

Decision for dispute CAC-UDRP-103700

Case number CAC-UDRP-103700

Time of filing 2021-03-31 00:00:00

Domain names iccvbo.org

Case administrator

Organization Denisa Bilík (CAC) (Case admin)

Complainant

Organization CHAMBRE DE COMMERCE INTERNATIONALE

Complainant representative

Organization Nameshield (Enora Millocheau)

Respondent

Name Greg William

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant owns the following trademark registrations for ICC:

- International trademark ICC (fig) n° 1235263 registered since 2014-07-29 in classes 9, 16, 35, 36, 41, 42, 45;
 - European Union trademark ICC (fig) n° 012556701 registered since 2014-06-25 in classes 9, 16, 35, 36, 41, 42, 45.
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FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

La Chambre de Commerce Internationale ("ICC", or "International Chamber of Commerce") is the institutional representative of more than 45 million companies in over 100 countries with a mission to make business work for everyone, every day, everywhere. Particularly, ICC represents business interests at the highest levels of intergovernmental decision-making, whether at the World Trade Organization, the United Nations or the G20.

The Complainant owns numerous trademarks ICC®, such as:

- the international trademark ICC® n° 1235263 registered since 2014-07-29;
- the European trademark ICC® n° 012556701 registered since 2014-06-25.

The Complainant is also the owner of a large portfolio of domain names "ICC", such as <iccwbo.org>, registered since 1996-08-30:

The disputed domain name <iccvvbo.org> was registered on 2021-03-16 and resolves to an inactive page. Besides, the domain name has been used in a phishing scheme.

The Complainant states that the disputed domain name <iccvvbo.org> is confusingly similar to the trademarks ICC®.

The addition of the letters "VVBO" is not sufficient to escape the finding that the domain name is confusingly similar to its trademarks. It does not change the overall impression of the designation as being connected to the Complainant's trademarks. It does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademarks and domain names associated.

It is well-established that "a domain name that wholly incorporates a Complainant's registered trademark may be sufficient to establish confusing similarity for purposes of the UDRP" (WIPO Case No. D2003-0888, Dr. Ing. h.c. F. Porsche AG v. Vasily Terkin).

Moreover, the Complainant asserts that the addition of the generic Top-Level Domain suffix ".ORG" does not change the overall impression of the designation as being connected to the trademark ICC®. It does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademarks and its domain names associated.

On the contrary, these additions worsen the likelihood of confusion, as it directly refers to the Complainant's official domain name <iccwbo.org>, used for its official website and email addresses.

WIPO Case No. D2006-0451, F. Hoffmann-La Roche AG v. Macalve e-dominios S.A. ("It is also well established that the specific top level of a domain name such as ".com", ".org" or ".net" does not affect the domain name for the purpose of determining whether it is identical or confusingly similar.").

Consequently, the disputed domain name is confusingly similar to the Complainant's trademarks.

According to the WIPO Case No. D2003-0455, Croatia Airlines d.d. v. Modern Empire Internet Ltd., a Complainant is required to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such prima facie case is made, Respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a) (ii) of the UDRP.

The Complainant asserts that the Respondent is not identified in the Whois database as the disputed domain name. Past panels have held that a Respondent was not commonly known by a disputed domain name if the Whois information was not similar to the disputed domain name. Thus, the Respondent is not known as the disputed domain name.

For instance Forum Case No. FA 1781783, Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II v. Chad Moston / Elite Media Group <bobsfromsketchers.com> ("Here, the WHOIS information of record identifies Respondent as "Chad Moston / Elite Media Group." The Panel therefore finds under Policy paragraph 4(c)(ii) that Respondent is not commonly known by the disputed domain name under Policy paragraph 4(c)(ii).").

The Respondent is not known by the Complainant. The Complainant contends that Respondent is not affiliated with nor authorized by the Complainant in any way. The Complainant contends that Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant does not carry out any activity for, nor has any business with the Respondent.

Neither license nor authorization has been granted to the Respondent to make any use of the Complainant's trademark ICC®, or apply for registration of the disputed domain name.

Finally, the Complainant asserts that Respondent uses the disputed domain name to pass itself off as one of the Complainant's employees, in order to receive undue payment. Using the domain name in this manner is neither a bona fide offering of goods or services under Policy paragraph 4 (c)(i), nor a non-commercial or fair use pursuant to Policy paragraph 4(c)(iii).

Forum Case No. 1775963, United Rentals, Inc. v. saskia gaaede / Mr ("Complainant submits that Respondent is intending to impersonate Complainant to contact customers of Complainant, posing as a credit supervisor of Complainant, directing customers to transmit payments to a bank account not controlled by Complainant. See Compl. Append. M. Therefore, the Panel agrees with Complainant and finds that Respondent has does not have rights or legitimate interests in the domain name per Policy paragraph 4(c)(i) or (iii)").

Thus, the Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name <iccvbo.org>.

La Chambre de Commerce Internationale ("ICC", or "International Chamber of Commerce") is the institutional representative of more than 45 million companies in over 100 countries with a mission to make business work for everyone, every day, everywhere. Particularly, ICC represents business interests at the highest levels of intergovernmental decision-making, whether at the World Trade Organization, the United Nations or the G20.

Moreover, the Complainant states that the disputed domain name <iccvbo.org> is a misspelled version of its official domain name <iccwbo.org>, used for its website and its email addresses. The Complainant states that this misspelling was intentionally designed to be confusingly similar with the Complainant's trademarks and domain name. This assertion is confirmed by the fact that the Respondent has used the disputed domain name in a phishing scheme.

Thus, given the distinctiveness of the Complainant's trademarks and reputation, it is inconceivable that the Respondent could have registered the disputed domain name <iccvbo.org> without actual knowledge of Complainant's rights in the trademark, which evidences bad faith.

Finally, the Respondent has used the domain name in a phishing scheme. Indeed, the Respondent attempted to pass of as one of the Complainant's employees to receive undue payment. Therefore, the Complainant states that the Responded used the disputed domain name in bad faith, as it is well-established that using a domain name for purposes of phishing or other fraudulent activity constitutes solid evidence of bad faith use.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

I. RIGHTS

The disputed domain name is confusingly similar to the Complainant's registered trademarks since it reproduces the Complainant's mark 'ICC'. Moreover, the Complainant's ICC trademark appears at the beginning of the domain name and is therefore clearly noticeable. The likelihood of confusion is confirmed by the fact that the disputed domain name <iccvbo.org> is virtually identical to the domain name <iccwbo.org> of the Complainant, under which it notoriously carries on business. The Respondent simply broke down the W into two V's.

II. NO RIGHTS OR LEGITIMATE INTERESTS

The Respondent has not submitted any response. Therefore, it has submitted no information on possible rights or legitimate interests it might hold. On its part, the Complainant has submitted information and arguments which allow it to be reasonably assumed that the Respondent has no rights or legitimate interest in the domain name in dispute.

As the WIPO Arbitration and Mediation Center pointed out in UDRP case No. D20020856:

"As mentioned [in the decision], the Respondent has not filed a Response and is therefore in default. In those circumstances when the Respondent has no obvious connection with the disputed Domain Names, the prima facie showing by the Complainant that the Respondent has no right or legitimate interest is sufficient to shift the burden of proof to the Respondent to demonstrate that such a right or legitimate interest exists." WIPO Case No. D20020273 <sachsenanhalt>; WIPO Case No. D20020521 <volvovehicles.com>.

Furthermore, the disputed domain name does not host any active website, but apparently is used for fraudulent emails trying to impersonate the Complainant.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

III. BAD FAITH

The Respondent has, as a result of his default, not invoked any circumstances which could invalidate the Complainant's allegations and evidence with regard to the Respondent's registration and use of the disputed domain name in bad faith.

The Complainant has supplied evidence of apparently fraudulent use of the disputed domain name by the Respondent. This consists of the generation of e-mails to third parties purporting to emanate from the Complainant, but in fact generated by the Respondent in order to seek payments to which the Respondent is not entitled.

It is demonstrated that the disputed domain name is being used in such a way as to impersonate the Complainant's in fraudulent emails. This impersonation includes the use of the Complainant's figurative trademark and is also aided by the fact that the disputed domain name <iccvbo.org> is extremely similar to the domain name <iccwbo.org> used by the Complainant. It is therefore clear that the Respondent registered the domain name for this purpose.

The Respondent used the disputed domain name in bad faith, as it is well-established that using a domain name for purposes of phishing or other fraudulent activity constitutes solid evidence of bad faith use.

Paragraph 4(b) (iiii) of the Policy provides that the following circumstances are deemed to be evidence that the Respondent has registered and is using the disputed domain name in bad faith:

(iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation or endorsement of its website or location or of a product or service on its website or location.

As mentioned in *Andrey Ternovskiy dba Chatroulette v. Alexander Ochki*, WIPO Case No. D2017-0334:

"It is clear in the Panel's view that in the mind of an Internet user, the disputed domain names could be directly associated with the Complainant's trademark, which is likely to be confusing to the public as suggesting either an operation of the Complainant or one associated with or endorsed by it (see *AT&T Corp. v. Amjad Kausar*, WIPO Case No. D2003-0327)."

It has, therefore, been satisfactorily demonstrated to the Panel that the disputed domain name has been registered and used in bad faith.

For the reasons stated above, it is the decision of this Panel that the Complainant has satisfied all three elements of paragraph 4(a) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **ICCVVBO.ORG**: Transferred

PANELLISTS

Name	José Ignacio San Martín
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DATE OF PANEL DECISION 2021-04-27

Publish the Decision
