

## **ADMINISTRATIVE PANEL DECISION**

Goethe-Institut e.V. v. Singh Duja

Case No. D2023-4814

### **1. The Parties**

The Complainant is Goethe-Institut e.V., Germany, represented by Lausen Rechtsanwälte, Germany.

The Respondent is Singh Duja, Cameroon.

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

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

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 24, 2023. On November 24, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 24, 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 (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 5, 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 December 5, 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 December 12, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 1, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 3, 2024.

The Center appointed David Taylor as the sole panelist in this matter on January 23, 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 is a German registered association that offers, inter alia, courses and exams for learners of German as a foreign language, corresponding to the levels of the Common European Framework of Reference for Languages. The certificate awarded for passing an exam, the “Goethe-Zertifikat”, is recognized as evidence of German language skills, also in connection with immigration to Germany.

For use in connection with the Complainant’s offering of German language courses and other services, the Complainant is the registered owner of a number of trademarks for GOETHE INSTITUT, including European Union Trade Mark No. 012235685, GOETHE INSTITUT (figurative), registered on April 14, 2014.

The disputed domain name was registered on July 15, 2023. The disputed domain name resolves to a website (the “Respondent’s website”) titled “Goethe Institut”, making prominent use of the Complainant’s figurative trademark, purporting to offer Goethe-Institut German language proficiency certificates for sale, without the need to sit an exam.

#### **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.

The Complainant asserts rights in the GOETHE INSTITUT trademark and submits that the disputed domain name is identical or confusingly similar to the textual elements of its trademark.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant states that it has not licensed or otherwise authorized the Respondent to register the disputed domain name. The Complainant submits that the Respondent is not using the disputed domain name in connection with a bona fide offering of goods or services; that the Respondent is not commonly known by the disputed domain name; and that the Respondent is not making any legitimate noncommercial or fair use of the disputed domain name. Rather, claims the Complainant, the Respondent is using the disputed domain name to sell counterfeit Goethe-Institut certificates.

The Complainant submits that the Respondent registered and is using the disputed domain name in bad faith. The Complainant asserts that the Respondent is using the disputed domain name to hold itself out as the Complainant and to offer for sale counterfeit certificates allegedly issued by the Complainant, thereby impairing the authenticity and integrity of the Complainant and its qualifications. The Complainant submits that such use of the disputed domain name amounts to use in bad faith pursuant to paragraph 4(b)(iv) of the Policy.

The Complainant requests transfer of the disputed domain name.

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

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

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

In order to prevail, the Complainant must demonstrate on the balance of probabilities that it has satisfied the requirements of paragraph 4(a) of the Policy:

- (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 was 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 of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

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.

The disputed domain name comprises the textual elements of the Complainant's figurative GOETHE INSTITUT trademark. [WIPO Overview 3.0](#), section 1.10. The Complainant's trademark is altered only by the omission of the space between the terms making up the Complainant's trademark and the spelling of the German term "institut" as "institute". The Panel finds the mark to be recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel finds the first element of the Policy has been established.

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

The Panel observes that the Respondent is using the disputed domain name to offer for sale falsified German-language certificates that purport to originate from the Complainant. Such use of the disputed domain name disrupts the Complainant's business, risks misleading the public, and does not amount to use of the disputed domain name in connection with a bona fide offering of goods or services pursuant to paragraph 4(c)(i) of the Policy. The Respondent's use of the disputed domain name does not support any legitimate claim of being commonly known by the disputed domain name as contemplated by paragraph 4(c)(ii) of the Policy. Nor is the Respondent making legitimate noncommercial or fair use of the disputed domain name within the meaning of paragraph 4(c)(iii) of the Policy.

Panels have held that the use of a domain name for illegal activity, in this case the sale of falsified language certificates, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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.

The Respondent's intent to target the Complainant and its trademark is clear from the Respondent's use of the disputed domain name to offer for sale falsified German language certificates purporting to originate from the Complainant.

Panels have held that the use of a domain name for illegal activity, in this case the sale of falsified language certificates, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

The Panel further finds that by using the disputed domain name in such a manner, 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 as to the source, sponsorship, affiliation, or endorsement of the Respondent's website, in bad faith pursuant to paragraph 4(b)(iv) of the Policy.

The Panel finds that the Complainant has established the third element 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 name <goetheinstitute.org> be transferred to the Complainant.

*/David Taylor/*

**David Taylor**

Sole Panelist

Date: February 6, 2024