

ADMINISTRATIVE PANEL DECISION

IMC B.V. v. Traoley Joe

Case No. D2023-1751

1. The Parties

The Complainant is IMC B.V., Netherlands, represented by Merkenbureau Knijff & Partners B.V., Netherlands.

The Respondent is Traoley Joe, Thailand.

2. The Domain Names and Registrar

The disputed domain names <imctrade.cc> and <imctrade.vip> are registered with Dynadot, LLC Dynadot, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 20, 2023. On April 20, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On April 20, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (“Redacted for Privacy, Dynadot Privacy Service”) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 21, 2023 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 April 24, 2023.

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 May 3, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 23, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 25, 2023.

The Center appointed Mario Soerensen Garcia as the sole panelist in this matter on June 2, 2023. 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 a company based in the Netherlands and is the owner of the trade names IMC B.V. since 1989 and IMC Trading B.V. since 1990, of domain name <imc.com>, registered on December 28, 1997, and of the trademark registrations mentioned below.

1. IMC (word mark), International Registration, No. 929842,
Registration date: July 26, 2007
2. IMC TRADING (word mark), International Registration, No. 1488678,
Registration date: July 23, 2019
3. IMC & design, International Registration, No. 1018983,
Registration date: September 23, 2009
4. IMC & design, International Registration, No. 1491138,
Registration date: July 23, 2019
5. IMC & design, International Registration, No. 1590051,
Registration date: March 25, 2021
6. IMC INVESTMENTS (word mark), International Registration, No. 1682545,
Registration date: June 3, 2022

These marks have been registered for services related to *inter alia* financial affairs, investment services, trading of options and securities, business and capital management and wealth / asset management.

The Complainant was founded in 1989 as International Marketmakers Combination (IMC). Today, IMC (Trading) B.V. employs over 950 people and owns offices in Amsterdam, Chicago, Hong Kong, New York City, Mumbai, Seoul, and Sydney. The Complainant offers its trading solutions primarily on the basis of data and algorithms, and uses its execution platform to provide liquidity to financial markets globally.

The disputed domain names were registered on January 6, 2023. The disputed domain names are resolving to a website offering cryptocurrency-trading services, which are related to the financial services offered by the Complainant.

5. Parties' Contentions

A. Complainant

The Complainant contends that the Top-Level Domain extensions (".cc" and ".vip") present in the disputed domain names should be ignored in accordance with prior UDRP decisions.

The Complainant argues that the expression "imctrade" is fully identical/very similar to the Complainant's trade names, domain name and registered trademarks IMC and IMC TRADING.

Since these domain names appear to be used for cryptocurrency-trading services, these services are highly similar to the trading/financial services offered by the Complainant. The Complainant therefore fears

likelihood of confusion and damage to its goodwill and reputation.

The Complainant has taken screenshots of the Respondent's website at "www.imctrade.cc" to show his attempt to parasite on the Complainant's reputation and goodwill.

This is not the first time that the Complainant's trademarks IMC and IMC TRADING are being unduly used, as these brands are well recognized due to their long-standing use and reputation.

The Complainant alleges that WIPO has recently issued favorable decisions for the Complainant with respect to the domain names <imc-trading.net>, <imc-trading.me> and <imctrading.one> (*IMC B.V. v. Traoley Joe*, WIPO Case No. [D2022-3539](#)) and the domain names <imc-trading.info> (*IMC B.V. v. JustinBaer, YKTS*, WIPO Case No. [D2022-3838](#)), <imc-trading.cc> and <imc-trading.biz> (*IMC B.V. v. Baer Justin*, WIPO Case No. [DCC2022-0011](#)), <imc-trading.vip> and <imc-trading.pro> (*IMC B.V. v. Traoley Joe, Justin Baer*, WIPO Case No. [D2023-0013](#)).

Since an identical website is/was used in connection with the disputed domain names and all of the above-mentioned domain names, the Complainant assumes that they are dealing with the same Respondent.

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the disputed domain names and that the Respondent is not making a legitimate non-commercial or fair use of the disputed domain names.

Moreover, the Complainant stresses that the Respondent is not commonly known by the names "IMC," "IMC TRADING" nor "IMCTRADE."

According to the Complainant, it has prior rights over the trademarks IMC and IMC TRADING, and has not authorized the registration and use of the disputed domain names, nor the use of its trade names and trademarks by the Respondent.

Concluding, the Respondent has no rights or legitimate interests to the disputed domain names and is not affiliated to or authorized by the Complainant to use or register the disputed domain names.

The Complainant's rights for IMC and "IMC TRADING" predate the registration of the disputed domain Names.

The Complainant argues that the use of the disputed domain names is clearly in bad faith, as the Respondent presents itself as (an affiliated party of) the Complainant, the Respondent was trying to circumvent prior UDRP proceedings, and continues its fraudulent activities.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

As per paragraph 4(a) of the Policy, the Complainant must prove that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (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.

Based on the evidence and arguments submitted, the Panel's findings are as follows:

A. Identical or Confusingly Similar

The evidence demonstrates that the Complainant is the owner of several trademark registrations for IMC, IMC TRADING, and IMC & design in many jurisdictions. The Complainant's trademarks predate the registration of the disputed domain names.

The disputed domain names incorporate the Complainant's trademark IMC in its entirety, with the addition of the word "trade". The addition of the word "trade" is not enough to avoid confusion between the disputed domain names and the Complainant's trademarks.

As numerous prior UDRP panels have recognized, the incorporation of a trademark in its entirety or a dominant feature of a trademark is sufficient to establish that a domain name is identical or confusingly similar to the complainant's mark. See section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)).

The Panel finds that paragraph 4(a)(i) of the Policy has been proved by the Complainant, *i.e.*, the disputed domain names are confusingly similar to the Complainant's trademarks IMC and IMC TRADING.

B. Rights or Legitimate Interests

The Respondent has not submitted a response to the Complaint.

There is no evidence that the Respondent has any authorization to use the Complainant's trademarks or to register domain names containing the Complainant's trademark IMC or IMC TRADING.

There is no evidence that the Respondent is commonly known by the disputed domain names.

There is no evidence that the Respondent is making a legitimate noncommercial or fair use of the disputed domain names or that before any notice of the dispute, the Respondent has made use of, or demonstrable preparations to use the disputed domain names or a name corresponding to the disputed domain names in connection with a *bona fide* offering of goods or services.

The nature of the disputed domain names themselves is such to carry a risk of implied affiliation that cannot constitute fair use, as the addition of the word "trade" refers to the services offered by the Complainant and it is also very similar to the word trading, which is present in registered trademarks of the Complainant together with the mark IMC. See section 2.5.1 of the [WIPO Overview 3.0](#).

The Panel finds that the use of the disputed domain names, which incorporate the Complainant's trademark IMC, do not correspond to a *bona fide* use of the disputed domain names under the Policy.

For the above reasons, the Panel finds that the Complainant has made out an unrebutted *prima facie* case and the condition of paragraph 4(a)(ii) of the Policy has been satisfied, *i.e.*, the Respondent has no rights or legitimate interests in the disputed domain names.

C. Registered and Used in Bad Faith

The trademarks for IMC, IMC TRADING, and IMC & design are registered by the Complainant in several jurisdictions and have been used for years.

The Complainant's trademarks have a strong worldwide and online visibility.

The disputed domain names reproduce the Complainant's trademarks IMC and IMC TRADING, and the Respondent has no rights or legitimate interests in the disputed domain names.

The Complainant demonstrates that there is no other reason for the use and registration of the disputed domain names than to take advantage of the reputation of the Complainant's trademarks, with the intent to deceive Internet users into believing that the disputed domain names are associated with the Complainant. The Respondent obviously was aware of the Complainant's marks when registering the disputed domain names, since the Respondent chose the word "trade" to associate with the trademarks IMC and IMC TRADING, in a clear reference to the Complainant's crypto-currency business.

Moreover, the Respondent has chosen not to respond to the Complainant's allegations. According to the panel's decision in *The Argento Wine Company Limited v. Argento Beijing Trading Company*, WIPO Case No. [D2009-0610](#), *supra* "the failure of the Respondent to respond to the Complaint further supports an inference of bad faith" (see also *Bayerische Motoren Werke AG v. (This Domain is For Sale) Joshuathan Investments, Inc.*, WIPO Case No. [D2002-0787](#)).

The Panel finds that the failure of the Respondent to submit a Response, the fact that the Respondent used a privacy service to conceal its identity and the fact that the disputed domain names have been actively used for crypto-currency services and the reputation of the Complainant's trademark IMC are indication of the Respondent's bad faith. See section 3.3 of the [WIPO Overview 3.0](#).

Therefore, this Panel finds that the Respondent has intentionally attempted to cause confusion with the Complainant's trademarks by misleading Internet users to believe that the inherently misleading disputed domain names belong to or are associated with the Complainant.

For the above reasons, the Panel finds that the condition of paragraph 4(a)(iii) of the Policy has been satisfied, *i.e.*, the disputed domain names have been registered and are being used in bad faith.

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 disputed domain names, <imctrade.cc> and <imctrade.vip>, be transferred to the Complainant.

/Mario Soerensen Garcia/

Mario Soerensen Garcia

Sole Panelist

Date: June 16, 2023