

## **ADMINISTRATIVE PANEL DECISION**

Software Brokers of America Inc. d/b/a Intcomex v. Contact Privacy Inc. /  
Jolvi Nizama, Intcomnex  
Case No. D2022-0435

### **1. The Parties**

The Complainant is Software Brokers of America Inc. d/b/a Intcomex, United States of America, represented by Ferraiuoli LLC, United States of America.

The Respondent is Contact Privacy Inc., Canada / Jolvi Nizama, Intcomnex United States of America.

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

The disputed domain name <intcomnex.com> is registered with Tucows Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 8, 2022. On February 9, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 9, 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 February 14, 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 amendment to the Complaint on February 14, 2022.

The Center verified that the Complaint together with the amendment to the 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 February 24, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 16, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 11, 2022.

The Center appointed Martin Schwimmer as the sole panelist in this matter on April 21, 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 has used the trademark INCOMEX since 1993 in connection with distributorship services in the field of computer products.

The trademark INTCOMEX was registered in the United States of America (“U.S”) on January 5, 1999, under Reg. No. 2216461 for services in class 35.

The disputed domain name was registered on December 17, 2021, and according to the evidence on record it was purportedly used it to send emails to customers of the Complainant.

#### **5. Parties’ Contentions**

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

The Respondent has no authorization to use the INTCOMEX trademark and is not associated with the Complainant in any manner.

The Complainant alleges that because the disputed domain name differs from its INTCOMEX trademark by a single letter, it is confusingly similar to its name. The disputed domain name is visually and phonetically confusingly similar to its trademark.

The Respondent sent emails originating with the disputed domain name to customers of the Complainant, directing the customers to make payments to a bank account not associated with the Complainant, but identifying the correctly spelled name of the Complainant as the title of the bank account. The emails are likely part of a phishing scheme.

The use of the disputed domain name in a possibly fraudulent scheme is in bad faith. The Respondent use of the Complainant’s correctly spelled name in the text of the email in question (which emails began shortly after registration of the disputed domain name), is evidence that the Respondent was previously aware of the Complainant’s reputation in the INTCOMEX trademark.

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

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

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

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

The Complainant has established through its U.S. trademark registration 2216461, ownership of the mark INTCOMEX. It has demonstrated use of its trademark at “www.intcomex.com”.

The disputed domain name differs from the Complainant’s trademark solely by the addition of the letter “n” after the letter “m”. This addition does not prevent the Complainant’s trademark from being recognizable within the disputed domain name.

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the trademark for the purpose of the Policy.

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

On the evidence of record, it is uncontested that the Respondent has no rights or legitimate interests in the disputed domain name.

The Complainant maintains: (1) it has not licensed, contracted or otherwise permitted the Respondent to use the INTCOMEX mark or to apply for any domain name incorporating the INTCOMEX mark; (2) it has not acquiesced in any way to the Respondent's use of the INTCOMEX mark in the disputed domain name; (3) there is no evidence that either "intcomex" or "intconmex" is the name of the Respondent; and (4) there is no evidence of fair use or that the Respondent is using or plans to use the INTCOMEX mark or the disputed domain name for a *bona fide* offering of goods or services.

The Complainant asserts that the Respondent has been actively using the INTCOMEX mark to generate profit by utilizing the disputed domain name to send emails to customers of the Complainant, requesting payment be sent to an account not associated with the Complainant but identifying the bank account as being that of "Intcomex" (spelled correctly).

The Complainant has raised a *prime facie* case of the Respondent's lack of any rights or legitimate interests in the disputed domain name, and the Respondent has failed to rebut that presumption. The Panel is satisfied that the Complainant has carried its burden of proving that the Respondent has no rights or legitimate interests in the disputed domain name within the meaning of paragraph 4(a)(ii) of the Policy.

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

The Complainant has used its trademark since 1993, and its U.S. trademark registration has achieved incontestable status. As the trademark is coined and arbitrary in regard to software distributorship services, INTCOMEX is a strong trademark. The addition of a single letter to the disputed domain name does not create a distinguishable domain name.

There is unrebutted evidence in the record that the disputed domain name was used to send at least one email, purportedly to customers of the Complainant, requesting that they send payment to a bank account not associated with the Complainant but identified in the email as belonging to the Complainant. This of course suggests that the Respondent was previously familiar with the Complainant when the disputed domain name was registered.

As noted in WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([WIPO Overview 3.0](#)), section 3.1.4, the "use of a domain name for *per se* illegitimate activity such as [...] phishing [...] is manifestly considered evidence of bad faith".

Additionally, the Respondent supplied clearly incorrect street address and phone number information in its Whois data, from which the Panel draws a negative inference.

The Panel finds that the disputed domain name was registered and 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 name, <intconmex.com> be transferred to the Complainant.

*/Martin Schwimmer/*

**Martin Schwimmer**

Sole Panelist

Date: April 23, 2022