

## **ADMINISTRATIVE PANEL DECISION**

I GRAAL v. Private by Design, LLC/ andreas collan  
Case No. D2022-3324

### **1. The Parties**

The Complainant is I GRAAL, France, represented by Cabinet Bouchara, France.

The Respondent is Private by Design, LLC, United States of America / andreas collan, Finland.

### **2. The Domain Name and Registrar**

The disputed domain name <igraal.club> (“the Domain Name”) is registered with Porkbun LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 7, 2022. On September 7, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On September 7, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name, which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on September 9, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amended Complaint. The Complainant filed an amended Complaint on September 9, 2022.

The Center received an informal communication from the Respondent on September 9, 2022. The Center invited the Parties to explore settlement discussions on September 12, 2022. The Complainant did not respond to the Center’s invitation.

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 September 19, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 9, 2022. The Respondent did not submit any formal

response. Accordingly, the Center notified the Commencement of Panel Appointment Process to the Parties on October 10, 2022.

The Center appointed Dawn Osborne as the sole panelist in this matter on October 17, 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.

#### **4. Factual Background**

The Complainant is one of the leaders in cashback services in Europe.

The Complainant is the owner of the mark IGRAAL registered, *inter alia*, in France as Registration No 4131651 for cashback services registered on November 5, 2014.

The Domain Name registered was registered on November 26, 2021, and has not been used for an active web site.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant is the owner of the mark IGRAAL registered, *inter alia*, in France as Registration no 4131651 for cashback services since 2014.

The Domain Name registered in 2021 is identical to the Complainant's mark adding only the generic Top-Level Domain ("gTLD") ".club". There is a high degree of implied affiliation with the Complainant as the Domain Name consists of the Complainant's mark merely adding a gTLD.

The Respondent does not have any rights or legitimate interests in the Domain Name, is not commonly known by it, and is not authorised by the Complainant. There is no *bona fide* use and the Domain Name is just parked on a holding page.

The Domain Name is being passively held which is registration and use in bad faith given the totality of the circumstances.

##### **B. Respondent**

The Respondent did not reply to the Complainant's contentions. In the Respondent's informal communication of September 9, 2022, the Respondent stated, "If someone wants to acquire this domain, i have no use for it anyway. best, A".

#### **6. Discussion and Findings**

##### **A. Identical or Confusingly Similar**

The Domain Name consists of the Complainant's IGRAAL mark (which is registered, *inter alia*, in France for cashback services since 2014) and the gTLD ".club".

The gTLD ".club" does not prevent the Domain Name from being identical to the Complainant's mark. A gTLD is a necessary part of a domain name and as such ".club" can be disregarded since it does not form part of any trade mark involved in these proceedings.

Accordingly, the Panel holds that the Domain Name is identical for the purpose of the Policy to a mark in which the Complainant has rights.

As such, the Panel holds that paragraph 4(a)(i) of the Policy has been satisfied.

### **B. Rights or Legitimate Interests**

The Complainant has not authorised the use of its mark. There is no evidence or reason to suggest the Respondent is, in fact, commonly known by the Domain Name.

There has been no use of the Domain Name. Inactive use does not amount to a *bona fide* offering of goods or services or a legitimate noncommercial fair use. There is a high risk of implied affiliation where a domain name is identical to a mark.

The Respondent has not answered this Complaint or explained why it should be allowed to register a domain name consisting of the Complainant's mark. The Respondent has admitted informally in an email to the Center that he has no use for the Domain Name. There has been no rebuttal of the *prima facie* case shown by the Complainant as set out above.

As such, the Panel finds that the Respondent does not have rights or legitimate interests in the Domain Name, and that the Complainant has satisfied the second limb of the Policy.

### **C. Registered and Used in Bad Faith**

The Respondent has not sought to counteract any submissions made by the Complainant concerning the Domain Name, merely saying it has no use for it. The Panel is entitled to draw adverse inferences from this.

The overriding objective of the Policy is to curb the abusive registration of domain names in circumstances where the registrant seeks to profit from or exploit the trade mark of another. Passive holding of a domain name does not necessarily prevent a finding of bad faith under certain circumstances. See *Telstra Corporation Limited v Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#). Considering the distinctive nature of the trademark, which is without meaning other than in connection to the Complainant, the Respondent's registration of the identical Domain Name is likely to have been done in awareness of and with the intent to target the Complainant. The Domain Name consists of the Complainant's IGRAAL mark adding only the gTLD ".club" which, in itself, means that there is a high risk of Internet users believing that the Domain Name is associated with the corresponding known trade mark belonging to the Complainant and no obvious legitimate use could be made of the Domain Name by the Respondent. Furthermore, the Respondent furnished incomplete or false contact information for purposes of registering the Domain Name, evidenced by the inability of the courier to deliver the Center's written communication to the address disclosed by the Registrar for the Respondent. Accordingly, the Respondent's passive holding of the Domain Name does not prevent a finding of bad faith.

As such, the Panel holds that the Complainant has made out its case and has satisfied the third limb of the Policy.

## **7. Decision**

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the Domain Name, <igraal.club>, be transferred to the Complainant.

/Dawn Osborne/

**Dawn Osborne**

Sole Panelist

Date: October 24, 2022