

ADMINISTRATIVE PANEL DECISION

IMC B.V. v. mika
Case No. D2024-1262

1. The Parties

The Complainant is IMC B.V., Netherlands (Kingdom of the), represented by Merkenbureau Knijff & Partners B.V., Netherlands (Kingdom of the).

The Respondent is mika, Japan.

2. The Domain Name and Registrar

The disputed domain name <imc.financial> is registered with Porkbun LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 25, 2024. On March 25, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 26, 2024, 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 (Name Withheld for Privacy Purposes) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 27, 2024, 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 28, 2024.

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 April 2, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 22, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 23, 2024.

The Center appointed Angelica Lodigiani as the sole panelist in this matter on April 29, 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 company based in the Netherlands (Kingdom of the), founded in 1989 under the name International Marketmakers Combination (IMC). The Complainant is one of the most active proprietary trading firms in the world and a key market maker in various products listed on the stock exchanges throughout the world. In 30 years of activity, the Complainant has grown considerably, offering its trading solutions primarily on the basis of data algorithms, and using its execution platform to provide liquidity to financial markets globally. Today, the Complainant employs over 950 people and owns offices in Amsterdam, Chicago, Hong Kong, China, New York City, Mumbai, Seoul and Sydney.

The Complainant is the owner of various trademarks consisting of, or containing, the wording “imc”, among which, the following:

- IMC (word), International registration No. 929842, registered on June 26, 2007, for financial and real estate services in class 36, and designating various jurisdictions, including Japan;
- IMC TRADING (word), International registration No. 1488678, registered on July 23, 2019, for financial and real estate services in class 36, and designating various jurisdictions, including Japan;
- IMC TRADING (figurative), International registration No. 1759367, registered on September 13, 2023, for various types of financial services in class 36;
- IMC INVESTMENTS (word), International registration No. 1682545, registered on June 3, 2022, for financial and real estate services in class 36, and designating various jurisdictions, including Japan.

The Complainant has used its trademarks IMC and IMC TRADING since 1989 and 1990 respectively.

The Complainant is also the owner of the domain name <imc.com>, registered in December, 1997, which resolves to its main website.

The disputed domain name was registered on January 29, 2024. The Respondent appears to be an individual based in Japan. At the time of the filing of the Complaint, the disputed domain name resolved to a website displaying the Complainant’s IMC and IMC TRADING marks with a logo virtually identical to the Complainant’s logo and listing among others the values of various cryptocurrencies and purportedly providing services related to finance, investment and trading. The website also contained a login page where one could insert one’s credentials presumably to access a restricted part of the website.

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 the Complainant’s trademarks IMC and IMC TRADING, as it incorporates the trademark IMC, while the generic Top-Level Domain (gTLD) “.financial” should be disregarded when determining the identity or confusing similarity under the first element of the Policy.

The Complainant further maintains that the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant did not authorize the Respondent to register and use the disputed domain name, or make use of its trademarks in any other manner. The Respondent is not connected or affiliated with the Complainant and has no other relationship with the Complainant. The Respondent does not appear to be commonly known by the disputed domain name, as there are no elements that can link the Respondent to the Complainant’s marks. Moreover, the Respondent is not making a legitimate noncommercial or fair use

of the disputed domain name. The disputed domain name resolves to a website displaying the Complainant's marks and presenting itself as an international global provider of various financial services including investment and trading services. The Respondent's website gives the impression of an affiliation with the Complainant and the Respondent is seeking to take advantage from the goodwill or reputation of the Complainant and of its trademarks for IMC and IMC TRADING.

Lastly, the Complainant maintains that the Respondent registered and is using the disputed domain name in bad faith. The Complainant's trademark rights predate the registration and use of the disputed domain name. The use of the disputed domain name is clearly in bad faith. The Respondent displays the Complainant's marks and logos on the website associated with the disputed domain name. Through its website, the Respondent is impersonating the Complainant or creating the false impression of an affiliation with the Complainant. The Respondent is abusing the reputation and goodwill of the Complainant's trademarks and is seeking to ride on the coattails of its reputed marks. Therefore, the Respondent is seeking to attract traffic and to lure Internet users for some illegitimate purpose.

B. Respondent

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

6. Discussion and Findings

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. In particular, the Complainant has shown that it has owned the IMC mark registered at the international level since 2007.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the Complainant's IMC 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

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.

In the instant case, the Panel notes that the Complainant has no relation with the Respondent and that the Complainant did not authorize the Respondent to incorporate its IMC trademark in the disputed domain name. The Respondent is not the Complainant's licensee or one of its agents. The Respondent does not appear to be commonly known by the disputed domain name. The Respondent's name does not coincide with the disputed domain name.

The disputed domain name is identical to the Complainant's trademark IMC and has been registered under the gTLD ".financial", which makes direct reference to the Complainant's activity. Moreover, the Respondent is using the disputed domain name to resolve to a website displaying the Complainant's marks with a logo virtually identical to the Complainant's logo and providing similar financial services. The Respondent is therefore impersonating or suggesting sponsorship or endorsement by the Complainant and is seeking to take advantage of the Complainant's mark. [WIPO Overview 3.0](#), section 2.14.1. The webpage also contains a login space where users are invited to register themselves and insert their credentials in order to access a potentially restricted part of the website.

In the absence of any authorization from the Complainant, the Respondent's use of the disputed domain name cannot amount to a bona fide offering of goods or services or to a legitimate noncommercial or fair use of the disputed domain name. The Respondent is infringing on the Complainant's earlier rights to mislead potential customers of the Complainant's products, inducing them to believe that the Respondent's website belongs to the Complainant or at least is sponsored by or affiliated with the Complainant, hence the Respondent is unduly profiting from the goodwill of the Complainant's trademark.

Panels have held that the use of a domain name for illegal activity, such as impersonation/passing off, or other types of fraud, 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.

In the present case, the Panel notes that the Respondent has registered a disputed domain name identical to the Complainant's IMC trademark. Moreover, the Respondent has associated the Complainant's mark to the gTLD ".financial", which is a term linked to the Complainant's activity. Further, the Respondent's website displays several of the Complainant's marks, including the figurative trademark IMC TRADING, which was registered only a few months before the registration of the disputed domain name. These circumstances suggest that the Respondent, not only knew the Complainant and its business very well at the time of the registration of the disputed domain name, but also closely followed the Complainant's business. It is therefore clear that the Respondent was well aware of the Complainant and of its various IMC marks when it registered the disputed domain name.

At the time of the filing of the Complaint, the disputed domain name resolved to a website listing among others cryptocurrency values and purportedly offering services related to finance, investment and trading. Therefore, by using the disputed domain name, 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 mark.

Further, the website also contained a login page where users were invited to register and insert their credentials. Although what happens after an Internet user has entered its personal information to login is not

clear, in consideration of the overall circumstances of this case, it is likely that the Respondent's purpose is to conduct illegitimate activity. Panels have held that the use of a domain name for illegal activity, such as impersonation/passing off, or other types of fraud, 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.

Accordingly, 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 <imc.financial> be transferred to the Complainant.

/Angelica Lodigiani/

Angelica Lodigiani

Sole Panelist

Date: May 16, 2024