

## **ADMINISTRATIVE PANEL DECISION**

ICADE v. Jennie Price

Case No. D2023-1763

### **1. The Parties**

The Complainant is ICADE, France, represented by De Gaulle Fleurance & Associés, France.

The Respondent is Jennie Price, United States of America (“U.S.”).

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

The disputed domain name <icadefr.com> is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 20, 2023. On April 21, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same April 21, 2023, 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 (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint.

The Center sent an email communication to the Complainant on April 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 amended Complaint on April 28, 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 2, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 22, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 26, 2023.

The Center appointed Benoit Van Asbroeck 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 French company founded in 1954, active in the real estate sector and listed on the Paris Stock Exchange. The Complainant is active under the name "icade" since 2003 and claims to have over 1200 employees.

Amongst others, the Complainant owns several active trademarks, including:

- French word trademark ICADE No. 3185579 registered on February 28, 2003 in classes 35, 36, 37 and 42; and
- French semi-figurative trademark ICADE No. 4336987 registered on February 10, 2017 in classes 35, 36, 37, 38, 39 and 41 to 43.

The Complainant operates the domain name <icade.fr>, registered on September 16, 2004.

The disputed domain name <icadefr.com> was registered on April 12, 2023. At the time of the filing of the Complaint, the disputed domain name lead to a parking page showing Pay-Per-Click ("PPC") links to products and services of the Complainant's competitors. At the time of the Decision, the disputed domain name resolves to an error page.

#### **5. Parties' Contentions**

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

The Complainant contends that the disputed domain name is confusingly similar to its ICADE trademarks, as the disputed domain name fully incorporates the trademarks. Additionally, the addition of the letters "fr" does not suffice to distinguish the disputed domain name from the Complainant's trademarks but rather will be perceived as a geographical indication of the location of the Complainant's head office, and the country of its main activities.

The Complainant claims that the Respondent has no rights or legitimate interests in respect of the disputed domain name, as the Respondent is not commonly known by the disputed domain name and has not been authorised by the Complainant to register its ICADE trademarks nor to use them in domain names or as company names. In addition, the Complainant contends that there can be no legitimate interests as the Respondent is likely participating in a scam pattern that has been relying on confusion with the Complainant's trademarks, which has been ongoing since 2018.

The Complainant contends that the Respondent has registered and is using the disputed domain name in bad faith as they are likely to be using a messaging service related to the disputed domain name to participate in a scam campaign using the Complainant's trademarks. The usurpation of identity of the Complainant for fraudulent purposes is a clear indication that the disputed domain name has been registered and used in bad faith.

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

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

## 6. Discussion and Findings

According to paragraph 4(a) of the Policy, in order to succeed, a complainant must establish each of the following elements:

- (i) the disputed domain name is identical or confusingly similar to the 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.

### A. Identical or Confusingly Similar

Pursuant to paragraph 4(a)(i) of the UDRP, the Complainant must demonstrate that the disputed domain name is (i) identical or confusingly similar to a trademark or service mark, (ii) in which the Complainant has rights.

On the basis of the evidence presented, it is established that the Complainant owns ICADE trademarks. The disputed domain name reproduces the Complainant's ICADE trademarks in their entirety, with the addition of the letters "fr". Previous UDRP panels have consistently held that, in circumstances where the disputed domain name incorporates the entirety of a trademark or its dominant feature is recognizable, the disputed domain name will be considered confusingly similar to the trademark (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7; *Fondation Le Corbusier v. Monsieur Bernard Weber, Madame Heidi Weber*, WIPO Case No. [D2003-0251](#); and *Bayerische Motoren Werke AG ("BMW") v. Registration Private, Domains By Proxy, LLC / Armands Piebalgs*, WIPO Case No. [D2017-0156](#)). This finding of confusing similarity is not prevented by the addition of other terms ([WIPO Overview 3.0](#), section 1.8; *Intesa Sanpaolo S.p.A. v. Rampe Purda*, WIPO Case No. [D2010-1116](#); and *Société des Bains de Mer et du Cercle des Etrangers à Monaco v. Mark Bolet*, WIPO Case No. [D2006-1245](#)).

Additionally, it is well-established that the generic Top-Level Domain ".com" is typically not taken into account for the purpose of assessing confusing similarity under the Policy, as it is merely standard registration requirements ([WIPO Overview 3.0](#), section 1.11).

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademarks and hence the first condition of paragraph 4(a) of the Policy has been fulfilled.

### B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, evidence of the Respondent's rights or legitimate interests in the disputed domain name for the purposes of paragraph 4(a)(ii) may be established, in particular, by any of the following circumstances:

- (i) prior to becoming aware of the dispute, the Respondent has used the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services, or made demonstrable preparations to do so;
- (ii) the Respondent is commonly known by the disputed domain name in question, even without having acquired trademark or service mark rights; or
- (iii) the Respondent is making a legitimate noncommercial or fair use of the disputed domain name without intent to misleadingly divert consumers for profit by creating confusion or to tarnish the trademark or service mark at issue.

Where the Complainant establishes *prima facie* that the Respondent has no rights or legitimate interests in the disputed domain name, the burden of production on this element is on the Respondent and it is up to the Respondent to provide relevant evidence demonstrating rights or legitimate interests in the disputed domain name. If the Respondent does not provide such relevant evidence, the Complainant is deemed to have satisfied the second element ([WIPO Overview 3.0](#), section 2.1).

In addition, the Complainant establishes that the Respondent is not using the disputed domain name in connection with a *bona fide* offering of goods or services, since the disputed domain name competes with or capitalizes on the reputation and goodwill of the Complainant's mark or otherwise mislead Internet users by redirecting to a parking page with PPC commercial links to competitors of the Complainant ([WIPO Overview 3.0](#), section 2.9). Moreover, the Panel notes that the composition of the disputed domain name, incorporating the Complainant's trademarks in their entirety together with the letters "fr" associated with the Complainant's business main location, carries a risk of implied affiliation. Indeed, the Panel considers that this risk is heightened by the association with a geographic term ("fr" for "France", by reference to the country of establishment and of main activity of the Complainant).

The Complainant has established *prima facie* that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent has not exercised its right to defend itself and has not asserted the existence of a legitimate interest in the disputed domain name, so the Panel must conclude that the second condition of paragraph (4)(a) of the Policy is satisfied.

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

Paragraph 4(b) of the Policy provides circumstances, in particular but without limitation, that shall be evidence of a disputed domain name being registered and used in bad faith – including the circumstance that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the disputed domain name, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the disputed domain name or location or of a product or service on the disputed domain name.

In addition to the circumstances provided in paragraph 4(b) of the Policy, the Panel may also consider special circumstances such as (i) the nature of the domain name (e.g., a typo of a widely known mark, or a domain name incorporating the complainant's mark plus an additional term such as a descriptive or geographic term), (ii) a clear lack of rights or legitimate interests coupled with the absence of a credible explanation for the respondent's choice of domain name, or (iii) other indicia generally suggesting that the respondent has targeted the complainant in some way ([WIPO Overview 3.0](#), section 3.2.1).

The disputed domain name was registered on April 12, 2023, which is subsequent to the registration of the Complainant's ICADE trademarks in 2003 and 2017.

The redirection of the disputed domain name to a parking page with PPC commercial links, given the composition of said disputed domain name, is significant evidence of bad faith, as the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trademark ([WIPO Overview 3.0](#), section 3.1.4). Further, the incorporation of the term "fr" in the disputed domain name, in addition to the Complainant's trademarks increases the likelihood of confusion for the public given the Complainant's main establishment and market of activity, as well as given the almost identical domain name of the Complainant's corporate website.

The Panel further concedes that, given the pattern of activity by unknown third-party scammers targeting domain names confusingly similar to the Complainant's trademarks for the purpose of an invoicing scheme, it is not improbable that the Respondent could pursue similar purposes, especially given the implied risk of affiliation of the disputed domain name with the Complainant mentioned above.

Additionally, the Panel finds that several other circumstances are indicative of bad faith, including (i) a clear absence of rights or legitimate interests coupled with no credible explanation for the Respondent's choice of

the disputed domain name, (ii) the use of a privacy shield to hide the registrant's identity, and (iii) the failure to submit a response ([WIPO Overview 3.0](#), section 3.2 and 3.6).

For the reasons set out above, the Panel considers that the requirement of registration and use in bad faith of the disputed domain name set out in paragraph 4(a)(iii) of the Policy is satisfied.

## **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 <icadefr.com> be transferred to the Complainant.

*/Benoit Van Asbroeck/*

**Benoit Van Asbroeck**

Sole Panelist

Date: June 16, 2023