

## **ADMINISTRATIVE PANEL DECISION**

New Immo Holding, v. Name Redacted

Case No. D2023-1199

### **1. The Parties**

The Complainant is New Immo Holding, France, represented by SCP Deprez, Guignot et Associés, France.

The Respondent is Name Redacted<sup>1</sup>.

### **2. The Domain Names and Registrars**

The first disputed domain name <ceetrus-patrimoine.com> is registered with Wild West Domains, LLC (the “Registrar of the first disputed domain name”).

The additional disputed domain name <ceetrus-gestion.com> is registered with Tucows, Inc. (the “Registrar of the additional disputed domain name”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 17, 2023. On March 17, 2023, the Center transmitted by email to the Registrar of the first disputed domain name a request for registrar verification in connection with the disputed domain name. On March 22, 2023, the Registrar of the first disputed domain name 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 (redacted for privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 23, 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 March 27, 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”).

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<sup>1</sup> Please see Section 6.1.B

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on March 28, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 17, 2023. The Respondent did not submit a formal response, but sent an email to the Center on March 28, 2023.

On April 11, 2023, the Complainant submitted a request to add the additional disputed domain name to the proceedings.

On April 19, 2023, the Center informed the Parties that it will proceed to panel appointment.

The Center appointed Fabrice Bircker as the sole panelist in this matter on April 27, 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.

On April 28, 2023, upon request of the Panel, the Center transmitted by email to the Registrar of the additional domain name, a request for registrar verification in connection with the additional disputed domain name.

On April 28, 2023, the Registrar of the additional domain name transmitted by email to the Center its verification response disclosing registrant and contact information for the additional disputed domain name.

On May 5, 2023, the Panel issued Procedural Order No. 1, pursuant to paragraphs 10(a), 10(b) and 12 of the Rules, i) inviting the Complainant to amend its Complaint to provide consolidation arguments and evidence, if any, by May 10, 2023, ii) inviting the Registrant for the additional disputed domain name, to comment on the Complainant's submissions, if any, by May 15, 2023, and/or to file a Response as it may deem appropriate, iii) extending accordingly the Decision due date to May 20, 2023.

On May 8, 2023, the Respondent did not submit a formal response, but sent an email to the Center.

On May 10, 2023, the Complainant filed an amended Complaint with consolidation arguments.

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

The Complainant is active in the field of real estate. Directly or through its subsidiaries, it operates 300 shopping centers in 10 European countries and has a portfolio of more than 7 billion euros of real estate assets.

The Complainant runs these activities under the brand CEETRUS, which is notably protected through the following trademark:

CEETRUS, French trademark registered under No. 4424275 on January 31, 2018, and designating services of classes 35, 36, 37, 41 and 43.

The Complainant has also an online presence through the <ceetrus.com> domain name which was registered on April 21, 2018, and which resolves to a website presenting its activities for the CEETRUS brand.

Very little is known about the Respondent, except that he is apparently located in France according to the information disclosed by the Registrars.

The first disputed domain name, <ceetrus-patrimoine.com>, was registered on February 7, 2023.

It is resolving to a parking page displaying pay-per-click links promoting notably real estate investments.

Besides, according to the record of the case, it was used to send at least one email by which the Respondent has impersonated the Complainant to propose financial and real estate investments to the recipient.

The additional disputed domain name, <ceetrus-gestion.com>, was registered on March 24, 2023.

It does not resolve to an active website.

However, it also results from the case file that it was used to send emails in which the Respondent has impersonated the Complainant in order to conduct the recipient to transfer funds to him.

## **5. Parties' Contentions**

### **A. Complainant**

First, the Complainant requests to consolidate the first and the additional disputed domain names in this procedure because the Respondent controls both of them, what is notably evidenced by the fact that the name of the Registrant communicated by the Registrars is the same for both disputed domain names.

Then, the Complainant requests the transfer of the disputed domain names, and its main arguments can be summarized as follows:

#### **Identical or Confusingly Similar**

The Complainant contends that the disputed domain names are confusingly similar to its CEETRUS trademark because they incorporate said trademark in its entirety and the latter remains recognizable within them.

#### **Rights or Legitimate Interests**

The Complainant argues that the Respondent is not authorized to use its CEETRUS trademark in any way, and that he does not have any rights, including as trademark or company name, in relation with the disputed domain names.

Then the Complainant contends that the use of a domain name in relation with sponsored hypertext links promoting competing activities does not represent a *bona fide* offering of goods or services, because such use i) is unduly capitalizing on the reputation and on the goodwill of the Complainant's trademark and ii) is misleading Internet users.

The Complainant adds that, as the disputed domain names reproduce its CEETRUS trademark, they carry a risk of implied affiliation with its brand.

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

The Complainant puts forward that the Respondent's use of the first disputed domain name <ceetrus-patrimoine.com> in relation with a parking page promoting competing activities creates a confusion with its CEETRUS trademark and misleads Internet users into believing there is a form of association between the Respondent and the Complainant.

In addition, the Complainant contends that both disputed domain names are used in phishing schemes, where the Respondent is using them to send fraudulent emails impersonating the Complainant to propose fake real estate investments to the recipients, what is bad faith evidence.

## **B. Respondent**

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

However, on March 28, 2023, further to the notification of the Complaint by the Center, he sent the following email communication:

"Hi  
I dont understand what is the problem since i do not use any product of Ceetrus".

Then, on May 8, 2023, further to the Procedural Order No. 1, he sent the following email communication:

"Hi  
I don't understand what is the problem since i am not using any trademark!  
Furthermore, I am not related to ceetrus-gestion.com that is mentionned in your attachment so please kindly speak to the right person."

## **6. Discussion and Findings**

### **6.1. Preliminary Issues**

#### **A. Consolidation of the Disputed Domain Names and Respondents**

The Complaint relates to two disputed domain names that the Complainant wishes to have dealt with in a single administrative procedure.

Paragraph 10(e) of the Rules states that "a Panel shall decide a request by a Party to consolidate multiple domain name disputes in accordance with the Policy and these Rules".

The main criteria used to determine whether a request of consolidation can be granted or not are "whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties" (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, "[WIPO Overview 3.0](#)", at paragraph 4.11.2).

In the present case, the Complainant requests the consolidation on the basis of the following arguments, which would evidence that the disputed domain names are under the control of the same person:

- the name of the Registrant of the disputed domain names is the same for both of them,
- even if the address communicated by the Registrars is not the same for both disputed domain names, the Respondent appears to be located in the same city, namely, Paris,
- both disputed domain names have been registered in a short period of time,
- both disputed domain names incorporate the CEETRUS trademark.

The Respondent has contested these arguments by an unsupported conclusory statement indicating that he would not be related to the additional disputed domain name <ceetrus-gestion.com>.

The Panel notes that:

- the name of the Respondent is exactly the same for both disputed domain names,

- this name corresponds to the name of an employee of the Complainant working in its financial department,
- even if the addresses communicated by the Respondent is not the same for both disputed domain names, both addresses have the same city details, namely Paris. And, as the other elements of the addresses are inconsistent, it appears legitimate to not take these elements into consideration,
- both disputed domain names are constructed on the same pattern: the Complainant's trademark followed by i) a hyphen, ii) a term belonging to the field of investment and iii) the same generic Top Level Domain,
- both disputed domain names have been used in a very similar way, namely to conduct phishing schemes intended to unduly obtain payments through the impersonation of the Complainant,
- both disputed domain names have not only been registered in a short period of time, but the added disputed domain name has been registered one week after the filing of the Complaint,
- at last, Respondent's rebuttal is not credible as i) it is wholly unsupported by any evidence, ii) the sender of the related emails communications has not identified himself (the emails do not bear any name as signature), iii) said emails have been sent through electronic addresses containing names without any relation with the Respondent's identity as communicated by the Registrars, and iv) the name of the Respondent communicated by the Registrars corresponds to the name of an employee of the Complainant, which suggests that the Respondent has usurped the identity of the latter.

On the view of the conjunction of all these elements, the Panel finds that, on the balance of probabilities, both disputed domain names are under common control, and, hence, accepts that the case to be dealt with in a consolidated Complaint.

## **B. Redaction of Respondent's Identity**

A mere Google search conducted on the name of the Respondent as communicated by the Registrars shows as very first result that it corresponds to the name of an employee of the Complainant working in its financial department<sup>2</sup>.

Besides, the disputed domain names have been used to fraudulently impersonate the Complainant, and some messages sent from the email address related to the <ceetrus-gestion.com> disputed domain name bear the name of the above-mentioned Complainant's employee.

In such a context, the Panel is of the opinion that it is very likely that the identity of this employee has been used by the Respondent and, therefore, that the publication of his name in the decision may be detrimental to his repute.

In these circumstances, and pursuant to paragraph 4(j) of the Policy and paragraph 16(b) of the Rules, this Panel considers that no useful purpose is to be served by referring to the name of the named Respondent.

Therefore, the Panel has decided to redact the named Respondent's identity from this decision.

As a consequence, the expression "Respondent" in this decision will identify not the named Respondent, but the person who has actually proceeded with the registration of the disputed domain names and who holds them.

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<sup>2</sup> The general powers of a panel as articulated *inter alia* in paragraphs 10 and 12 of the Rules include, among others, the possibility to undertake limited factual researches into matters of public record if the panel considers such information useful to assessing the case merits and reaching a decision. These limited factual researches notably include accessing trademark registration databases (see for instance section 4.8 of the [WIPO Overview 3.0](#)).

Besides, the Panel has attached as Annex 1 to this decision an instruction to the Registrars regarding transfer of the disputed domain names, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrars as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case (See for instance *Banco Bradesco S.A. v. FAST 12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#)).

## 6.2 Substantive Issues

Paragraph 4(a) of the Policy provides that for obtaining the transfer or the cancellation of the disputed domain names, the Complainant must establish each of the following three elements:

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

Besides, paragraph 15(a) of the Rules provides that “[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”.

Paragraphs 10(b) and 10(d) of the Rules also provide that “[i]n all cases, the Panel shall ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case” and that “[t]he Panel shall determine the admissibility, relevance, materiality and weight of the evidence”.

Taking the foregoing provisions into consideration the Panel finds as follows.

### A. Identical or Confusingly Similar

Pursuant to paragraph 4(a)(i) of the Policy, the Complainant must first establish rights in a trademark or service mark and secondly establish that the disputed domain names are identical or confusingly similar to its trademark.

It results from the documents supporting the Complaint, and in particular from Annex 5, that the Complainant is the owner of trademark registrations for CEETRUS, such as the one detailed in section 4 above.

Turning to whether the disputed domain names are identical or confusingly similar to the Complainant’s trademark, as indicated in section 1.7 of the [WIPO Overview 3.0](#): “[w]hile each case is judged on its own merits, in cases where a domain name incorporates the entirety of a trade mark (...), the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing.”

This test is satisfied here, as the disputed domain names identically reproduce the CEETRUS trademark, and because the added hyphen and element, namely “gestion” and “patrimoine”, consists of mere French terms, which do not prevent the Complainant’s trademark to remain recognizable.

Indeed, there is a consensus view among UDRP panels that where the relevant trademark is recognizable within the disputed domain names, the addition of other terms would not prevent a finding of confusing similarity under the first element of the Policy (see [WIPO Overview 3.0](#), section 1.8).

At last, the generic Top Level Domain (“gTLD”) “.com” may be ignored for the purpose of assessing the confusing similarity, because it only plays a technical function.

Consequently, the first element under the Policy set for by paragraph 4(a)(i) is fulfilled.

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

Under the Policy, a complainant is required to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the domain name at issue. Once such a *prima facie* case is made, the respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the respondent fails to do so, the complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy ([WIPO Overview 3.0](#), section 2.1; or for instance *Applied Materials, Inc. v. John Warren*, WIPO Case No. [D2020-0950](#)).

In this case, the Respondent has not been authorized by the Complainant to register and to use the disputed domain names.

Besides, according to the explanations and the convincing supporting material provided by the Complainant, the disputed domain names have been used in a fraudulent scheme where the Respondent has impersonated the Complainant to (try to) conduct the recipients of the emails sent from the disputed domain names to transfer sums of money in the wrong belief that by doing so, they were realizing financial investments with the Complainant.

Obviously, such use of the disputed domain names does not amount to a legitimate noncommercial or fair use. On the contrary, such use is made with intent for commercial gain by misleadingly diverting the recipients of the fraudulent emails and may also tarnish the Complainant's trademark.

In this respect, panels have categorically held that the use of domain names for illegal activity (such as phishing or impersonation) can never confer rights or legitimate interests on a respondent (see [WIPO Overview 3.0](#), section 2.13; or *Colas, Société Anonyme v. Concept Bale*, WIPO Case No. [D2020-2733](#)).

At last, nothing suggests that the Respondent may legitimately be commonly known under the disputed domain names.

In view of all the above, the Panel finds that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain names.

The Respondent has had an opportunity to rebut the Complainant's contentions, but has merely asserted that it is:

- not using "any product of Ceetrus",
- "not using any trademark".

Such a rebuttal not only consists of unsupported mere allegations, but is completely contradicted by the evidence provided by the Complainant demonstrating that the disputed domain names have been used to impersonate the Complainant, precisely, by using its CEETRUS trademark (Annexes 5, 7 and 26 to the amended Complaint).

Taking all the above into consideration, the Panel concludes that the Respondent has no rights or legitimate interests in the disputed domain names, and therefore that the Complainant has satisfied the second element in paragraph 4(a) of the Policy.

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

Paragraph 4(a)(iii) of the Policy provides that the Complainant must establish that the Respondent registered and is using the disputed domain names in bad faith.

The circumstances deemed to be evidence of the registration and use of a domain name in bad faith listed at paragraph 4(b) of the Policy are non-exhaustive examples.

In the present case, the Panel finds that:

- both disputed domain names identically reproduce the Complainant's CEETRUS trademark which is intrinsically distinctive and predate the registration of the disputed domain names by five years,
- the terms "gestion" and "patrimoine" composing the disputed domain names refer to the Complainant's activity (they are respectively the French words for "management" and "estate" or "asset"),
- the Respondent has provided the Registrars with inconsistent contact details,
- shortly after having proceeded with the registration of the disputed domain names by using the name of an employee of the financial department of the Complainant, the Respondent has used them to create electronic addresses from which he sent emails purporting to be the Complainant (by reproducing its logo, and/or by signing them with the name of the above-mentioned employee of the Complainant and/or by using elements of presentation coming from the Complainant),
- the Respondent used the disputed domain names to send misleading emails intended to conduct their recipients to transfer money to him.

It necessarily and obviously results from the above findings that the Respondent registered the disputed domain names being fully aware of the Complainant's prior rights, and that it has intentionally used them for commercial gain by deceiving third parties in fraudulently impersonating the Complainant.

In that regard, it is of constant case-law that the use of domain names for illegitimate activities, such as phishing or identity theft, is considered as manifest evidence of bad faith (see [WIPO Overview 3.0](#), sections 3.1.4 and 3.4, or *Sobeys Capital Incorporated v. Private By Design, LLC / Max Bill and Billi Max*, WIPO Case No. [D2020-1670](#)).

Furthermore, the fact that the first disputed domain name <ceetrus-patrimoine.com> resolves to a parking page displaying sponsored links promoting activities competing with the Complainant constitutes further evidence of bad faith use as such use is of a commercial nature, unduly capitalizes on the value of the Complainant's trademark and misleadingly diverts consumers given the closeness between the Complainant's trademark and the disputed domain name.

As a conclusion of the above, the Panel finds that the disputed domain names were registered and are being used in bad faith, within the meaning of 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 disputed domain names, <ceetrus-patrimoine.com> and <ceetrus-gestion.com> be transferred to the Complainant.

*/Fabrice Bircker/*

**Fabrice Bircker**

Sole Panelist

Date: May 19, 2023