

## **ADMINISTRATIVE PANEL DECISION**

New Immo Holding v. Ceetrus Guillaumon Gregory  
Case No. D2023-4773

### **1. The Parties**

The Complainant is New Immo Holding, France, represented by DDG-Deprez Guignot & Associés, France.

The Respondent is Ceetrus Guillaumon Gregory, United States of America.

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

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

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 16, 2023. On November 16, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 16, 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 (Information no disclosed) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 22, 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 November 24, 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 November 24, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 14, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 26, 2023.

The Center appointed Rodrigo Azevedo as the sole panelist in this matter on January 15, 2024. 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 New Immo Holding, formerly named Ceetrus, is the owner of the Fonciere Ceetrus, which includes 300 shopping centers in 10 European countries.

The Complainant owns several CEETRUS trademarks, including the International Trademark No. 1405962 and the French Trademark No. 4424275, respectively filled and registered on March 27, 2018, and on January 31, 2018.

The Complainant operates a website at "www.ceetrus.com".

The disputed domain name was registered by the Respondent on June 13, 2023.

The Panel accessed the disputed domain name on January 26, 2024, when it was not linked to any active website<sup>1</sup>. From the evidence provided by the Complainant, the disputed domain name was recently used to send messages to the Complainant's clientele, trying to impersonate the Complainant, in a practice usually called phishing.

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

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

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that:

- The disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights. The disputed domain name is composed entirely of the Complainant's trademark CEETRUS, placed following the generic term "gestion". This mere addition cannot distinguish the disputed domain name from the Complainant's trademark as "gestion" is a common term and strictly descriptive, as it refers to the services allegedly offered by the Respondent.
- The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent has never been authorized by the Complainant to use the CEETRUS trademarks. Also, there is no registered company under the name "Gestion Ceetrus" in France. The Respondent neither presents a bona fide offering goods and services nor a legitimate noncommercial or fair use of the disputed domain name.
- The disputed domain name was registered and is being used in bad faith. The Respondent used the disputed domain name to send email messages to the Complainant's customers, under the identity of former employees of the company Ceetrus, in order to propose real estate investments. These emails were also

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<sup>1</sup> Further to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.8, "[n]oting in particular the general powers of a panel articulated inter alia in paragraphs 10 and 12 of the UDRP Rules, it has been accepted that a panel may undertake limited factual research into matters of public record if it would consider such information useful to assessing the case merits and reaching a decision. This may include visiting the website linked to the disputed domain name in order to obtain more information about the respondent or its use of the domain name...".

sent with documents presenting the FonciereCeetrus as well as a subscription form for a Ceetrus investment booklet, which are documents that the Complainant himself uses for its real estate activities. The Respondent did not hesitate to steal the Complainant's identity in order to use its reputation and commit acts of phishing. Moreover, the fact that the Respondent used a domain privacy company to hide its true identity is additional evidence of bad faith. The disputed domain name links to an inactive link, but the apparent absence of so-called active use of a domain name (passive holding) does not in itself preclude a finding of bad faith. Furthermore, it is clear to the Complainant that the Respondent is the same person as the respondent in *New Immo Holding, v. Name Redacted*, WIPO Case [D2023-1199](#), acting for the same purposes and using the same methods despite being fully aware of the decision that has been reached in that case, determining the transfer of such domain name.

## **B. Respondent**

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

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy provides that in order to be entitled to a transfer of the disputed domain name, a complainant shall prove the following three elements:

- (i) the disputed domain name is 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 name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

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

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

Annex 5 to the Complaint shows registrations of CEETRUS trademarks obtained by the Complainant, including in France.

The trademark CEETRUS is wholly encompassed within the disputed domain name, together with the prefix "gestion-", as well as with the generic Top-Level Domain ("gTLD") suffix ".com".

Although the addition of other terms (here, "gestion", which means "management" in English) or symbols (such as "-") may bear on assessment of the second and third elements, the Panel finds that it does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

It is also well established that the addition of a gTLD, such as ".com", is typically disregarded when determining whether a domain name is confusingly similar to a complainant's trademark as such is viewed as a standard registration requirement. [WIPO Overview 3.0](#), section 1.11.1.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

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

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The Panel finds no indication that the Respondent is commonly known by the disputed domain name and the Complainant has asserted that the Respondent is not an authorized representative, nor has obtained any permission for such use of the CEETRUS trademark. Therefore, the Panel finds that the nature of the disputed domain name carries a risk of implied affiliation. [WIPO Overview 3.0](#), section 2.5.1.

Although the website at the disputed domain name does not resolve to any active website, the Complainant brought evidence that it has been used to perform phishing activities. Panels have held that the use of a domain name for illegal activity (here, claimed phishing or impersonation/passing off) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Based on the available record, the Panel finds the second element of the Policy has been established.

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

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

The disputed domain name includes the distinctive trademark CEETRUS. The addition of the term “gestion-” may even enhance the perception that the disputed domain name is sponsored or endorsed by the Complainant, in the present case, as it may suggest that it is an CEETRUS management website, operated by the Complainant or by an authorized online representative.

Furthermore, when the disputed domain name was registered (in 2023) the CEETRUS trademark was already connected with the Complainant’s business, especially in France.

Therefore, the Panel concludes that it is not feasible that the Respondent was not aware of the Complainant’s trademark and that the registration of the disputed domain name was a mere coincidence.

Actually, the use of the disputed domain name to send false email messages impersonating the Complainant, to the Complainant’s clientele, demonstrates that the Respondent targeted the Complainant when registering the disputed domain name. Therefore, the Panel concludes that the Respondent has intentionally attempted to attract, through the registration and use of the disputed domain name, the Complainant’s customers, for commercial gain, by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the website.

Furthermore, the request to provide personal data on response of such email messages at the very least raises serious suspicions of other frauds, as stated by the Complainant. Panels have held that the use of a domain name for illegal activity (here, claimed impersonation/passing off, or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Therefore, having reviewed the record, the Panel finds the registration and use of the disputed domain name constitutes bad faith under 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 name <gestion-ceetrus.com> be transferred to the Complainant.

*/Rodrigo Azevedo/*

**Rodrigo Azevedo**

Sole Panelist

Date: February 2, 2024