

ADMINISTRATIVE PANEL DECISION

Credit Industriel et Commercial S.A. v. SAK DAGOUE
Case No. D2023-0728

1. The Parties

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

The Respondent is SAK DAGOUE, Benin.

2. The Domain Name and Registrar

The disputed domain name <cic-ibercom.com> (the “Domain Name”) is registered with Hostinger, UAB (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 17, 2023. On February 17, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On February 20, 2023, 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 (Domain Admin Privacy Protect, LLC (PrivacyProtect.org)) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 24, 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 amendment to the Complaint on March 1, 2023.

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 March 7, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 27, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 13, 2023.

The Center appointed Nicholas Smith as the sole panelist in this matter on April 19, 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 French bank, set up in 1859, that trades under its name and the trademark CIC (the "CIC Mark"). The Complainant has over 5.3 million clients and operates 1800 offices in France and 37 outside France. It operates a web portal at "www.cic.fr" (the "Complainant's Website") that offers online banking services.

The Complainant is the owner of trademark registrations for the C.I.C. and CIC Marks in various jurisdictions including a French trademark C.I.C. with a registration date of June 10, 1986, (registration number 1358524) for various services in classes 35 and 36 and a European Union Trade Mark CIC with a registration date of March 5, 2008, (registration number 005891411) in classes 9, 16, 35 and 36.

The Domain Name <cic-ibercom.com> was registered on January, 28, 2023. The Domain Name presently resolves to an inactive website but prior to the commencement of the proceeding resolved to a website (the "Respondent's Website") that reproduced the trademark, design, and appearance of the Complainant's Website, including copying photos and logos. Indeed, the Respondent's Website was essentially identical to the Complainant's Website other than the fact that it was in Spanish, rather than French. The Respondent's Website contained a page that purportedly allowed visitors to log in to their existing CIC accounts, through which the Respondent could obtain personal and financial information from visitors to the Respondent's Website who provided their account numbers and passwords under the mistaken impression they were visiting the Complainant's Website.

5. Parties' Contentions

A. Complainant

The Complainant makes the following contentions:

- (i) that the Domain Name is identical or confusingly similar to the Complainant's CIC Mark;
- (ii) that the Respondent has no rights nor any legitimate interests in respect of the Domain Name; and
- (iii) that the Domain Name has been registered and is being used in bad faith.

The Complainant is the owner of the CIC Mark, having registered the CIC Mark in the European Union and France. The Domain Name is confusingly similar to the CIC Mark, the only differences being the addition of the meaningless word "-ibercom" and the ".com" generic Top-Level-Domain ("gTLD").

There are no rights or legitimate interests held by the Respondent in respect of the Domain Name. The Respondent is not commonly known by the Domain Name nor does the Respondent have any authorization from the Complainant to register the Domain Name. The Respondent is not making a legitimate noncommercial or fair use of the Domain Name. Rather the Respondent is using the Domain Name to resolve to a website that replicates the Complainant's Website in its entirety which indicates that the Domain Name is used for phishing purposes.

The Domain Name was registered and is being used in bad faith. By using the Domain Name to resolve to a website which reproduces the Complainant's Website, the Respondent is using the Domain Name to divert Internet users searching for the Complainant to the Respondent's Website for commercial gain and for fraudulent purposes such as phishing. Such conduct amounts to registration and use of the Domain Name in bad faith.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

To prove this element the Complainant must have trade or service mark rights and the Domain Name must be identical or confusingly similar to the Complainant's trade or service mark.

The Complainant is the owner of the CIC and C.I.C Marks, having registrations in France and the European Union.

The Domain Name incorporates the CIC Mark in its entirety with the addition of the element "-ibercom" and the ".com" gTLD. Other UDRP panels have repeatedly held that where the relevant trade mark is recognizable within the disputed domain name, the addition of other terms does not prevent a finding of confusing similarity under the first element; see section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Panel finds that the Domain Name is confusingly similar to the Complainant's CIC Mark. Consequently, the requirement of paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

To succeed on this element, a complainant must make out a *prima facie* case that the respondent lacks rights or legitimate interests in the domain name. If such a *prima facie* case is made out, then the burden of production shifts to the respondent to demonstrate rights or legitimate interests in the domain name.

Paragraph 4(c) of the Policy enumerates several ways in which a respondent may demonstrate rights or legitimate interests in a domain name:

"Any of the following circumstances, in particular but without limitation, if found by the panel to be proved based on its evaluation of all evidence presented, shall demonstrate your rights or legitimate interests to the domain name for purposes of paragraph 4(a)(ii):

- (i) before any notice to you of the dispute, your 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) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or
- (iii) you are 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 Respondent is not affiliated with the Complainant in any way. It has not been authorized by the Complainant to register or use the Domain Name or to seek the registration of any domain name incorporating the CIC Mark or a mark similar to the CIC Mark. There is no evidence that the Respondent is commonly known by the Domain Name or any similar name. There is no evidence that the Respondent has used or made demonstrable preparations to use the Domain Name in connection with a legitimate noncommercial or fair use.

The Respondent has used the Domain Name to operate a website that clearly impersonates the Complainant's Website which, absent any explanation of its conduct by the Respondent, appears most likely to be a front in order to defraud the Complainant's customers by persuading them to provide the Respondent with their bank account details and passwords. Such conduct does not, on its face, amount to the use of the Domain Name for a *bona fide* offering of goods or services.

The Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the Domain Name. The Respondent has had the opportunity to put on evidence of its rights or legitimate interests, including submissions as to why its conduct amounts to a right or legitimate interest in the Domain Name under the Policy. In the absence of such a Response, the Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

For the purposes of paragraph 4(a)(iii) and 4(a)(b) of the Policy, the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that the respondent has registered or has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of the complainant, for valuable consideration in excess of its 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 .

The Panel finds that the Respondent was aware of the Complainant and its reputation in the CIC Mark at the time the Domain Name was registered. The Respondent's Website reproduces the Complainant's Website in its entirety (albeit in Spanish). The registration of the Domain Name in awareness of the CIC Mark and in the absence of rights or legitimate interests amounts under these circumstances to registration in bad faith.

The Panel finds, on the balance of probability, that the Respondent has used the Domain Name, which wholly incorporates the CIC Mark, to take advantage of user confusion in order to obtain the bank details and passwords of visitors who attempt to log into the Respondent's Website under the impression that they are logging in to or signing up to the Complainant's Website, undoubtedly for commercial gain from some form of fraud. Consequently, the Panel finds that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant and the Complainant's CIC Mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's Website (Policy, paragraph 4(b)(vi)). The fact that the Domain Name presently resolves to an inactive website does not change the Panel's findings.

Accordingly, the Panel finds that the Respondent has 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, <cic-ibercom.com> be transferred to the Complainant.

/Nicholas Smith/

Nicholas Smith

Sole Panelist

Date: April 26, 2023