

## Decision for dispute CAC-UDRP-104186

Case number	CAC-UDRP-104186
Time of filing	2021-11-25 09:28:13
Domain names	internationalmaritimeacademy.com

### Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)
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### Complainant

Organization	INTERNATIONAL MARITIME ACADEMY LLP
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### Respondent

Name	ZAKARIA FTAICHI
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#### 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 names.

#### IDENTIFICATION OF RIGHTS

The Complainant has submitted evidence, which the Panel accepts, showing that it is the registered owner of the following:

- the UK trademark INTERNATIONAL MARITIME ACADEMY (registration n°UK00003572889) dated December 29, 2020;
- the Idoha/US trademark INTERNATIONAL MARITIME ACADEMY (registration n°029321) dated January 25, 2021; and
- the Moroccan trademark INTERNATIONAL MARITIME ACADEMY (registration n°230286) dated July 12, 2021.

Moreover, the Complainant is also the owner of the domain name bearing the sign "INTERNATIONAL MARITIME ACADEMY" namely the domain name <internationalmaritimeacademy.eu>.

The Complainant has an important presence on all major social media platforms such as LinkedIn, Instagram, Facebook and its trademark INTERNATIONAL MARITIME ACADEMY is widely popular among social media users.

#### FACTUAL BACKGROUND

The Complainant, International Maritime Academy LLP, is a well-known maritime training provider incorporated on December 29, 2020.

The Complainant holds several trademark registrations for "INTERNATIONAL MARITIME ACADEMY" and the Complainant also holds the domain name bearing "INTERNATIONAL MARITIME ACADEMY".

On April 30, 2021; the Respondent registered the disputed domain name <internationalmaritimeacademy.com> and on January 30, 2021; the Respondent registered the other disputed domain name <imaritimeacademy.org>.

On November 12, 2021; the Complainant sent a cease and desist letter to the Respondent and did not receive any response from the Respondent.

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#### PARTIES CONTENTIONS

#### PARTIES' CONTENTIONS:

##### COMPLAINANT:

#### 1. THE DISPUTED DOMAIN NAMES ARE CONFUSINGLY SIMILAR

The disputed domain names are confusingly similar to the Complainant's well-known and distinctive trademark "INTERNATIONAL MARITIME ACADEMY" as they bear the Complainant's "INTERNATIONAL MARITIME ACADEMY" trademark as a whole with the addition of the letter "S".

The Complainant argues that the presence of the top-level domain (TLD) ".com" and ".org" cannot abolish the similarity between the trademark and the disputed domain names.

The Complainant states that the disputed domain names contain an obvious misspelling of the Complainant's trademark and the present case is a clear example of typosquatting where the disputed domain names are slight alphabetical variations of the Complainant's trademark.

#### 2. NO RIGHTS OR LEGITIMATE INTERESTS IN RESPECT OF THE DISPUTED DOMAIN NAMES

The Complainant states that the Respondent has no rights on the disputed domain names as the Respondent is not known as the disputed domain names and as the Respondent does not hold any trademark for "INTERNATIONAL MARITIME ACADEMY".

The Complainant argues that the Respondent is not using the disputed domain names in connection with bona fide offering of goods or services or a legitimate non-commercial or fair use.

The Complainant also states that the Respondent has failed to proof any legitimate interest on the disputed domain names and the Complainant shall be deemed to have satisfied the second element: WIPO Overview 3.0, section 2.1; Banque de Luxembourg, SA v. WhoisGuard Protected, WhoisGuard, Inc. / Antonio Diaz, WIPO Case No. D2019-0495.

#### 3. THE DISPUTED DOMAIN NAMES WERE REGISTERED AND ARE USED IN BAD FAITH

The Complainant indicates that the Respondent intentionally used a misspelled version of the Complainant's trademarks in order to create a confusing similarity.

The Complainant asserts that the Respondent knew about the Complainant and its rights before the registration of the disputed domain names. Accordingly, the disputed domain names were registered and are being used in bad faith.

The Complainant alleges that the disputed domain names are being used by the Respondent to cheat the users and to make profit by deceiving the users by offering its fake services which demonstrates the bad faith of the Respondent.

The Complainant argues that the disputed domain names have been used in order to send communications impersonating the Complainant and to charge heavy amounts as the course fees. Accordingly, the Complainant alleges that the disputed domain names were registered and are being used in bad faith.

RESPONDENT:

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

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RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain names are 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).

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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 names (within the meaning of paragraph 4(a)(ii) of the Policy).

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BAD FAITH

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

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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.

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PRINCIPAL REASONS FOR THE DECISION

Paragraph 15 of the Rules provides that the Panel is to decide the Complaint on the basis of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

In this context, the Panel also notes that the burden of proof is on the Complainant to make out its case and past UDRP panels have consistently said that a Complainant must show that all three elements of the Policy have been made out before any order can be made to transfer a domain name.

For the Complainant to succeed it must prove, within the meaning of paragraph 4(a) of the Policy, that:

- A. the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- B. the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- C. the disputed domain name has been registered and is being used in bad faith.

The Panel will therefore deal with each of these requirements in turn.

A. IDENTICAL OR CONFUSINGLY SIMILAR

The Policy simply requires the Complainant to demonstrate that the disputed domain names are identical or confusingly similar to a trademark in which the Complainant has rights.

The Panel is satisfied that the Complainant is the owner of registration of "INTERNATIONAL MARITIME ACADEMY" trademarks.

The Panel finds that the disputed domain names are confusingly similar to the Complainant's "INTERNATIONAL MARITIME ACADEMY" trademark. The Panel evaluates that the addition of the letter "S" which is a plural suffix is not sufficient to vanish the similarity between the Complainant's "INTERNATIONAL MARITIME ACADEMY" trademark and the disputed domain name <internationalmaritimesacademy.com>. The Panel considers that the letter "I" situated at the beginning of the

disputed domain name <imaritimeacademy.org> would be perceived as the abbreviation of the Complainant's trademark and is not sufficient to abolish the similarity.

In particular, this case represents a clear example of typo-squatting, where the disputed domain names are one letter less or more than the Complainant's mark.

Moreover, the addition of the gTLD ".COM" and ".ORG" is not enough to abolish the similarity.

The Panel is of the opinion that the Internet users will easily fall into false impression that the disputed domain names are the official domain names of the Complainant. The Panel recognizes the Complainant's rights and concludes that the disputed domain names are confusingly similar with the Complainant's trademark. Therefore, the Panel concludes that the requirements of paragraph 4(a)(i) of the Policy is provided.

## B. NO RIGHTS OR LEGITIMATE INTERESTS

Under paragraph 4(a)(ii) of the Policy, the complainant has the burden of establishing that the respondent has no rights or legitimate interests in respect of the domain name.

It is open to a respondent to establish its rights or legitimate interests in a domain name, among other circumstances, by showing any of the following elements:

- (i) before any notice to the respondent of the dispute, the use or making 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; or
- (ii) the respondent of the dispute (as an individual, business, or other organization) has been commonly known by the domain name, even if it has acquired no trademark or service mark rights; or
- (iii) the respondent of the dispute is making a legitimate non-commercial or fair use of the domain name, without an intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

Thus, if the respondent proves any of these elements or indeed anything else that shows that it has a right or legitimate interest in the domain name, the complainant will have failed to discharge its burden of proof and the complaint will fail. The burden is on the complainant to demonstrate a prima facie case that the respondent does not have rights or legitimate interests in the domain name. Once the complainant has made out a prima facie case, then the respondent may, inter alia, by showing one of the above circumstances, demonstrate rights or legitimate interests in the domain name.

The Complainant contends that the Respondent has nothing to do with the Complainant and any use of the trademark "INTERNATIONAL MARITIME ACADEMY" has to be authorized by the Complainant and there is no such authorization.

Moreover, the disputed domain names have no relation with the Respondent and the Respondent is not commonly known as the disputed domain names.

In the absence of a response, the Panel accepts the Complainant's allegations as true that the Respondent has no authorization to use the Complainant's trademarks in the disputed domain names.

Hence, as the Complainant has made out its prima facie case, and as the Respondent has not demonstrated any rights or legitimate interests as illustrated under paragraph 4(c) of the Policy, nor has the Panel found any other basis for finding any rights or legitimate interests of the Respondent in the disputed domain names, the Panel concludes that the Complainant has satisfied the requirements of paragraph 4(a)(ii) of the Policy.

## C. BAD FAITH

Therefore, the Panel is of the opinion that due to the earlier rights of the Complainant in the “INTERNATIONAL MARITIME ACADEMY” trademark, the Respondent, was aware of the Complainant and its trademarks at the time of registrations of the disputed domain names (see e.g., *Ebay Inc. v. Wangming*, WIPO Case No. D2006-1107). Referring to *Parfums Christian Dior v. Javier Garcia Quintas and Christiandior.net*, WIPO Case No. D2000-0226, the Panel believes that the awareness of the Complainant’s trademark at the time of the registrations of the disputed domain names is to be considered an inference of bad faith registration.

Moreover, the links <https://internationalmaritimesacademy.com/> and <https://imaritimeacademy.org/> are currently active and bears the logo and the trademark of the Complainant without any authorization.

Further, the Complainant sent a cease and desist letter to the Respondent and did not received any responses.

Therefore, in light of the above-mentioned circumstances in the present case, the Panel finds that the disputed domain names have been registered and are being used in bad faith and that the Complainant has established the third element under paragraph 4(a)(iii) of the Policy.

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FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **INTERNATIONALMARITIMESACADEMY.COM**: Transferred
2. **IMARITIMEACADEMY.ORG**: Transferred

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## PANELLISTS

Name	Mrs Selma Ünlü
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DATE OF PANEL DECISION 2022-01-05

Publish the Decision

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