

## **.nz Dispute Resolution Service**

**DRS Reference: 250**

### **Apollo Marketing v Apollo Marketing and Advertising**

Key words -

unregistered mark – identical – “genuine” offering of goods or services – likely to confuse, mislead, or deceive

#### **1. Parties**

Complainant:

Mrs Ruth Money  
Apollo Marketing  
Level 3  
46 Brown Street  
Ponsonby  
PO Box 47392  
Auckland  
New Zealand

Respondent:

Mrs Lyn Kingsnorth  
Apollo Marketing and Advertising  
c/o Level 6  
57 Symonds Street  
Auckland  
Auckland  
New Zealand

#### **2. Domain Name/s**

apollomarketing.co.nz ("the Domain Name")

#### **3. Procedural history**

The Complaint was lodged on 3/12/2007 and InternetNZ, through the Office of the Domain Name Commissioner, notified the Respondent of the validated Complaint on 6/12/2007. The Domain Name was locked on 4/12/2007, preventing any changes to the record until the conclusion of these proceedings.

There was no response filed by the Respondent.

The Complainant paid InternetNZ the appropriate fee on 22/01/2008 for a decision of an Expert, pursuant to Paragraph 9 of the InternetNZ Dispute Resolution Service Policy ("the Policy").

Mr Warwick Smith, the undersigned, ("the Expert") confirmed to InternetNZ on 23/01/2008 that he knew of no reason why he could not properly accept the invitation to act as expert in this case and that he knew of no matters which ought to be drawn to the attention of the parties, which might appear to call into question his independence and/or impartiality.

On reviewing the documents filed in the case, the Expert noted that, while the Respondent was named in the proceeding as "Apollo Marketing and Advertising", the registered particulars for the Domain Name showed the Respondent as "Apollo Marketing and Advertising *Limited*". The Expert drew that matter to the attention of the Domain Name Commissioner, and the Domain Name Commissioner subsequently issued a deficiency notification to the Complainant relating to the incorrect name for the Respondent. The Complainant filed a corrected Complaint correcting that defect, within the further time allowed by the Domain Name Commissioner for that purpose.

On further reviewing the Complaint, the Expert formed the view that the Complaint did not comply with the requirements of the Policy in two additional respects:

- (i) The Complaint did not adequately specify the name or mark (which the Complainant contends is identical or similar to the Domain Name) in which the Complainant asserts that it has Rights (contrary to paragraph B2.3.4 of the Policy); and
- (ii) The Complaint failed to *describe* the Rights the Complainant asserts in that name or mark (contrary to paragraph B2.3.5 of the Policy).

The Expert considered that these deficiencies were such that they might reasonably have been the subject of a deficiency notice issued by the Domain Name Commissioner under paragraph B3.2 of the Policy. If that had occurred, the Complainant would have been given the opportunity to rectify the deficiencies. The Complainant had not had that opportunity, and it seemed to the Panel that, subject to the Respondent being given a further opportunity to file a Response, considerations of procedural fairness required that the Complainant should have the opportunity to file a further statement clarifying the Complaint. Accordingly, on 7 February 2008, the Expert requested that the Complainant file a further statement by 11 February 2008, answering the following questions:

- "1. Precisely what is the name or mark in which the Complainant asserts it has Rights? Is it "Apollo Marketing", "Apollo Marketing NZ", or "Apollo"?
2. What is the *nature* of the Rights the Complainant asserts in the name or mark on which it relies? If and to the extent that the Complainant is relying on unregistered trade mark or service mark rights acquired by sufficient use in commerce that the claimed mark has become distinctive of the Complainant's goods or services, the Complainant is

requested to provide copies of its letterhead, invoices, advertisements, or other written examples showing how the Complainant has made use of the name or mark in commerce since 1995.”

The Respondent was allowed until 18 February 2008 to submit a Response, and the time for the Expert to give his decision in the case, was extended to 25 February 2008.

On 9 February 2008, the Expert received a letter (dated 7 February 2008) from the Respondent, setting out certain arguments in support of its position. The Expert copied this letter to the Domain Name Commissioner, with a request that it be copied immediately to the Complainant.

Although the Complainant advised the Domain Name Commissioner that a further statement in response to the Expert’s request had been posted to the Domain Name Commissioner on 9 February 2008, by 19 February 2008 that further statement had not been received. The Domain Name Commissioner raised the matter of the missing statement with the Complainant by email, and Ms Money for the Complainant advised the Domain Name Commissioner by email on 19 February 2008 that she would provide further copies. She referred in her email to certain personal difficulties which had taken her out of Auckland, and indicated that it would be some days before she could arrange to send further “Apollo samples” to be read with the Complainant’s further statement.

Having regard to the foregoing difficulties, the Expert directed on 20 February 2008 that the time for the Complainant to provide the further statement would be extended to 26 February 2008, and the time for the Respondent to file any additional Response would be further extended until 29 February 2008. The time for the Expert to give his decision in the case, was further extended, to Friday, 7 March 2008.

The Complainant duly filed its further statement by 26 February 2008. The Respondent did not file any additional Response.

#### **4. Factual background**

The following facts appear from the Complaint, the Complainant’s further statement, and the letter from the Respondent dated 7 February 2008.

##### *The Complainant*

The Complainant, Apollo Marketing Limited, is an award-winning marketing agency, with blue chip clients such as Coca Cola, DB Breweries, and Telecom. It has been in business since 1995. It operates in both Australia and New Zealand.

According to documents produced with the Complainant's further statement, there is another company within the same group of companies as the Complainant, called "Apollo Marketing Group Limited".

The Complainant does not rely on any registered trade mark or service mark as the basis for its "Rights" claim. It relies instead on common law rights derived from its substantial use of the expression "Apollo Marketing" in trade, over a period in excess of 12 years.

The Complainant acknowledges that its clients sometimes refer to it by the abbreviated expression "Apollo".

The Complainant operates a website at [www.apollomarketing.com](http://www.apollomarketing.com). While the website at that address was under (re)construction when the Expert visited the site, the site contained prominently the heading: "Apollo MARKETING GROUP Australia . New Zealand". On the right hand side of the page, contact details were provided for the group's Australian and New Zealand operations. These were headed (respectively): "APOLLO MARKETING AUSTRALIA", and "APOLLO MARKETING NEW ZEALAND".

The Complainant produced with its further statement, a number of examples of its work, including entry forms for various sales promotion competitions it has run for its clients. These documents generally identified the marketing company responsible for the promotions as "Apollo Marketing Group", or "Apollo Marketing Group Limited". However, copyright in the entry form for one of the sales promotion competitions, was claimed by "Apollo Marketing Limited".

The Complainant also produced copies of the cover pages of the financial statements for Apollo Marketing Limited, for the years ended 31 March 1998 and 31 March 2001. Other documents produced by the Complainant, included a letter dated 4 March 1998 addressed to Apollo Marketing Limited, and an individual employment contract entered into by Apollo Marketing Group Limited with one of its employees, on 16 June 2001. The Complainant also submitted sample compliment slips currently used by Apollo Marketing Group Limited. The compliment slips prominently feature an "Apollo" logo, comprised of the word "Apollo" in bold black type inside an oval shape, immediately above the words "MARKETING GROUP".

The Complainant also provided a copy of an Apollo Marketing Group Limited business card which was apparently in use back in 2001. It featured a different logo, with the word "Apollo" prominent within it and the words "MARKETING GROUP" immediately below "Apollo".

In its further statement, the Complainant referred to certain awards it had won from the Australasian Promotion Marketing Association. The Expert was invited to visit that Association's website, where awards listed in various categories from 2002 onwards are listed. The Panel notes that, in 2004, the Association made awards in two separate categories to an agency named as "Apollo Marketing". In 2005, the Association made a silver award to an

agency described as "Apollo". In 2006, the Association made awards in two separate categories to "Apollo Marketing", and an individual award was made to a young woman whose (agency) employer was named as "Apollo Marketing".

The Complainant also referred the Expert to a July 2005 report on the website at [www.thehyperfactory.com](http://www.thehyperfactory.com). The report noted that The Hyperfactory was a finalist at the 2005 Global Messaging Awards in London, while its partner, "Apollo Marketing", had won a silver award at the Australasian Promotion Marketing Association Awards. The report at this website initially referred to the media agency, "Apollo Marketing". Later in the same report, the abbreviated expression "Apollo" was used.

#### *The Respondent and the Domain Name*

The Respondent registered the Domain Name on 17 September 2007.

The Respondent says in its letter dated 7 February 2008 that it publishes advertisements for sex workers and the related industry, on a website at [www.adultspace.co.nz](http://www.adultspace.co.nz). It says that its competitors operate similar websites, which print advertising similar to the advertisements which appear in the adult entertainment section of the New Zealand Herald's classified advertisements section.

The Respondent says that it chose the name "Apollo Marketing and Advertising Limited", because "it sounded good". It explains that the person who built the Respondent's website suggested the name "Apollo", apparently because Apollo was a Greek God, and marketing and advertising describes what the Respondent does. The Respondent says that it did not realise there was someone else with a similar name, and that there is no benefit to it in being associated with the Complainant. It says that it does not wish to be associated with the Complainant, and that, since it received the Complaint, it has made that clear on the website at the Domain Name.

#### *The Complainant's First Knowledge of the Domain Name*

In early November 2007, the Complainant received emails from three of its clients, drawing the Complainant's attention to an escort agency service being operated through a website at the Domain Name. One of the Complainant's clients said that the website looked like a pornography site, with local New Zealand content. The senders of these three emails, all senior representatives of major clients of the Complainant, all indicated that they had typed in the Domain Name looking for the Complainant's website.

#### *The Website at the Domain Name*

The Expert has visited the website at the Domain Name. It consists of a single page, headed: "Welcome to the Future Website of Apollo Marketing & Advertising Limited". In smaller print at the bottom of the page, the following disclaimer appears:

*"We are not associated with Apollo Marketing Group or Apollo Marketing Australia".*

The Expert has also visited the website operated by the Respondent at [www.adultspace.co.nz](http://www.adultspace.co.nz). This website advertises escort services in a number of New Zealand centres. The Expert has not been provided with any November 2007 screenshots of the site to which the Domain Name then resolved, but it seems probable that it was the website the Respondent operates at [www.adultspace.co.nz](http://www.adultspace.co.nz) (the Respondent only referred to one website in its letter dated 7 February 2008).

## **5. Parties' contentions**

### **a. Complainant**

The Complainant contends:

- (i) That it has Rights in the name "Apollo Marketing".
- (ii) The Domain Name is identical or similar to that name or mark.
- (iii) The Complainant is a reputable business, which prides itself on its professional service. It is concerning and disappointing to the Complainant that the Respondent is promoting and effectively selling sex via the website at the Domain Name. Further, the Respondent's company name and the website at the Domain Name are causing confusion in the market, and starting to damage the Complainant's reputation.
- (iv) "Apollo Marketing" is a crazy name for a sex business.
- (v) The Domain Name in the hands of the Respondent is an unfair registration.

### **b. Respondent**

In the letter dated 7 February 2008, the Respondent contended:

- (i) It is not in the same business as the Complainant, and does not wish to be associated with the Complainant. It has posted a disclaimer on the website at the Domain Name which makes that clear.
- (ii) The Respondent chose the Domain Name on the suggestion of the person who built the website at the Domain Name. That person suggested the name of the Greek God Apollo, and marketing and advertising is simply descriptive of what the Respondent does.

- (iii) The Respondent did not realise that there was someone else with a similar name.
- (iv) The Respondent derives no benefit from being associated with the Complainant.
- (v) The Domain Name was available, and the Respondent took it. The Complainant should have taken the Domain Name if *it* had wanted it. The Respondent should not be forced to change because the Complainant elected not to take the Domain Name.

## **6. Discussion and findings**

### ***Relevant Provisions of the Policy***

The Policy applies to Respondents when a Complainant asserts that:

- “(i) The Complainant has Rights in respect of a name or mark which is identical or similar to the Domain Name; and*
- (ii) The Domain Name, in the hands of the Respondent, is an Unfair Registration.” (Policy, paragraph 4.1)*

The Complainant is required to prove on the balance of probabilities that both elements are present (Policy, paragraph 4.2).

The expressions “Rights” and “Unfair Registration”, are both defined in paragraph 3 of the Policy.

The expression “Rights” includes, but is not limited to, rights enforceable under New Zealand law.

The expression “Unfair Registration” means a Domain Name which either:

- “(i) was registered or otherwise acquired in a manner which, at the time when the registration or acquisition took place, took unfair advantage of or was unfairly detrimental to the Complainant’s Rights; OR*
- (ii) has been, or is likely to be, used in a manner which took unfair advantage of or was unfairly detrimental to the Complainant’s Rights.”*

At paragraph 5.1, the Policy contains a non-exhaustive list of factors which may be evidence that a domain name is an “Unfair Registration”. The list includes the following:

- “5.1.1 Circumstances indicating that the Respondent has registered or otherwise acquired the Domain Name primarily:*

- (i) *for the purposes of selling, renting or otherwise transferring the Domain Name to the Complainant or to a competitor of the Complainant, for valuable consideration in excess of the Respondent's documented out-of-pocket costs directly associated with acquiring or using the Domain Name;*
- (ii) *as a blocking registration against a name or mark in which the Complainant has Rights; or*
- (iii) *for the purpose of unfairly disrupting the business of the Complainant; or*

5.1.2 *Circumstances demonstrating that the Respondent is using the Domain Name in a way which is likely to confuse, mislead or deceive people or businesses into believing that the Domain Name is registered to, operated or authorised by, or otherwise connected with the Complainant.*"

Paragraph 6.1 of the Policy sets out a list of factors which may be evidence that the Domain Name is *not* an Unfair Registration. This list, which is again non-exhaustive, contains the following:

*"6.1.1 Before being aware of the Complainant's cause for complaint (not necessarily the Complaint itself), the Respondent has:*

- (i) *used or made demonstrable preparations to use the Domain Name or a Domain Name which is similar to the Domain Name in connection with a genuine offering of goods or services;*
- (ii) *been commonly known by the name or legitimately connected with a mark which is identical or similar to the Domain Name;*
- (iii) *made legitimate non-commercial or fair use of the Domain Name; or*

### ***Application of the Policy in this Case***

There are three questions to be decided:

- (i) Does the Complainant have rights (enforceable under New Zealand law or under the law of some other country) in a relevant name or mark?
- (ii) If so, is that name or mark identical or similar to the Domain Name?  
and



- (iii) If the answer to the first two questions is “yes”, is the Domain Name, in the hands of the Respondent, an Unfair Registration?

I deal with each question in turn.

***Question 1: Does the Complainant have enforceable rights in a relevant name or mark?***

The Expert is satisfied that the Complainant *does* have such Rights.

*General Principles applicable to Proof of Rights under the Policy*

It is now well established that a complainant under the Policy does not need to prove that it holds a registered trade mark or service mark. A right to sue for passing off qualifies as a Right under the Policy – see the decision of this Expert in New Zealand DRS Case No. 108, *B.O.P. Memorials v Jones & Company Funeral Services*. See also the New Zealand DRS Case No. 172, *NZ Aerial Mapping Limited v Terralink International Limited*, where the Expert noted:

*“If there is no registered trade mark, then an unregistered trade mark, if proved, can be dispositive.”*

A complainant may also establish a Right under the Policy, by showing that the respondent’s registration or use of the disputed domain name has been misleading or deceptive, such that the complainant would be entitled to bring a civil action claiming compensation for breach of the Fair Trading Act 1986 (see New Zealand DRS Case No. 223, *Pet Mania v Petmania*).

The Experts in the *B.O.P. Memorials v Jones & Company Funeral Services*, and *NZ Aerial Mapping Limited v Terralink International Limited* cases, both noted, following cases decided under the English Nominet Policy (on which the Policy is substantially based), that the requirement to demonstrate Rights is *not* a particularly high threshold test.

*Application of General “Rights” Principles in this Case*

In this case, the Complainant has been in business since 1995. It has produced a number of documents showing that it, and at least one other company within the plaintiff’s group, has used the expression “Apollo Marketing” since at least 1998, as an indicator of the source, or origin, of the promotion and marketing services provided by the Complainant and other members of the group of which the Complainant is a part. The Expert notes in particular the Australasian Promotional Marketing Association website references to “Apollo Marketing”, and the use of the same expression in the July 2005 report posted on the website at [www.thehyperfactory.com](http://www.thehyperfactory.com). The addition of different geographical descriptors (i.e. “Australia” and “New Zealand”) to the same “core” brand name – “Apollo Marketing” – on the website at [www.apollomarketing.com](http://www.apollomarketing.com), also tends to support the view that “Apollo Marketing” is an expression which has been used to denote the

group's services, whether those services have been provided by one company in Australia or by a different member of the group in New Zealand.

Particularly having regard to the relatively low threshold of proof which is required for a complainant to show that it has a "Right" in a name or mark, the Expert is prepared to accept that, if some third party acting in trade in New Zealand were to use the name "Apollo Marketing" in relation to business activities conducted by it in the marketing/promotions field, the Complainant would probably be entitled to issue civil proceedings under the Fair Trading Act seeking appropriate relief. In that sense, the Expert is satisfied that the Complainant has "Rights" in the expression "Apollo Marketing", as defined in the Policy. The Complainant therefore succeeds on question 1.

***Question 2: Is the Domain Name Identical or Similar to the "Apollo Marketing" Name or Mark in which the Complainant has Rights?***

The ".co.nz" part of the Domain Name is generic, and is not to be taken into account in the required comparison. Once that is acknowledged, the answer to the question can only be "yes". Quite clearly, the Domain Name is identical to the "Apollo Marketing" name or mark in which the Complainant has Rights. The Complainant has therefore also established its case on the second of the two questions.

***Question 3: Is the Domain Name, in the hands of the Respondent, an Unfair Registration?***

A registration will be an "Unfair Registration" under the Policy, if the relevant Domain Name "has been, or is likely to be, used in a manner which took unfair advantage of or was unfairly detrimental to the Complainant's Rights" (subparagraph (ii) of the definition of "Unfair Registration" in paragraph 3 of the Policy).

One of the factors which may provide evidence that a disputed domain name is an Unfair Registration, is listed at paragraph 5.1.2 of the Policy as follows:

*"5.1.2. Circumstances demonstrating that the Respondent is using the Domain Name in a way which is likely to confuse, mislead or deceive people or businesses into believing that the Domain Name is registered to, operated or authorised by, or otherwise connected with the Complainant."*

The Expert is in no doubt that the Respondent's registration and use of the Domain Name in this case, falls squarely within paragraph 5.1.2 of the Policy. First, the Domain Name is identical to the Complainant's "Apollo Marketing" name or mark, and it is inevitable that some Internet users looking for the Complainant's website would key in the Domain Name. But the Complainant's case is stronger than that – the Complainant has produced emails from three separate clients, all saying that they did precisely that (i.e. they typed in the Domain Name expecting to find the Complainant's website). One of the emails was from the National Promotions Manager for Coca-Cola

Oceania Limited. That client stated in her email that "Coca-Cola does not want our brands associated (even in error) to such a site/business" (referring to the adult/escort agency advertising business operated through the website to which the Domain Name then resolved).

The disclaimer which now appears on the website to which the Domain Name resolves does not provide any reliable means of avoiding the likelihood of confusion. First, it appears that no disclaimer was present in November 2007, when the Complainant's customers mistakenly visited the website at the Domain Name, and there is no guarantee or undertaking from the Respondent that the disclaimer will remain on the website to which the Domain Name presently resolves. Secondly, even if the disclaimer were to remain, there would still be an element of "initial interest confusion" – the identity between the Domain Name and the Complainant's "Apollo Marketing" name or mark is likely to result in a number of Internet users who are looking for a website operated by the Complainant, being taken to a website operated by the Respondent. That will generate increased Internet traffic to the Respondent's website, and even if only a small number of Internet users who arrive mistakenly at the Respondent's website avail themselves of the services offered through that website, the Respondent will presumably gain some commercial benefit from the confusion. In the Expert's view, that constitutes taking unfair advantage of the Complainant's Rights, and the Respondent is therefore caught by the second limb of the definition of "Unfair Registration" quoted above.

The Expert can also readily appreciate the Complainant being concerned at the use of its name as a domain name pointing to an adult, or pornographic, website. The Expert agrees that such use, if allowed to continue, would be likely to damage, or tarnish the Complainant's reputation as a respected provider of marketing services to major corporations. In the Expert's view, the Respondent's use of the Domain Name has, for that reason, also been *unfairly detrimental* to the Complainant's Rights.

Before reaching a final conclusion on this question, however, it is necessary to consider whether the Respondent's registration and use of the Domain Name might be saved, under one or more of the factors which are listed at paragraph 6 of the Policy as possible indicators that a domain name is *not* an Unfair Registration. The only one of those examples which might be relevant, is the example at paragraph 6.1.1(a) of the Policy:

*"6.1.1 Before being aware of the Complainant's cause for complaint (not necessarily the Complaint itself), the Respondent has:*

- (a) used or made demonstrable preparations to use the Domain Name or a Domain Name which is similar to the Domain Name in connection with a genuine offering of goods or services."*

For this provision to apply, the Respondent's use of the Domain Name must have been in connection with a *genuine* offering of goods or services. The

Expert takes the word “genuine” to be equivalent to “*bona fide*”, and without any intent to take unfair advantage of the Complainant’s Rights, or create unfair detriment to the Complainant’s Rights.

The Expert is *not* satisfied that the Respondent’s actions have been *genuine* in that sense. The Expert has reached that view for the following reasons:

1. The Domain Name is identical to a name or mark in which the Expert has found that the Complainant has Rights, namely “Apollo Marketing”. The Domain Name is also virtually identical to the Complainant’s name, Apollo Marketing Limited.
2. The Complainant has been operating in Auckland since 1995, being approximately 11 or 12 years before the Respondent company was formed. The Respondent is also based in Auckland.
3. When the Respondent registered the Domain Name in September 2007, the Respondent assumed certain obligations under InternetNZ’s policy entitled “.NZ Registrant Agreement Core Terms and Conditions”. Under that policy, the Registrant (in this case the Respondent) assumed the following obligation:

*“2.4 [To] satisfy yourself your use of a domain name will not infringe anybody’s intellectual property rights and protect us [InternetNZ], and everybody we are in any business relationship with to provide services to you, from any such claim.”*

Under paragraphs 2.5 and 2.6 of that policy, the Respondent was also obliged to ensure that it would only use InternetNZ’s services for a lawful purpose, and that it would ensure that the use of any domain name registered by it did not interfere with other users of the Internet.

It seems to the Expert that those obligations require a registrant of a domain name to undertake at least a basic check for the existence of relevant rights owned by others, before registering the domain name. In this case, even the most cursory of checks would have led the Respondent to another company operating the name or mark “Apollo Marketing”, the Complainant. The Complainant does not have any registered service mark, but a simple Google search, a search of the Companies Register, or even a look in the Auckland telephone directory, would have alerted the Respondent to the existence of the Complainant. Either the Respondent was aware of the Complainant when it registered the Domain Name, or it was wilfully blind in failing to undertake even the most basic of checks for the existence of third party rights in the name it was about to register.

4. The Respondent’s explanation for its choice of the Domain Name is unconvincing. The Respondent says that “a person who built our website suggested the name “Apollo, apparently because he was a Greek god ...”. This vague explanation is quite unsatisfactory. First, it is hardly credible that the Respondent would have selected a company

name, and the Domain Name, without being very well aware of the meanings each would convey. Nor is there any explanation why "the person who built the website" suggested the name "Apollo" – no connection between that particular Greek god and the business operated by the Respondent is immediately apparent to the Expert, and none was suggested in the Respondent's letter of 7 February 2008.

5. When the Complainant filed this Complaint, the Respondent failed to make any Response. Instead, the link from the Domain Name to the escort agency website was terminated, and a link to an inactive website, with a prominent disclaimer, was substituted. That conduct is the kind of conduct one would expect from a respondent that knew it had no defence to the Complaint.
6. Only belatedly, after the Expert had been appointed, did the Respondent submit a letter in which it sought to explain its position. That letter did not comply with the requirements of paragraph B4.2.5 of the Policy, which requires that a Response contain the following statement:

*"The information contained in this Response is to the best of the Respondent's knowledge true and complete and the matters stated in this Response comply with the Policy and Procedure and applicable law."*

The Expert is entitled to draw such inferences from the Respondent's failure to include that form of certificate in a timely response, as the Expert deems appropriate. Having regard to all of the factors set out in this list, the Expert infers that the Respondent elected not to file any complying Response in this case, because it appreciated that the Domain Name was, in its hands, an Unfair Registration.

## 7. Decision

For the foregoing reasons, the Expert orders that the Domain Name <apollomarketing.co.nz> be transferred to the Complainant.

**Place of decision** Auckland, New Zealand

**Date** 7 March 2008

**Expert Name** Mr Warwick Smith

**Signature**

A handwritten signature in black ink, appearing to read 'Warwick', with a long, sweeping horizontal stroke extending to the right.