Decision for dispute CAC-UDRP-103374

Case number	CAC-UDRP-103374
Time of filing	2020-11-06 09:24:21
Domain names	icrm.com

Case administrator

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

Complainant

Organization	iEnterprises, Holdings, LLC

Complainant representative

Organization	Law Office of Dmytro Chyrkin

Respondent

Organization	Private Domain

Respondent representative

Name	Mr. Howard Neu

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 is the owner of US registration No. 5483726 for the trademark iCRM, filed on March 13, 2017 and granted on June 5, 2018, claiming first use in commerce since January 1, 1997, and covering "computer software for use in customer relationship management (CRM), in class 9.

FACTUAL BACKGROUND

The Complainant is a leading provider of intelligent CRM solutions. At the time of the filing of the Complaint, the

Complainant's product iCRM for G-Suite in the Google market place had more than 53,000 installs.

The Respondent is a domain investor, therefore its principal activity is that of buying and reselling domain names.

The disputed domain name was registered on October 31, 1995, but the Respondent bought it from an auction on December 8, 2018.

The disputed domain name leads to a parking page containing pay-per-click links and is offered for sale at www.afternic.com.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

1. COMPLAINANT

The Complainant maintains that the disputed domain name is identical or at least confusingly similar to its registered trademark, as it fully incorporates it.

The Complainant further maintains that the Respondent has no rights or legitimate interests in respect of the disputed domain name. In particular, the Respondent has no connection or affiliation with the Complainant, is not one of its licensees and has never been authorised to use the Complainant's trademark in a domain name or elsewhere.

Moreover, the Complainant affirms that the Respondent has never used the term iCRM in commerce to identify itself and its services, and has never requested registration of a iCRM mark in the Patent and Trademark Office. Finally, the Complainant points out that the Respondent is simply passively holding the disputed domain name, without actively using it.

Hence, the Complainant concludes that it has proved a prima facie case that the Respondent does not hold rights or legitimate interests in the disputed domain name.

In relation to the bad faith registration and use requirement, the Complainant states that since the disputed domain name is used to lead to a parking page containing pay-per-click links and is offered for sale at a high price, the Respondent is unduly trying to obtain commercial gain from the confusion that arises with the Complainant's famous trademark

In addition, the fact that the Respondent is concealing its identity behind a privacy shield is also an indication of bad faith.

2. RESPONDENT

The Respondent contests the Complainant's allegations. In particular, the Respondent maintains that the disputed domain name is a valuable 4-letter generic domain name that has a multitude of potential uses. The most obvious use is in the area of CRM, which traditionally has been the acronym for Customer Relationship Management. Furthermore, according to Wikipedia, ICRM may be the acronym of several different wordings. The US Patent and Trademark Office lists numerous registered trademarks for ICRM, which predate the Complainant's trademark. The website at www.allacronyms.com lists 36 uses and/or meanings for ICRM. Furthermore, there are other "icrm" domain names belonging to persons different from the Respondent, some of which are parked and listed at Sedo for sale. Therefore the 4-letter acronym ICRM is not unequivocally associated to the Complainant.

The Respondent is engaged in the field of domain name investment. The Respondent bought the disputed domain name on the auction platform Namejet.com on December 8, 2018. Previously, the disputed domain name was used by Insight Capital Research and Management, Inc.

The Respondent's activity is a bona fide offering of goods and services when a third party's trademark is not used nor

targeted. The fact that the disputed domain name resolves to a page containing pay-per-click links does not imply a lack of bona fide in the absence of other circumstantial evidence. In this case, the parking page for the disputed domain name does not show any links to the Complainant or to any of its competitors. The Respondent never used the disputed domain name to interfere with the Complainant's trademark. The disputed domain name has been parked since its acquisition and is offered for sale as numerous other domain names are.

The Complainant has tried twice to acquire the disputed domain name but made offers that the Respondent considered unrealistically low for a four-letter domain name. The price requested by the Respondent is simply the amount of money it thought deemed appropriate to conclude the transaction given the circumstances of the case.

Therefore, the Respondent has a bona fide use of the disputed domain name and did not act in bad faith.

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 not, 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 not, to the satisfaction of the Panel, shown that 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

1. Identity or confusing similarity of the disputed domain name to the Complainant's trademark (paragraph 4(a)(i) of the Policy)

The Panel finds that the disputed domain name is identical to the Complainant's trademark. As a matter of fact, the disputed domain name reproduces the Complainant's trademark entirely, without further elements.

Therefore, the Panel is satisfied that the first condition under the Policy is met.

2. Respondent's lack of rights or legitimate interests in the disputed domain name (paragraph 4(a)(ii) of the Policy).

The Complainant alleges that the Respondent lacks rights or legitimate interests in the disputed domain name because it is identical to the Complainant's well-known trademark and the Respondent is using the disputed domain name to gain some economic advantage through pay-per-click links and through its possible sale for a valuable consideration.

The Panel does not share the Complainant's view.

The Respondent has been successful in demonstrating that the 4-letter combination ICRM is not uniquely associated with the Complainant. ICRM can be the acronym of various wordings, and various ICRM trademarks and domain names peacefully coexist in the name of different owners. The Complainant itself implies that its trademark ICRM is the acronym of a generic wording, when it describes itself as a leading provider of "intelligent CRM solutions".

Therefore, the ICRM acronym can reflect a wide range of uses and not only that of the Complainant's trademark. The Complainant did not provide evidence of the fact that the Respondent is targeting the Complainant and/or its trademark through the registration and use of the disputed domain name.

Previous panels have recognized that the use of a domain name to host a page comprising pay-per-click links would be permissible where the domain name consists of an actual dictionary word or phrase and is used to host pay-per-click links genuinely related to the dictionary meaning of the word(s) or phrase comprising the domain name, and not to trade off the complainant's (or its competitor's) trademark. The same obviously applies to domain names consisting of acronyms, like in the subject matter. In the instant case, the links associated with the disputed domain names mostly refer to the principal meaning of the acronym CRM, which usually stands for "Customer Relationship Management" (and related words such as "software", "salesforce", etc.). None of the pay-per-click links appearing on the parking page of the disputed domain name refer to the Complainant or to its competitors.

The Respondent is a domain name investor, and it is a known fact that dictionary words and acronyms are generally considered valuable assets. Previous panels have also recognized this high inherent value (see, by way of example, WIPO Case No. D2018-0738, Dynamic Visual Technologies (Pty) Ltd. vs. Direct Privacy, Savvy Investments, LLC).

The Respondent bought the disputed domain name at an auction and did not approach the Complainant to speculate on the resale of the domain name. Rather, the Complainant tried to purchase the disputed domain name from the Respondent twice, but the Respondent considered its offer too low. Given the nature of the disputed domain name, and the fact that the Respondent does not appear to be trading off the Complainant or its trademark, the Panel considers that Respondent's request for the sale of the disputed domain name amounts to a bona fide offering of goods and services.

In light of the foregoing, the Panel concludes that the Complainant has failed to demonstrate the Respondent's lack of rights or legitimate interests in the disputed domain name.

3. Registration and use in bad faith (paragraph 4(a)(iii) of the Policy)

In view of the fact that the Complainant failed to prove that the Respondent lacks rights or legitimate interests in the disputed domain name, it would not be necessary to evaluate whether the Respondent acted in bad faith. Notwithstanding, for the sake of completeness, the Panel will also examine the third and last requirement under the Policy.

The Panel notes that there is no evidence in the file that could lead to conclude that the Respondent was aware of the Complainant's trademark at the time of the registration of the disputed domain name. As also explained in paragraph 3.1.1. of the WIPO Overview on Selected UDRP Questions 3.0, the practice of registering domain names for subsequent resale (including for a profit), does not in itself support a claim of bad faith registration. Account should be taken of other circumstances of the case, such as the reputation of the Respondent's trademark, the distinctive character of the disputed domain name, the use to which the domain name is put, and in general, any other circumstance that the Respondent's intention was to profit or in any case draw an unfair advantage from the Complainant's trademark.

In this matter, the Complainant asserts that its trademark is well-known. However, according to the Panel, the Complainant did not provide sufficient evidence of the reputation of its trademark. Furthermore, the disputed domain name consists of an acronym that is deprived of distinctive character: the ICRM acronym is not unequivocally associated with the Complainant and is subject to a wide range of interpretations and uses. Even the use that the Respondent has made of the disputed domain name does not support a finding of bad faith. As indicated above, the Respondent is not targeting the Complainant or its trademark, the pay-per-click links appearing on the relevant website do not refer to the Complainant or to any of its competitors, the Respondent never approached the Complainant to sell the disputed domain name and when the Complainant tried to purchase it, the Respondent made the counter-offer that it deemed appropriate for the type of domain name the Complaint was trying to acquire.

Consequently, the Panel believes that the Complainant has failed to prove that the disputed domain name had been

registered and is being used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Rejected

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

1. **ICRM.COM**: Remaining with the Respondent

PANELLISTS

Name	**Angelica Lodigiani, Mgr. Barbora Donathová, LL.M., The Hon. Neil Brown, QC**

DATE OF PANEL DECISION 2021-01-15

Publish the Decision