1057(c).

13. Nortel's trademark rights in its NORTEL and NORSTAR marks, based on its U.S. registrations and on its common law rights acquired through the extensive use of its NORTEL and NORSTAR marks, long predate Respondent's registration of the Domain Names.

C. Respondent's Infringing Activities and Bad Faith Acts

14. Respondent registered the Domain Names on January 13, 2004, many years after: (a) Complainant began using its NORTEL and NORSTAR marks, (b) the NORTEL and NORSTAR marks became famous, and (c) the effective date of Complainant's trademark registrations.

15. Respondent uses the domain name NORTELPHONES.COM to redirect Internet users to its commercial website selling telephones and related products manufactured by Complainant's competitors as well as telecommunications products apparently manufactured by Complainant.

16. Respondent uses the domain name NORSTARPHONES.COM for a commercial pay-per-click website advertising numerous links to categories, including categories relating to Complainant's NORSTAR mark (e.g., "Norstar Phone," "Nortel Norstar," and "Office Phone System") that lead to links for Complainant's products offered by third parties as well as directly competing products. When Respondent's website is viewed on a computer screen, the Domain Name appears in the address line of the browser, but the domain name listed on the website printout is Information.com—the originating URL for Respondent's website. Respondent undoubtedly receives "click-through" fees or commissions for its website from Information.com, an online advertising company that provides website owners with "a way to monetize web, search and e-mail traffic."

17. On July 13, 2005, September 21, 2005, and December 1, 2005, Complainant sent Respondent cease-and-desist letters regarding its infringing activities. To date, Respondent has not responded to Complainant's demands.

18. Respondent has registered at least two domain names comprised of famous trademarks owned by third parties, namely, the domain names MICROSOFTWINDOWS.NET and SONYPLAYSTATION.NET, which incorporate the marks MICROSOFT, SONY, and PLAYSTATION.

THE DOMAIN NAMES ARE CONFUSINGLY SIMILAR TO COMPLAINANT'S MARKS

19. The domain names NORTELPHONES.COM and NORSTARPHONES.COM are confusingly similar to Complainant's NORTEL or NORSTAR mark because each is comprised of Complainant's mark and the generic term "phones." Combining Complainant's NORTEL or NORSTAR mark with a generic term is not sufficient to distinguish the Domain Names from Complainant's mark, especially when the Domain Names clearly relate to Complainant's

business. UDRP Panels have routinely held that the addition of descriptive and/or generic terms to a mark in a domain name does not distinguish the domain name from that mark. See, e.g., Caterpillar Inc. v. Roam the Planet, Ltd. (WIPO D2000-0275) (finding the domain name catmachines.com confusingly similar to complainant's mark CAT and noting the addition of the word "machines" "reinforce[s] the association of the [c]omplainant's trademark with its primary line of products."); XO Communications Inc. v. Registrant info@fashionid.com 9876543210 (NAF FA0212000137676) (finding the domain name xocommunications.com confusingly similar to the complainant's registered mark XO and holding the addition of a term that describes the complainant's business does not distinguish the domain name from the complainant's mark); The PNC Financial Services Group, Inc. v. Unasi Inc. (NAF FA0508000535925) (finding the domain names pnccredit.com, pncfinancialcorp.com, pncbankinternetbanking.com, and pncbankonlinebanking.com domain names confusingly similar to complainant's PNC, PNCBANK or PNCBANK.COM mark because "Simply adding a common or descriptive term to [c]omplainant's registered marks is insufficient to distinguish the domain names from the marks, especially since many of the terms have some association to [c]omplainant's business. Thus, the domain names are confusingly similar to [c]omplainant's marks under Policy ¶4(a)(i).").

RESPONDENT HAS NO RIGHTS OR LEGITIMATE INTEREST IN THE DOMAIN NAMES

20. Respondent clearly has no rights or legitimate interest in the Domain Names for the following reasons.

21. First, Respondent has no intellectual property rights in Complainant's NORTEL and NORSTAR marks.

22. Second, Respondent is not and has not been commonly known by the Domain Names.

23. Third, Respondent's registration and use of the Domain Names for commercial websites advertising competing products do not constitute a *bona fide* offering of goods or services under the UDRP. Nor do Respondent's activities constitute a legitimate noncommercial or fair use of the Domain Names under the UDRP. See, e.g., DaimlerChrysler Corporation v. LaPorte Holdings, Inc. (NAF FA0411000363051) ("[R]espondent's use of a domain name that is confusingly similar to [c]omplainant's registered mark to redirect Internet users interested in [c]omplainant's products and services to a website containing links to websites that offer similar products and services is not in connection with a *bona fide* offering of goods or services pursuant to Policy ¶4(c)(i) and it is not a legitimate noncommercial or fair use pursuant to Policy ¶4(c)(iii)."); Yahoo! Inc. v. Dkal (NAF FA0402000238650) (holding respondent's use of the domain name to offer competing goods and services does not constitute a *bona fide* offering of goods or services or a legitimate noncommercial or fair use); H-D Michigan, Inc. v. TT&R (NAF FA0209000126650) (holding respondent's use of the disputed domain names comprised of complainant's HARLEY mark to direct Internet users to respondent's website selling motorcycles does not constitute a *bona fide* offering of goods or services or a legitimate noncommercial or fair use under the UDRP); see also Nortel Networks Limited v. Dimitar Dimitrov d/b/a ICDSOFT.COM (NAF FA0411000360565) (holding respondent's use of the domain

names nortelusa.com and nortelusa.net “to divert Internet users to a website that sells Complainant’s products is not a use in connection with a bona fide offering of goods or services pursuant to Policy ¶4(c)(i) or a legitimate noncommercial or fair use of the domain names pursuant to Policy ¶4(c)(iii).”.

RESPONDENT’S BAD FAITH UNDER SECTION 4(B) OF THE UDRP

24. Respondent’s registration and use of the Domain Names meet the bad faith element set forth in Section 4(b)(iv) of the UDRP. Specifically, Respondent uses the Domain Names to intentionally attract, for commercial gain, Internet users by creating a likelihood of confusion with Complainant’s famous NORTEL and NORSTAR marks as to the source, sponsorship, affiliation, and/or endorsement of Respondent’s websites and the competing products advertised on Respondent’s websites. See, e.g., Vancouver City Savings Credit Union v. LaPorte Holdings c/o Admin (NAF FA0512000608227) (holding respondent’s use of the domain name for a website featuring links to various commercial websites for respondent’s own commercial gain constitutes bad faith pursuant to Section 4(b)(iv) of the UDRP); Cendant Corporation v. LaPorte Holdings, Inc. (NAF FA0410000348124) (holding respondent’s use of the disputed domain name for a commercial web directory website linking users to competing services constituted bad faith pursuant to Section 4(b)(iv) of the UDRP); see also Nortel Networks Limited v. Dimitar Dimitrov d/b/a ICDSOft.com (NAF FA0411000360565) (holding respondent’s use of the disputed domain names nortelusa.com and nortelusa.net for a website selling Complainant’s products constitutes bad faith pursuant to Section 4(b)(iv) of the UDRP).

25. Respondent’s registration and use of the Domain Names meet the bad faith element set forth in Section 4(b)(iii) of the UDRP because Respondent disrupts Complainant’s business by diverting Internet traffic from Complainant to Respondent’s commercial websites that advertise competing products. See, e.g., Google Inc. v. wwwgoogle.com and Jimmy Siavesh Behain (WIPO D2000-1240) (finding bad faith in respondent’s use of the disputed domain name to direct Internet users to respondent’s competing website); Fatbrain.com, Inc. v IQ Management Corporation (NAF FA0101000096374) (same); see also SmithKline Beecham Corporation v. Green Domains (NA FA0312000219165) (holding respondent’s use of the disputed domain names for commercial benefit disrupted complainant’s business in bad faith).

26. Respondent’s registration of the Domain Names meet the bad faith element set forth in Section 4(b)(ii) of the UDRP because Respondent has a pattern of registering trademark-related domain names in bad faith. Respondent registered the two Domain Names that are subject to this Complaint, as well as the domain names MICROSOFTWINDOWS.NET and SONYPLAYSTATION.NET as shown above. See, e.g., Yahoo! Inc. v. Syrynx, Inc. and Hugh Hamilton (WIPO D2000-1675) (finding bad faith in respondent’s registration of two domain names incorporating complainant’s mark); General Electric Company v. Normina Anstalt a/k/a Igor Fyodorov (WIPO D2000-0452) (finding bad faith in the respondent’s registration of three trademark-related domain names).

Respondent acted in bad faith by registering the Domain Names because (1) as a seller of telecommunications-related products, it had actual knowledge of Complainant’s rights in its NORTEL and NORSTAR marks which identifies Complainant’s telecommunications products

and services, and (2) it was on notice of Complainant's rights in its NORTEL and NORSTAR marks by virtue of Complainant's federal trademark registrations for those marks. Registration of a domain name with knowledge of the trademark owner's rights has been consistently found to constitute bad faith under the UDRP. See, e.g., SmithKline Beecham Corporation and SmithKline Beecham plc v. Eric Kaiser (NAF FA0305000157290) (holding respondent's registration of the disputed domain name was in bad faith because "The registration and use of a domain name confusingly similar to a registered trademark despite notice of the mark holder's rights is evidence of bad faith registration and use pursuant to Policy ¶4(a)(iii)."); IndyMac Bank F.S.B. v. Domain Owner a/k/a Lee Wigod (NAF FA0303000150814) (finding the respondent registered the domain names in bad faith because it was on notice of the complainant's rights); see also Reed Elsevier Properties Inc. v. David Allen (NAF FA0102000096667) (finding bad faith when respondent registered the disputed domain names with knowledge of complainant's rights in its mark and used the domain name to offer related services).

B. Respondent failed to submit a Response in this proceeding.

FINDINGS

Complainant, Nortel Networks Limited, is a global leader in telephone, data, wireless, and wireline solutions for the Internet. Complainant provides a variety of goods and services in 150 countries including telephones and accessories, directory and operator services, optical networks, and wireless and mobility services. Complainant has registered numerous marks worldwide, particularly the NORTEL and NORSTAR marks (Reg. No. 2,001,714 issued September 17, 1996 and Reg. No. 1,509,113 issued October 18, 1988, respectively) with the United States Patent and Trademark Office ("USPTO").

Respondent registered the <nortelphones.com> and <norstarphones.com> domain names on January 13, 2004. Both domain names resolve to a website that features links to various competing and non-competing commercial websites.

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."

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(e), 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.").

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.

Identical and/or Confusingly Similar

Complainant has established rights in the NORTEL and NORSTAR marks through registration with the USPTO. *See Innomed Techs., Inc. v. DRP Servs.*, FA 221171 (Nat. Arb. Forum Feb. 18, 2004) (“Registration of the NASAL-AIRE mark with the USPTO establishes Complainant's rights in the mark.”); *See also Men’s Wearhouse, Inc. v. Wick*, FA 117861 (Nat. Arb. Forum Sept. 16, 2002) (“Under U.S. trademark law, registered marks hold a presumption that they are inherently distinctive [or] have acquired secondary meaning”).

Complainant still has the rights to use and enforce its marks even though they have been assigned as collateral to JP Chase Bank N.A. for one or more obligations (such as asset based secured lending is a common occurrence in today’s economy). The secured party is neither a necessary nor desirable party to this proceeding because no default, repossession or surrender of the collateral has been alleged. JP Chase Bank N.A.’s rights are not being adversely affected by this decision. To hold otherwise would impose an unnecessary burden on the commercial financing industry and increase transaction costs without gaining any significant benefit.

Complainant contends Respondent’s <nortelphones.com> and <norstarphones.com> domain names are confusingly similar to Complainant’s marks. Respondent’s <nortelphones.com> domain name features Complainant’s entire NORTEL mark and adds the generic term “phones,” a term with a direct connection to the business in which Complainant engages. Similarly, Respondent’s <norstarphones.com> domain name contains Complainant’s entire NORSTAR mark and also adds the generic term “phones.” The Panel finds the addition of generic terms, particularly those with a direct connection to Complainant’s business, fails to sufficiently distinguish Respondent’s domain names from Complainant’s marks pursuant to Policy ¶4(a)(i). *See Space Imaging LLC v. Brownell*, AF-0298 (eResolution Sept. 22, 2000) (finding confusing similarity where the respondent’s domain name combines the complainant’s mark with a generic term that has an obvious relationship to the complainant’s business); *see also Marriott Int’l, Inc. v. Café au lait*, FA 93670, (Nat. Arb. Forum Mar. 13, 2000) (finding that the respondent’s domain name <marriott-hotel.com> is confusingly similar to the complainant’s MARRIOTT mark).

The Panel finds Policy ¶4(a)(i) satisfied.

Rights or Legitimate Interests

Complainant has alleged Respondent does not have rights or legitimate interests in the <nortelphones.com> and <norstarphones.com> domain names. Once Complainant makes a *prima facie* case in support of its allegations, the burden shifts to Respondent to show rights or legitimate interests. Due to Respondent's failure to respond to the Complaint, the Panel infers Respondent does not have rights or legitimate interests in the disputed domain names. See *G.D. Searle v. Martin Mktg.*, FA 118277 (Nat. Arb. Forum Oct. 1, 2002) (holding that, where the complainant has asserted that respondent does not have rights or legitimate interests with respect to the domain name, it is incumbent on respondent to come forward with concrete evidence rebutting this assertion because this information is "uniquely within the knowledge and control of the respondent"); see also *Clerical Med. Inv. Group Ltd. v. Clericalmedical.com*, D2000-1228 (WIPO Nov. 28, 2000) (finding that, under certain circumstances, the mere assertion by the complainant that the respondent does not have rights or legitimate interests is sufficient to shift the burden of proof to the respondent to demonstrate that such a right or legitimate interest does exist); see also *Broadcom Corp. v. Ibecom PLC*, FA 361190 (Nat. Arb. Forum Dec. 22, 2004) ("Respondent's failure to respond to the Complaint functions as an implicit admission that [Respondent] lacks rights and legitimate interests in the disputed domain name. It also allows the Panel to accept all reasonable allegations set forth...as true."). However, the Panel chooses to analyze whether the evidence supports rights or legitimate interests.

Complainant contends Respondent is using the confusingly similar <nortelphones.com> and <norstarphones.com> domain names to operate websites that feature links to various competing and non-competing commercial websites from which Respondent presumably receives referral fees. The Panel finds such use of Complainant's marks for Respondent's own commercial gain is neither a *bona fide* offering of goods or services pursuant to Policy ¶4(c)(i) nor a legitimate noncommercial or fair use pursuant to Policy ¶4(c)(iii). See *TM Acquisition Corp. v. Sign Guards*, FA 132439 (Nat. Arb. Forum Dec. 31, 2002) (finding that the respondent's diversionary use of the complainant's marks to send Internet users to a website which displayed a series of links, some of which linked to the complainant's competitors, was not a *bona fide* offering of goods or services); see also *WeddingChannel.com Inc. v. Vasiliev*, FA 156716 (Nat. Arb. Forum June 12, 2003) (finding that the respondent's use of the disputed domain name to redirect Internet users to websites unrelated to the complainant's mark, websites where the respondent presumably receives a referral fee for each misdirected Internet user, was not a *bona fide* offering of goods or services as contemplated by the Policy).

Complainant contends Respondent is neither commonly known by the disputed domain names nor licensed to register domain names featuring Complainant's marks. In the absence of evidence suggesting otherwise, the Panel finds Respondent is not commonly known by the disputed domain names under Policy ¶4(c)(ii). See *Charles Jourdan Holding AG v. AAIM*, D2000-0403 (WIPO June 27, 2000) (finding no rights or legitimate

interests where (1) the respondent is not a licensee of the complainant; (2) the complainant's prior rights in the domain name precede the respondent's registration; (3) the respondent is not commonly known by the domain name in question); *see also Gallup, Inc. v. Amish Country Store*, FA 96209 (Nat. Arb. Forum Jan. 23, 2001) (finding that the respondent does not have rights in a domain name when the respondent is not known by the mark).

The Panel finds Policy ¶4(a)(ii) satisfied.

Registration and Use in Bad Faith

Complainant contends Respondent's use of the <nortelphones.com> and <norstarphones.com> domain names for the purpose of operating a website that features links to various competing and non-competing commercial websites, which presumably generate referral fees for Respondent, is evidence of bad faith. The Panel finds such use of Complainant's marks will likely cause confusion as to Complainant's sponsorship of, and affiliation with, Respondent's websites. As a result, Respondent's intent to deceive Internet users for commercial gain is evidence of bad faith registration and use pursuant to Policy ¶4(b)(iv). *See G.D. Searle & Co. v. Celebrex Drugstore*, FA 123933 (Nat. Arb. Forum Nov. 21, 2002) (finding that the respondent registered and used the domain name in bad faith pursuant to Policy ¶4(b)(iv) where the respondent was using the confusingly similar domain name to attract Internet users to its commercial website); *see also Associated Newspapers Ltd. v. Domain Manager*, FA 201976 (Nat. Arb. Forum Nov. 19, 2003) ("Respondent's prior use of the <mailonsunday.com> domain name is evidence of bad faith pursuant to Policy ¶4(b)(iv) because the domain name provided links to Complainant's competitors and Respondent presumably commercially benefited from the misleading domain name by receiving 'click-through-fees.'").


Respondent's choice of business name (BuyMeBuyMe.com, Inc.) suggests it purchased these domain names primarily for the purpose of reselling them. Respondent's email address of Sales@BuyMeBuyMe.com further bolsters this suggestion. Coupled with the fact Respondent has purchased domain names containing other trademarks before, this Panel infers Respondent registered and uses these domain names in bad faith. Such "winks and nods" cannot be used to avoid the obvious – Respondent is trying to resell these domain names. Putting the offer to sell into Respondent's name does not blind the Panel to what Respondent is trying to do. A panel is not required to disregard its common sense when deciding a case.

The Panel finds Policy ¶4(a)(iii) satisfied.

DECISION

Having established all three elements required under the ICANN Policy, the Panel concludes that relief shall be **GRANTED**.

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



Houston Putnam Lowry, Esq.
Arbitrator

Houston Putnam Lowry, Chartered Arbitrator, Panelist
Dated: May 16, 2006

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