

Decision for dispute CAC-UDRP-105828

Case number	CAC-UDRP-105828
-------------	-----------------

Time of filing	2023-10-12 13:53:46
----------------	---------------------

Domain names	internationalmaritimetraining.com, internationalmaritime.training, maritimeacademytrainingcenter.com, maritimeacademytraining.com, internationalmaritimetraining.online
--------------	---

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)
--------------	---

Complainant

Organization	INTERNATIONAL MARITIME TRAINING ACADEMY LLP
--------------	---

RESPONDENTS

Name	Asmaa BOUDERSA
------	----------------

Name	Zakaria FTAICHI
------	-----------------

Name	asmaa boudersa
------	----------------

Respondent representative

Organization	INTERNATIONAL MARITIME TRAINING LTD
--------------	-------------------------------------

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

UK Trade Mark Registration No. UK00003572889 INTERNATIONAL MARITIME ACADEMY and ANCHOR Device (registered from 29 December 2020)

Moroccan Trade Mark Registration No. 230286 INTERNATIONAL MARITIME ACADEMY and ANCHOR Device (registered from 12 July 2021)

Moroccan Trade Mark Registration No. 254723 INTERNATIONAL MARITIME ACADEMY and ANCHOR Device (registered from 20 June 2023)

State of Idaho Trademark-Service Mark Registration No. 029321 INTERNATIONAL MARITIME ACADEMY and ANCHOR Device (registered from 25 January 2021)

State of Idaho Trademark-Service Mark Registration No. 030709 INTERNATIONAL MARITIME TRAINING (registered from 25 April 2022)

State of Arizona Trademark Registration Filing No. 9271568 INTERNATIONAL MARITIME TRAINING ACADEMY (registered from 22 March 2022)

FACTUAL BACKGROUND

Procedural Facts

The Complaint in this proceeding initially concerned five domain names

This proceeding concerns five domain names registered by three different entities.

1. On 14 May 2023 the First Respondent, International Maritime Training Ltd, registered <internationalmaritime.training> and on 30 May 2023 the First Respondent registered <internationalmaritimetraining.com> (the IMT Domain Names).
2. On 14 March 2023 the Second Respondent, Zakaria Ftaichi, registered and <maritmeacademytraining.com> (the ZF Domain Name).
3. On 4 April 2023 the Third Respondent, Asmaa Bourdersa, registered <maritmeacademytrainingcenter.com> and on 11 March 2022 the Third Respondent registered <internationalmaritimetraining.online> (the AB Domain Names).

The Complainant requested that the disputes in relation to all five domain names be consolidated.

On 31 October the Panel refused to consolidate the disputes relating to the ZF Domain Name and the AB Domain Names. For the reasons already given to the parties on that date, the Panel directed:

- (a). The Complaint in relation to the ZF Domain Name and the AB Domain Names be refused.
- (b). The Complainant was permitted to file a further complaint or complaints in respect of the ZF Domain Name and the AB Domain Names. Such complaints must comply with the Rules in relation to filing.
- (c). The Complaint in relation to the IMT Domain Names was consolidated and a decision will be made by the Panel in relation to those domain names.

The Panel now provides its decision in relation to the IMT Domain Names, which will herein be referred to as the "disputed domain names".

Substantive Facts

The Complainant was incorporated in 29 December 2020. It operates a website whereby it promotes maritime training and displays its INTERNATIONAL MARITIME ACADEMY and ANCHOR Device trademark. It also promotes this trademark on LinkedIn, Facebook and Instagram as well as the word mark INTERNATIONAL MARITIME ACADEMY. There was also evidence of some use of INTERNATIONAL MARITIME TRAINING ACADEMY on such social media, albeit to a lesser extent.

Extracts provided by the Complainant showed LinkedIn followers to be 32,723, Facebook followers to be 670 and Instagram followers to be 225. They also showed LinkedIn followers for the Complainant's alumni page to be 8,036.

The disputed domain names were registered in May 2023, on the specific dates indicated above.

The Respondent also operates a website whereby it promotes maritime training and displays ANCHOR device logo. The first disputed domain name, <internationalmaritimestraing.com>, directs web users to this website.

The Respondent is also the applicant for registration of a UK Trade Mark Application, being UK Trade Mark Application No. UK00003968084 INTERNATIONAL MARITIME TRAINING and ANCHOR Device.

The Complainant provided evidence that it had sent a number of demands to the Respondent in relation to the disputed domain names.

PARTIES CONTENTIONS

Complainant's contentions

The Complainant contends it has registered rights in the above-mentioned trademarks and service marks appearing under the heading "Identification of Rights". It also contends it is a renowned maritime training provider and well-known as trading under the name

"International Maritime Academy".

The Complainant asserts it has a very strong online presence, including for the brand INTERNATIONAL MARITIME TRAINING ACADEMY.

In relation to the Respondent, the Complainant contentions can essentially be summarised as follows:

- that the disputed domain names are confusingly similar to the trademarks in which the Complainant asserts rights;
- that the Respondent has both registered and used the disputed domain names in a deliberate attempt to deceive consumers;
- that the Respondent published content on its website, including its ANCHOR logo, in an attempt to deceive consumers into believing it was the Complainant;
- that the Respondent ought to have complied with letters of demand.

Respondent's contentions

The Respondent contends it is a reputable maritime training provider.

It disputes all the Complainant's contentions, including that either the disputed domain names or content of its website are likely to confuse consumers. In relation to rights in the disputed domain names, it points to its own above mentioned UK trade mark registration.

It makes other counter allegations against the Complainant, which are unnecessary to consider for the purpose of this proceeding.

RIGHTS

The Complainant has not 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).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has not 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 not 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

Save for its express findings and comments in relation to the consolidation request above and the ZF Domain Name and the AB Domain Names, 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

Paragraph (4)(a) of the Policy lists three elements that the Complainant must prove to merit a finding that the disputed domain names registered by the Respondent be transferred to the Complainant:

- 1) the disputed domain names are identical or confusingly similar to a trademark or service mark ("mark") in which the Complainant has rights; and
- 2) the Respondent has no rights or legitimate interests in respect of the disputed domain names; and
- 3) the disputed domain names have been registered and are being used in bad faith.

For the principal reasons set out below, the Complainant has failed to prove any of these three elements.

NO RIGHTS IN AN IDENTICAL OR CONFUSINGLY SIMILAR TRADEMARK

The Complainant asserts it has registered rights in a trademarks that are confusingly similar to the disputed domain names.

To satisfy paragraph 4(a)(i) of the Policy it is enough that the Panel is satisfied that the Complainant has registered rights in a trademark in a single jurisdiction (even if that single jurisdiction is not one in which the Respondent resides or operates) (Koninklijke KPN N.V. v. Telepathy, Inc D2001-0217 (WIPO 7 May 2001); see also WIPO Case Nos. D2012-0141 and D2011-1436).

Turning to the particular rights asserted by the Complainant:

(1). Firstly, UK Trade Mark Registration No. UK00003572889 INTERNATIONAL MARITIME ACADEMY and ANCHOR Device, Moroccan Trade Mark Registration No. 230286 INTERNATIONAL MARITIME ACADEMY and ANCHOR Device and Moroccan Trade Mark Registration No. 254723 INTERNATIONAL MARITIME ACADEMY and ANCHOR Device all concern an elaborate logo with a detailed ANCHOR device. None of these registrations are for the words INTERNATIONAL MARITIME ACADEMY alone. Those words are, in relative terms, in small font compared to the other distinctive graphic elements.

Further, the words have obvious descriptive meaning. They would have very limited ability to distinguish the Complainant's services in the eyes of consumers.

The Panel finds that none of these elaborate logos are identical or confusingly similar to either of the disputed domain names.

(2). Secondly, the registrations issued by the states of Idaho and Arizona in the United States of America cannot assist the Complainant.

The learned US-based author Gerald Levine (Domain Name Arbitration, Legal Corner Press, 2nd ed., 2019, at p.151) has successfully pointed out that state registrations (as opposed to national registrations) ought not be regarded as a basis of trademark rights for the purposes of Paragraph 4(a)(i) of the Policy. This is because such registrations are "usually granted automatically or only after a cursory review for exact matches on the State's trademark registry, are unexamined and thus not deserving of any presumption of registrability" (Town of Easton Connecticut v. Lightning PC Inc., FA0808001220202 (Forum October 12, 2008)).

Given the descriptive nature of the words in which the Complainant seeks to establish monopoly rights it is unsurprising that, despite asserting first use in 2020 it only has plain word registrations in the states of Idaho and Arizona. Such registrations cannot attract a presumption of registrability and therefore cannot be a basis for relevant rights under Paragraph 4(a)(i) of the Policy.

(3). Thirdly, the Complainant does not expressly assert unregistered rights in the Complaint. Nevertheless, the Panel has considered the evidence provided by the Complainant.

The evidence at is highest shows a presence on social media. However, such evidence of reputation is well below what would be required to assert rights in the plain generic words of the kind pressed by the Complainant.

The Complainant has therefore failed to satisfy paragraph 4(a)(i) of the Policy.

That alone is grounds for refusal of the Complaint. However, the Panel makes the following further comments in relation to the remaining two elements under the Policy.

RESPONDENT'S RIGHTS OR LEGITIMATE INTERESTS

The Complainant has not 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).

The Respondent, like the Complainant, seems to rely on a trademark containing a graphic device to assert rights, being UK Trade Mark Application No. UK00003968084 INTERNATIONAL MARITIME TRAINING and ANCHOR Device. However, this UK application (a) is for a complex graphic logo and (b) has not proceeded to registration. Therefore, it does not in itself establish trademark rights in the words INTERNATIONAL MARITIME TRAINING. The only relevance of this UK application is it does indicate the Respondent is publicly seeking to assert its legitimate interest in using such words. By disclosing the existence of the application, the Respondent is openly giving the Complainant a chance to oppose it, if it becomes open of opposition.

However, when it comes to the Respondent's actual use, the words INTERNATIONAL MARITIME TRAINING are entirely descriptive when used in relation to the business that the Respondent promotes. The disputed domain names contain mere variations of these words.

The Panel finds the Respondent has legitimate interests in respect of the disputed domain names.

NO BAD FAITH

Given the above findings, it is patently clear that the Panel does not accept that the disputed domain names were registered, or have been used, in bad faith.

Rejected

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

- 1. **internationalmaritimetraining.com**: Remaining with the Respondent
 - 2. **internationalmaritime.training**: Remaining with the Respondent
 - 3. **maritimeacademytrainingcenter.com**: Remaining with the Respondent
 - 4. **maritimeacademytraining.com**: Remaining with the Respondent
 - 5. **internationalmaritimetraining.online**: Remaining with the Respondent
-

PANELLISTS

Name	Andrew Sykes
------	--------------

DATE OF PANEL DECISION	2023-11-07
------------------------	------------

Publish the Decision
