



NATIONAL
ARBITRATION
FORUM

THE NATIONAL ARBITRATION FORUM
P.O. BOX 50191
MINNEAPOLIS, MINNESOTA 55404 USA

America Online, Inc. ("AOL")

COMPLAINANT,

vs.

Forum File No.: FA0004000094634

Calvin Gruneck This Domain is For Sale

RESPONDENT.

The above entitled matter came on for an administrative hearing on May 4, 2000 before the undersigned on the Complaint of America Online, Inc. ("AOL"), hereafter "Complainant", against Calvin Gruneck, hereafter "Respondent". Complainant was represented by: James R. Davis, II, 1050 Connecticut Avenue N.W., Washington, D.C. 20036. Respondent represented himself and submitted a written response: Upon the written submitted record, the following **DECISION** is made:

PROCEDURAL FINDINGS

Domain Name:

AO-l.com

Domain Name Registrar: Internet Domain Registrars
Domain Name Registrant: Calvin Gruneck This Domain Is For Sale
Date of Domain Name Registration: January 21, 2000
Date Complaint Filed: April 12, 2000
Domain Name: AO-l.net
Domain Name Registrar: Internet Domain Registrars
Domain Name Registrant: Calvin Gruneck This Domain Is For Sale
Date of Domain Name Registration: January 21, 2000
Date Complaint Filed: April 12, 2000

Domain Name: AO-lmail.com
Domain Name Registrar: Internet Domain Registrars
Domain Name Registrant: Calvin Gruneck This Domain Is For Sale
Date of Domain Name Registration: February 10, 2000
Date Complaint Filed: April 12, 2000

Date of Commencement of Administrative Proceeding in accordance with Rule 2(a)¹ and Rule 4(c): April 19, 2000

Respondent's Response in accordance with Rule 5(a): May 9, 2000

After reviewing the Complaint, and determining it to be in administrative compliance, the National Arbitration Forum (The Forum) forwarded the Complaint to the Respondent on April 19, 2000 in compliance with Rule 2(a), and the administrative proceeding was commenced pursuant to Rule 4(c). In compliance with Rule 4(d), The Forum immediately notified Internet Domain Registrars, the Internet Corporation for Assigned Names and Numbers (ICANN), and the Complainant that the administrative proceeding had commenced. Respondent submitted a response to The Forum pursuant to Rule 5(a) on April 25, 2000.

On January 21, 2000, Respondent registered the domain names "AO-l.com" and "AO-l.net" and on February 10, 2000 registered the domain name "AO-lmail.com" with Internet Domain Registrars, the entity that is the Registrar of the domain names. On April 19, 2000, Internet Domain Registrars verified that Respondent is the Registrant for the domain names "AO-l.com"; AO-l.net" and

¹ Any reference to "RULE" or "RULES" are to ICANN's Rules for Uniform Domain Name Dispute Resolution Policy and Uniform Domain Name Dispute Resolution Policy as supplemented by the National Arbitration Forum's Supplemental Rules to ICANN's Uniform Domain Resolution Policy.

“AO-l.mail”, and that further by registering its domain names with Internet Domain Registrars, Respondent agreed to resolve any dispute regarding its domain names through ICANN’s Rules for Uniform Domain Name Dispute Resolution Policy, and the Uniform Domain Name Dispute Resolution Policy.

FINDINGS OF FACT

1. That Complainant is the owner of numerous trademark registrations worldwide for the mark AOL including registrations in China, Hong Kong, Japan and Taiwan (collectively AOL Marks). Complainant also uses the mark AOL.com as the domain name for its portal web site. The AOL marks are used extensively at this portal Web site.
2. That as early as 1989 for the mark AOL and 1992 for the mark AOL.com, Complainant adopted and began using many of its AOL marks in connection with computer on-line services and other Internet-related services. The AOL marks have been used continuously and extensively in interstate and international commerce in connection with the advertising and sale of Internet and computer related services.
3. That Complainant has invested substantial sums of money in developing and marketing its services and marks.
4. That Respondent registered the domain names “AO-l.com” “AO-l.net” and “AO-lmail.com” in bad faith and has no rights or legitimate interests in respect to said domain names. The following is evidence of Respondent’s bad faith:
 - a. That Respondent first registered the domain names between January 21, 2000 and February 12, 2000, long after Complainant’s adoption and first use of the mark “AOL” in 1989, and long after Complainant began using its “AOL.com” mark in 1992.
 - b. That Respondent has made no legitimate use of the domain names “AO-l.com” “AO-l.net” and “AO-lmail.com” and he seeks to profit from the registration of said domain names by trading upon the goodwill associated with the AOL marks. Respondent’s profit motive is evidenced by his offer to sell said domain names by listing in the WHOIS directory “...This domain name is for sale....”.
 - c. Respondent has engaged in a pattern of registering domain names that infringe upon other entities’ marks.

5. Complainant's prayer for relief requests that the domain names "AO-l.com" "AO-l.net" and "AO-lmail.com" be transferred from Respondent to Complainant.

CONCLUSIONS

The undersigned certifies that he has acted independently and has no known conflict of interest to serve as the Arbitrator in this proceeding. Having been duly selected, and being impartial, the undersigned makes the following findings and conclusions:

1. The domain names "AO-l.com" "AO-l.net" and "AO-lmail.com", registered by Respondent between January 21, 2000 and February 12, 2000 with Internet Domain Registrars are nearly identical and confusingly similar to the "AOL" Marks in which Complainant has rights and to which Respondent has no right or legitimate interests.
2. Respondent registered and acquired the domain names "AO-l.com" "AO-l.net" and "AO-lmail.com" primarily for the purpose of selling or otherwise transferring the said domain name registrations for valuable consideration in excess of Respondent's out-of-pocket costs directly related to the domain names. Respondent registered and used the domain names in bad faith.

DECISION

Based upon the above findings and conclusions, and pursuant to Rule 4(i), it is decided as follows:

THE UNDERSIGNED DIRECTS THAT THE DOMAIN NAMES "AO-l.com" "AO-l.net" and "AO-lmail.com" REGISTERED BY RESPONDENT Calvin Gruneck This Domain Is For Sale BE TRANSFERRED TO COMPLAINANT America Online, Inc. (AOL).


Honorable Anthony J. Mercorella

Dated: May 17, 2000, Justice Anthony J.

Mercorella (ret.), Arbitrator