

ADMINISTRATIVE PANEL DECISION

Crédit Industriel et Commercial S.A. v. Yinwanyu (尹婉玉)

Case No. D2022-0096

1. The Parties

Complainant is Crédit Industriel et Commercial S.A., France, represented by MEYER & Partenaires, France.

Respondent is yinwanyu (尹婉玉), China.

2. The Domain Name and Registrar

The disputed domain name <vipcic.com> (the “Domain Name”) is registered with 17 Domain 1, Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 12, 2022. On January 12, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On January 13, 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 Complainant on January 13, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on January 14, 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 Respondent of the Complaint, and the proceedings commenced on January 17, 2022. In accordance with the Rules, paragraph 5, the due date for Response was February 6, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on February 7, 2022.

The Center appointed John C. McElwaine as the sole panelist in this matter on February 10, 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

Complainant is a French financial services company. Complainant is the owner of following trademark registrations relevant to this proceeding:

- French trademark No. 1358524 for the mark C.I.C., registered on June 10, 1986 in International Classes 35 and 36;
- European Union Trade Mark No. 005891411 for the mark CIC, registered on March 5, 2008 in International Classes 9, 16, 35, and 36; and
- European Union Trade Mark No. 11355328 for the mark CIC, registered on March 26, 2013 in International Classes 9, 16, 35 and 36.

Collectively, Complainant's registered CIC trademarks are referred to herein as the "CIC Mark".

On October 30, 2021, Respondent registered the Domain Name with the Registrar. The Domain Name resolves to a website displaying a link to pornographic content.

5. Parties' Contentions

A. Complainant

As background, Complainant claims that it is France's oldest deposit bank having been formed in 1859 by an imperial decree signed by Napoleon III. Complainant is currently a part of one of the main European banking groups, "Crédit Mutuel Alliance Fédérale". Complainant asserts that it currently has more than 4.7 million clients, among them almost 770,000 professionals and businesses. Complainant points out that its CIC Mark is an abbreviation of its full corporate name, Crédit Industriel et Commercial. Complainant operates its online business from <cic.fr>, through which its clients can be informed about the services offered by the group and also get online access to their bank accounts for managing them, thanks to a specific secured interface.

Complainant also asserts that its CIC Mark is well-known and that several other UDRP panels have concurred with this assertion. See *Credit Industriel et Commercial S.A., Banque Fédérative du Credit Mutuel v. Headwaters MB*, WIPO Case No. [D2008-1892](#) ("Complainants have previously demonstrated the strong reputation and the well-known character of their marks 'CM', 'CIC' and 'CM-CIC' for banking and financial services"); *Credit Industriel et Commercial S.A v. Jeongyong Cho*, WIPO Case No. [D2013-1263](#) (finding the worldwide reputation of CIC as one of the leading financial groups); *Credit Industriel et Commercial v. Mao Adnri*, WIPO Case No. [D2013-2143](#) ("The Complainant has been using the CIC trademark for decades in the area of banking and financial services. The Panel finds that this mark, owned by the Complainant, is a well-known one and the Complainant has rights in several CIC trademarks").

With respect to the first element of the Policy, Complainant alleges that it owns trademark registrations containing the CIC Mark. Complainant further asserts that the Domain Name incorporates Complainant's CIC Mark entirely adding the term "vip", which is an abbreviation of "very important person". Thus, Complainant contends that the Domain Name is confusingly similar to the CIC Mark.

With respect to the second element of the Policy, Complainant asserts that Respondent is not sponsored, affiliated, licensed, or otherwise permitted by Complainant to make any use of the Domain Name. Complainant further asserts that using the Domain Name to resolve to pornographic content is not *bona fide* use of the Domain Name.

With respect to the last element of the Policy, Complainant asserts Respondent registered the Domain Name in bad faith, as evidenced by the fact that Respondent must have been aware of Complainant's CIC Mark when registering it because the mark is well-known. Complainant asserts that Respondent used the Domain Name in bad faith because Respondent has intentionally attempted to attract Internet users to its website by creating a likelihood of confusion with Complainant's as to the source, affiliation, or endorsement of Respondent's website. In addition, Complainant asserts that because the Domain Name currently resolves to a pornographic website, this fact demonstrates use in bad faith since the association that will inevitably and directly result in users' minds between the pornography content of the website and Complainant's prior trademarks can cause significant and irreparable injury to Complainant, tarnishing its marks and damaging its reputation.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Even though Respondent has defaulted, paragraph 4(a) of the Policy requires that, in order to succeed in this UDRP proceeding, Complainant must still prove its assertions with evidence demonstrating:

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

Because of Respondent's default, the Panel may accept as true the reasonable factual allegations stated within the Complaint and may draw appropriate inferences therefrom. See *St. Tropez Acquisition Co. Limited v. Anonymous Speech LLC and Global House Inc.*, WIPO Case No. [D2009-1779](#); *Bjorn Kassoe Andersen v. Direction International*, WIPO Case No. [D2007-0605](#); see also paragraph 5(f) of the Rules ("If a Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the complaint"). Having considered the Complaint, the Policy, the Rules, the Supplemental Rules and applicable principles of law, the Panel's findings on each of the above cited elements are as follows.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires Complainants show that the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights.

As an initial matter, Complainant has standing to bring this proceeding as the owner of several trademark registrations for CIC. Ownership of a trademark registration is generally sufficient evidence that a complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.2. Complainant provided evidence here that CIC Mark has been registered in France and in the European Union.

It is well-established, and the Panel agrees, that the addition of other terms to a trademark in a domain name does not avoid a finding of confusing similarity. See [WIPO Overview 3.0](#), Section 1.8; *Mastercard International Incorporated v. Dolancer Outsourcing Inc.*, WIPO Case No. [D2012-0619](#); *Air France v.*

Kitchkulture, WIPO Case No. [D2002-0158](#); *DHL Operations B. V. and DHL International GmbH v. Diversified Home Loans*, WIPO Case No. [D2010-0097](#). The Domain Name contains Complainant's CIC Mark in its entirety and is recognizable within the Domain Name. The addition of the term "vip" does not avoid a finding of confusing similarity between the Domain Name and the CIC Mark.

Accordingly, the Panel finds that the Domain Name is confusingly similar to Complainant's CIC Mark in which Complainant possesses valid trademark rights. Therefore, Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under the Policy, paragraph 4(a)(ii), Complainant has the burden of proof of establishing that Respondent has no rights or legitimate interests in the Domain Name. Complainant need only make a *prima facie* showing on this element, at which point the burden of production shifts to Respondent to present evidence that it has rights or legitimate interests in the Domain Name. If Respondent has failed to do so, Complainant is deemed to have satisfied its burden under paragraph 4(a)(ii) of the Policy. See *Vicar Operating, Inc. v. Domains by Proxy, Inc. / Eklin Bot Systems, Inc.*, WIPO Case No. [D2010-1141](#); see also *Nicole Kidman v. John Zuccarini, d/b/a Cupcake Party*, WIPO Case No. [D2000-1415](#); *Inter-Continental Hotels Corporation v. Khaled Ali Soussi*, WIPO Case No. [D2000-0252](#).

Here, Complainant asserts that Respondent is not authorized to have registered the Domain Name and set up a website seeking to lure Internet users seeking Complainant to Respondent's website which links to pornographic content. Although properly notified by the Center, Respondent failed to submit any response on this point. The silence of a respondent may support a finding that it has no rights or legitimate interests in respect of the domain name. See *Alcoholics Anonymous World Services, Inc., v. Lauren Raymond*, WIPO Case No. [D2000-0007](#). Additionally, previous UDRP panels have found that when respondents have not availed themselves of their rights to respond to complainant, it can be assumed – in appropriate circumstances – that such respondents have no rights or legitimate interests in the disputed domain name. See *AREVA v. St. James Robyn Limoges*, WIPO Case No. [D2010-1017](#); *Nordstrom, Inc. and NIHC, Inc. v. Inkyu Kim*, WIPO Case No. [D2003-0269](#).

Under paragraph 4(c) of the Policy, a respondent's rights or legitimate interests to a domain name may be established by demonstrating any of the following three conditions: (i) before any notice to respondent of the dispute, 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) respondent (as an individual, business, or other organization) has been commonly known by the domain name, even if respondent has acquired no trademark or service mark rights; or (iii) 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. The Panel finds that Respondent will not be able to show rights or legitimate interests under any of the three conditions.

As an initial matter, Respondent cannot satisfy paragraph 4(c)(ii) of the Policy. There is no evidence in the record that Respondent is commonly known by the name "vipcic" or a similar name. Instead, the Whois information indicates that Respondent is yinwanyu (尹婉玉).

Complainant also asserts that the Domain Name resolved to a website that displayed pornographic content. With no apparent connection between the term "vipcic" and such content, the Panel concludes that Respondent has not demonstrated a legitimate interest in the Domain Name, which contains the CIC Mark. See, *VKR Holding A/S v. 甄晶鑫 (jing xin zhe)*, WIPO Case No. [D2020-0352](#) (finding that a webpage displaying advertising for gambling and pornography websites not to be a *bona fide* offering of goods or services within the meaning of paragraph 4(c)(iii) of the Policy); *Unilabs AB v. Domain Administrator, See PrivacyGuardian.org / Xian Xing Hao*, WIPO Case No. [D2019-2599](#) (finding no rights or legitimate interests where respondent is using the domain name for commercial gambling and pornography site with no apparent connection to the Domain Name); *Hartsfield Area Transportation Management Association, Inc. v. Max Davidovich*, WIPO Case No. [D2006-0743](#) (finding no legitimate use by respondent of a domain name

confusingly similar to the complainant's mark that had links to pornography and gambling websites, alien to the business of the complainant, with the consequential tarnishing of the complainant's trade name and service mark).

In addition, as Complainant asserts, the use of a domain name for pornographic content containing a third party trademark does not present a plausible defense of fair use. See, *William Hill Organization Limited v. Netmax Multimedia*, WIPO Case No. [D2001-0455](#) ("it is unacceptable use of a domain name when a Respondent associates Complainant's trademark with pornography against its wishes."); *Nintendo of America Inc. v. Baltic Consultants Limited*, WIPO Case No. [D2002-0449](#) (finding use of the domain name was for distinctly commercial purposes, namely, for the marketing of pornography or gambling, or both, and said use was not *bona fide*).

In sum, Complainant has made a *prima facie* showing of Respondent's lack of rights or legitimate interests and Respondent has failed to come forward to rebut that showing. As provided for by paragraph 14 of the Rules, the Panel may draw such inference from Respondent's default as it considers appropriate. For all these reasons, the Panel is entitled to accept that the second element of the Policy is established by Complainant, and Respondent has no rights or legitimate interests in respect of the Domain Name, pursuant to the Policy, paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

According to paragraph 4(a)(iii) of the Policy, Complainant must show that Respondent registered and is using the Domain Name in bad faith. A non-exhaustive list of factors constituting bad faith registration and use is set out in paragraph 4(b) of the Policy.

Bad faith registration can be found where a respondent "knew or should have known" of a complainant's trademark rights and nevertheless registered a domain name in which it had no right or legitimate interest. See *Accor v. Kristen Hoerl*, WIPO Case No. [D2007-1722](#). As discussed herein, Respondent registered the Domain Name in 2021, which is long after Complainant established trademark rights in the CIC Mark. Moreover, several panels have found that the CIC Mark is well-known: *Credit Industriel et Commercial S.A. v. Samir Andrea, 345645*, WIPO Case No. [D2017-0145](#) ("The Panel shares the holdings of previous UDRP panel decisions which have recognized the CIC Trademarks as well-known"); see also *Credit Industriel et Commercial S.A., Banque Fédérative du Crédit Mutuel v. Headwaters MB*, WIPO Case No. [D2008-1892](#); *Credit Industriel et Commercial S.A. v. Jeongyong Cho*, WIPO Case No. [D2013-1263](#); *Credit Industriel et Commercial v. Mao Adnri*, WIPO Case No. [D2013-2143](#)).

Based on Complainant's submission, which was not rebutted by Respondent, it is likely that Respondent knew of Complainant's CIC Mark when it registered the Domain Name. See *WhatsApp Inc. v. Francisco Costa*, WIPO Case No. [D2015-0909](#) (finding that "it is likely improbable that Respondent did not know about Complainant's WHATSAPP trademark at the time it registered the Disputed Domain Name considering the worldwide renown it has acquired amongst mobile applications, and the impressive number of users it has gathered since the launch of the WhatsApp services in 2009".) Panels have recognized that the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can itself create a presumption of bad faith. See section 3.1.4 of the [WIPO Overview 3.0](#).

It is not disputed that Respondent linked the Domain Name to a website displaying pornographic content. The Domain Name is not a dictionary word and nothing on Respondent's webpage indicates any meaning that the Domain Name might have other than as a reference to Complainant's CIC Mark. Prior panel decisions have consistently recognized such registration and use of a domain name constitutes evidence of bad faith under Policy 4(a)(iii). *Daybreak Game Company LLC v. Lv Guo Ping*, WIPO Case No. [D2018-1935](#) ("the Panel has no hesitation in finding that the disputed domain name [...] was registered in bad faith and is being used in bad faith. The current advertisements for online gambling and pornography on the site disputed domain name resolves to establish Respondent is making a commercial gain from the site by attracting users to generate click through revenue"); *Valvoline Licensing and Intellectual Property LLC v.*

Andrei Arhipov, WIPO Case No. [D2017-2453](#) (“The fact that the website at the disputed domain name provides adult sexually explicit content with pornography elements is a clear indication that the domain name has been registered and used in bad faith.”). Given the whole incorporation of the Complainant’s CIC Mark in the Domain Name and the lack of any apparent connection between the term “vipcic” and the content of the website to which the Domain Name redirects, there can be no other reasonable explanation for Respondent to have chosen to register the Domain Name other than to intentionally trade off the goodwill and reputation of Complainant’s trademark or otherwise create a false association with Complainant. With no response from Respondent, this claim is undisputed nor is the decision to register and use the Domain Name justified.

As detailed above, the Panel finds on the record before it that Respondent’s intention in registering the Domain Name was to attract, for commercial gain, Internet users to Respondent’s website by creating a likelihood of confusion with the CIC Mark as to the source, sponsorship, affiliation, or endorsement of its website or location or of a product or service on its website or location.

Thus, the Panel holds that Complainant has met its burden of showing that Respondent registered and is using the Domain Name in bad faith under paragraph 4(a)(iii) 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, <vipcic.com>, be transferred to Complainant.

/John C. McElwaine/

John C. McElwaine

Sole Panelist

Date: February 23, 2022