

ADMINISTRATIVE PANEL DECISION

I@D International v. Monica Da Costa
Case No. D2022-0033

1. The Parties

The Complainant is I@D International, France, represented by Domgate, France.

The Respondent is Monica Da Costa, France.

2. The Domain Name and Registrar

The disputed domain name <iadgroup.com> is registered with eNom, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 5, 2022. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. Also on January 5, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent and contact information in the Complaint.

The Center sent an email communication to the Complainant on January 11, 2022 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on January 13, 2022.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on January 13, 2022. In accordance with the Rules, paragraph 5, the due date for Response was February 2, 2022. The Respondent submitted a Response on February 2, 2022. On February 4, 2022, the Complainant submitted a Supplemental Filing.

Upon request from the Complainant, the proceedings were suspended on February 8, 2022, for purposes of settlement discussions concerning the disputed domain name. The Respondent submitted a Supplemental

Filing on February 9, 2022. Also upon request from the Complainant, the proceedings were reinstated on March 11, 2022.

The Center appointed Christiane Féral-Schuhl as the sole panelist in this matter on March 15, 2022. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

The Complainant submitted a supplemental filing on March 18, 2022 and the Respondent submitted a last supplemental filing on March 31, 2022.

4. Admission of the Parties' Supplemental Filings

Paragraph 10 of the UDRP Rules vests the Panel with the authority to determine the admissibility, relevance, materiality and weight of the evidence, and also to conduct the proceedings with due expedition.

According to prior UDRP panel decisions, the party submitting or requesting to submit an unsolicited supplemental filing should clearly show its relevance to the case and why it was unable to provide the information contained therein in its complaint or response (*e.g.*, owing to some "exceptional" circumstance) (see section 4.6 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)")).

In its first supplemental filing submitted on February 4, 2022, the Complainant responded to the Respondent's response and provided new pieces of evidence relating to the links existing between both Parties. The Respondent also submitted on February 9, 2022, a supplemental filing to respond to the new elements provided by the Complainant. Both supplemental filings contain key elements to this proceeding, therefore the Panel will admit the supplemental filings submitted by the Complainant and the Respondent respectively on February 4 and February 9, 2022.

On March 18, 2022, the Complainant submitted another supplemental filing. However, given the lack of response of the Respondent on this last filing and the fact that it does not contain any new relevant elements for the case, the Panel will not admit this last filing submitted on March 18, 2022.

On March 31, 2022, the Respondent submitted a last Supplemental filing stating that the Complainant never tried to resolve the dispute amicably. The Respondent also submitted a letter from its counsel responding to a cease-and-desist letter sent by the Complainant's counsel. As for the Complainant last supplemental filing, this filing does not contain any new information for the understanding of this proceeding. Therefore, given the Panel did not admit the Complainant last filing, the Panel will also not admit the Respondent's last filing submitted on March 31, 2022.

5. Factual Background

The Complainant is a French company created in 2008, which operates in the marketing of real estate properties in a network.

The Complainant is the proprietor of trademarks registrations, including the following trademarks (hereafter the I@D Trademarks):

- the French word trademark I@D, No. 3614702, registered on December 1, 2008 for services in classes 35, 36 and 41,
- the international word trademark registration I@D, No. 1260871, registered on June 17, 2015 for services in class 36.

The Complainant is also the owner of several domain names composed of "iad":

- <iadinternational.com>, registered on November 24, 2016
- <iadinternational.fr>, registered on November 24, 2016
- <iadgroup.fr>, registered on September 10, 2021
- <iadgroupe.fr>, registered on October 22, 2021
- <iadgroupe.com>, registered on October 22, 2021

The disputed domain name was registered on September 23, 2015 and acquired by the Respondent on September 19, 2021.

The disputed domain name automatically redirects to a website for online domain name sales at "www.escrow.com".

Between October 2021 and January 2022, the Complainant's representative and the Respondent exchanged communications concerning the sale of the disputed domain name, being specified that:

- On October 6, 2021, the Complainant's representative did not specify to intervene on behalf of the Complainant at first, and initiated the exchanges.
- On November 17, 2021, the Respondent replied that he would not sell the disputed domain name for less than 1 bitcoin (approximately EUR 43,000).
- On January 14, 2022, after being notified of the Complaint by the Center, the Respondent sent a new email to the Complainant's representative asking if he was still interested in buying the disputed domain name.

6. Parties' Contentions

A. Complainant

First, the Complainant claims that the disputed domain name <iadgroup.com> is confusingly similar to the I@D Trademarks. The Complainant asserts that as special characters cannot be used in a normal second-level domain name due to technical restrictions and therefore are replaced by normal letters, the sign "@" can be replaced by the two letters "at" or "a" in domain names. The Complainant also claims that the disputed domain name incorporates the Complainant's trademarks and the word "group" which does not prevent the confusing similarity with the Complainant's trademarks. Indeed, the Complainant considers that the addition of the term "group" adds to confusion by suggesting that the website belongs to IAD Group of companies and is linked with the Complainant.

Second, the Complainant claims that the Respondent has no rights or legitimate interests in respect of the disputed domain name since, to the best of the Complainant's knowledge, the Respondent is not the owner of any "iad" trademark and is not known by the disputed domain name. The Complainant also asserts that the Respondent is not affiliated with the Complainant and has never been licensed or otherwise authorized to use the I@D Trademarks. The Complainant claims that the Respondent's attitude cannot amount to a *bona fide* offering of goods or services, or a legitimate noncommercial or fair use of the disputed domain name, given that: (i) the Respondent offered to sell the disputed domain name for 1 bitcoin (approximately EUR 43,000), (ii) the disputed domain name redirects to a website for online domain name sales.

At last, the Complainant claims that the Respondent has registered and is using the disputed domain name in bad faith, considering that the Respondent could not have ignored the existence of the Complainant and of the I@D Trademarks, when he registered the disputed domain name. The Complainant adds that the Respondent perfectly knows the I@D Trademarks, which is clearly visible on the headquarters of the Complainant less than 30 minutes by car from the Respondent's location and given that the spouse of the Respondent is currently an employee of the Complainant. The Complainant asserts that the Respondent registered the disputed domain name for the purpose of making benefits by selling it to the trademark owner or a competitor.

B. Respondent

The Respondent replied to the Complainant's contentions, claiming that she acquired the disputed domain name in order to serve as a gateway for various activities for her and her spouse for the first quarter in 2022. The disputed domain name consists of the acronym of her name and her husband name's initials. She claims that the name of her company, which has not been created yet, is "Iermann and Dacosta (IaD) Group" and it would be offering services in the field of art, NFTs and cryptocurrencies. She indicates that several similar domain names exist and the Complainant is only taking action against her, and that the Complainant registered its domain names "www.iadgroup.com" or "www.iadgroupe.com" in September and October 2021 respectively, while the disputed domain name was created in 2015.

7. Discussion and Findings

Paragraph 4(a) of the Policy provides that in order to be entitled to a transfer of the disputed domain name, the Complainant shall prove the following three elements:

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

A. Identical or Confusingly Similar

According to the Policy, paragraph 4(a)(i), the Complainant shall prove that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

First of all, the Panel finds that the Complainant has provided evidence that it has rights in the I@D Trademarks.

Then, the Panel wishes to remind that the first element of the UDRP serves essentially as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name.

This test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the domain name. In cases where a domain name consists of a common, obvious, or intentional misspelling of a trademark, the domain name will be considered by panels to be confusingly similar to the relevant mark for purposes of the UDRP (see section 1.9 of the [WIPO Overview 3.0](#)).

Regarding the disputed domain name <iadgroup.com>, the Panel finds that it is composed of:

- the three letters "iad";
- The term "group";
- the gTLD ".com", it being specified that the gTLD in a domain name is viewed as a standard registration requirement and as such is disregarded for the purpose of determining whether a domain name is identical or confusingly similar to a trademark.

The disputed domain name reproduces the I@D trademarks. The character "@" is a special character that cannot be used in a domain name due to technical reasons. Therefore, the use of the letter "a" may be appropriate to replace this special character, considering that it is a letter of similar appearance. A prior

UDRP decision has stated that the domain name <email.co> was identical or almost identical to the trademark EM@ILCO (See *Em@ilco International B.V. v. Erik Krols*; WIPO Case No. [D2000-1416](#)).

Moreover, a similar UDRP decision found that the use of the special character “&”, which is a special character that cannot be used in a domain name and is often replaced with the letter “e” (See *Dolce & Gabbana S.r.l. v. PrivacyProtect.org / Chen Jianglei*, WIPO Case No. [D2011-1765](#)).

Therefore, the Panel considers that the disputed domain name contains sufficiently recognizable aspects of the Complainant’s trademark.

Moreover, the gTLD in a domain name is viewed as a standard registration requirement and as such is disregarded for the purpose of determining whether a domain name is identical or confusingly similar to a trademark.

Therefore, the Panel holds that the disputed domain name <iadgroup.com> is confusingly similar to the l@d Trademarks and that the Complainant has established the first element of paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

According to the Policy, paragraph 4(a)(ii), the Complainants shall demonstrate that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

The Policy, paragraph 4(c), outlines circumstances that if found by the Panel to be proved shall demonstrate the Respondent’s rights or legitimate interests in the disputed domain name.

According to prior UDRP panel decisions, it is sufficient that the complainant shows *prima facie* that the respondent lacks rights or legitimate interests in the disputed domain name in order to shift the burden of production to the respondent (see *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#)).

Indeed, while the overall burden of proof in UDRP proceedings is on the complainant, UDRP panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out *prima facie* that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element (see section 2.1 of the [WIPO Overview 3.0](#)).

The Panel considers that the Complainant has shown *prima facie* that the Respondent lacks rights or legitimate interests in the disputed domain name, as it appears that the Complainant has not given any license or authorization of any other kind to the Respondent to use the l@d Trademarks and that the Respondent is not an authorized dealer of the Complainant’s products or services.

Therefore, it is the Respondent to evidence its rights or legitimate interests in the disputed domain name.

To demonstrate rights or legitimate interests in a domain name, non-exclusive respondent defenses under UDRP paragraph 4(c) include the following:

(i) before any notice of the dispute, the respondent’s use of, or 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 (as an individual, business, or other organization) has been commonly known by the domain name, even if the respondent has acquired no trademark or service mark rights; or

(iii) the respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue. (see section 2.1 of the [WIPO Overview 3.0](#))

The Respondent claims that she was preparing to use the disputed domain name in connection with a *bona fide* offering of goods or services.

However, according to prior UDRP decisions, non-exhaustive examples of prior use, or demonstrable preparations to use the domain name, in connection with a *bona fide* offering of goods or services may include: (i) evidence of business formation-related due diligence/legal advice/correspondence, (ii) evidence of credible investment in website development or promotional materials such as advertising, letterhead, or business cards (iii) proof of a genuine (*i.e.*, not pretextual) business plan utilizing the domain name, and credible signs of pursuit of the business plan, (iv) *bona fide* registration and use of related domain names, and (v) other evidence generally pointing to a lack of indicia of cybersquatting intent. While such *indicia* are assessed pragmatically in light of the case circumstances, clear contemporaneous evidence of *bona fide* pre-complaint preparations is required. Acknowledging that business plans and operations can take time to develop, panels have not necessarily required evidence of such use or intended use to be available immediately after registration of a domain name, but the passage of time may be relevant in assessing whether purported demonstrable preparations are *bona fide* or pretextual. If not independently verifiable by the panel, claimed examples of use or demonstrable preparations to use the domain name in connection with a *bona fide* offering of goods or services cannot be merely self-serving but should be inherently credible and supported by relevant pre-complaint evidence (see section 2.2 of the [WIPO Overview 3.0](#)).

In this case, it appears that the Respondent was aware of the prior existence of the I@D Trademarks given that the Complainant indicates that the Respondent's spouse is an employee of the Complainant and the Respondent did not deny this fact in its last supplemental filing submitted on February 9, 2022.

If the Respondent claims that she was preparing to use the disputed domain name in connection with a *bona fide* offering of goods or services, she has not provided sufficient evidence of this alleged preparation to use the name "iad" and the disputed domain name in connection with a *bona fide* offering of goods or services prior to the notice of the dispute. Indeed, the Respondent explained that the disputed domain name is the acronym of her name and her spouse's name and that they intend to create a company using this acronym as their incorporation name. However, the Respondent only provided a draft of articles of incorporation as evidence. This draft is not dated nor signed, therefore the Panel cannot ensure that these preparations are real and prior to the notification of the dispute.

Moreover, the disputed domain name resolves to a third-party website that facilitates domain name transactions, which cannot be considered as evidence as the Respondent's preparation to use the disputed domain name in connection with a *bona fide* offering of goods or services. According to prior UDRP decisions, it is possible that the Respondent earn some form of revenue each time a user try to load the disputed domain name's website and is redirected to said website. (See *Equinor ASA v. Daniel Klog*, WIPO Case No. [D2018-2441](#)).

The other piece of evidence annexed by the Respondent in her response consists of (i) a copy of her ID, (ii) a copy of a water bill addressed to the Respondent and her husband, (iii) a photo of the front of an art gallery, and (iv) a Google maps screenshot. These elements, in conjunction with the circumstances of the case, are not sufficient and cannot be used to demonstrate her legitimate interest to use the disputed domain name.

Therefore, according to the Policy, paragraph 4(a)(ii) and 4(c), the Panel considers that the Respondent failed to come forward with relevant and credible evidence and therefore the Complainant is deemed to have satisfied the second element of Paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

According to the Policy, paragraph 4(a)(iii), the Complainant shall prove that the disputed domain name has been registered and is being used in bad faith.

Thus, paragraph 4(b) provides that any one of the following non-exclusive scenarios constitutes evidence of a respondent's bad faith:

(i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or

(ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or

(iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(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 the respondent's website or location or of a product or service on the respondent's website or location.

Furthermore, according to prior UDRP decisions, panel assessment of bad faith in the registration and use of the disputed domain name can also take into account such circumstances, alone or together, as: (i) the respondent's likely knowledge of the complainant's rights, (ii) the distinctiveness of the complainant's mark, (iii) threats to "sell to the highest bidder" or otherwise transfer the domain name to a third party, (iv) failure of a respondent to present a credible evidence-backed rationale for registering the domain name, (v) a respondent's request for goods or services in exchange for the domain name, (vi) a respondent's attempt to force the complainant into an unwanted business arrangement (see section 3.1 of the [WIPO Overview 3.0](#)).

First, the Panel considers that it is established that the Complainant's I@D Trademarks were registered before the registration of the disputed domain name and that the Complainant's company name is also composed of the "I@D" term. Moreover, it has been evidenced that the Respondent had previous knowledge of the Complainant's prior rights on the I@D Trademarks since her spouse is currently an employee of the Complainant. Therefore, the Panel considers that there is a presumption of bad faith registration of the disputed domain name, given the fact that the disputed domain name wholly reproduces the I@D Trademarks.

Moreover, the Panel notes that, when responding to an offer to sell the disputed domain name, the Respondent agreed to sell the disputed domain name in exchange of one bitcoin (around EUR 43,000). Although the Respondent explained that it had bought the disputed domain name for a high price, no evidence was provided to support this claim. It is therefore clear from the correspondence communicated by the Parties, that the Respondent wanted to sell the disputed domain name to the Complainant for an amount exceeding its out-of-pocket expenses. According to prior UDRP panel decisions the offer to sell a domain name may constitute a sign of bad faith notably when the price offered largely exceeds the registration costs. (See *Yahoo! Inc. v. Mr Omid Pournazar*, WIPO Case No. [D2012-1612](#) and *Cash Converters Pty Ltd. v. Cameron David Jackson*, WIPO Case No. [D2014-2265](#)).

Finally, Panel finds that all of the following circumstances reinforce the fact that the Respondent has registered and is using the disputed domain name in bad faith:

- the Complainant has proved that the Respondent had knowledge of the Complainant's previous rights on the I@D Trademarks;
- the Respondent was not able to demonstrate and evidence any rights or legitimate interests in the disputed domain name;
- the Respondent has, at multiple occasions, offered to exchange the disputed domain name for large amounts of money;
- although the disputed domain name redirects to an active third-party website, this website is used for the selling of domain names. Despite the Respondent's contentions with respect to the use of the disputed domain name, it has not evidenced any actions it has implemented to effectively use the disputed domain name to legitimately offer goods and services, as the disputed domain name does not resolves to a website edited by the Respondent. Prior UDRP decisions have recognized that a sign a bad faith can be found when the disputed domain name resolves to third-party websites offering to sell domain names (See *Auchan Holding v. Wang XiaoWen*, WIPO Case No. [D2017-1320](#)).

Considering all of the above, it is not possible to conceive of any plausible actual or contemplated good faith registration and use of the disputed domain name by the Respondent.

Therefore, in view of all the circumstances of this case, the Panel holds that the Respondent has registered and is using the disputed domain name in bad faith according to the Policy, paragraph 4(a)(iii) and 4(b).

8. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <iadgroup.com> be transferred to the Complainant.

/Christiane Féral-Schuhl/

Christiane Féral-Schuhl

Sole Panelist

Date: March 29, 2022