

## **ADMINISTRATIVE PANEL DECISION**

EIFFAGE, CEVM Gestion et Developpement v. sana bb, kps  
Case No. D2024-2518

### **1. The Parties**

The Complainants are EIFFAGE (the “First Complainant”) and CEVM Gestion et Developpement (the “Second Complainant”), France, represented by Domgate, France.

The Respondent is sana bb, kps, Cambodia.

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

The disputed domain name <course-eiffage-viaducdemillau.org> is registered with GoDaddy.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 20, 2024. On June 20, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 20, 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 (REDACTED FOR PRIVACY, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainants on June 25, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amended Complaint on June 25, 2024.

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 July 1, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 21, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 24, 2024.

The Center appointed Wilson Pinheiro Jabur as the sole panelist in this matter on August 2, 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 Complainants are part of a group of companies that was founded in 1844 and presently employees 78,200 people in the construction and concessions business.

The First Complainant was founded in 1970 and is presently listed in the French Stock Exchange, having generated a revenue of EUR 21.8 billion in 2023.

The Second Complainant was responsible for the construction of the Millau Viaduct (Viaduc de Milliau in French), a cable-stayed bridge completed in 2004 in Southern France, and which holds the world record for the tallest bridge (343 meters), being currently in charge of the operation of this viaduct (Annex 5 to the Complaint).

In 2004, the first Eiffage Viaduct de Millau run ("course EIFFAGE du Viaduc de Millau", in French) took place, having become a well-known event in the world of running, being the official websites for the event, <course-eiffage-viaducdemillau.fr> and <course-eiffage-viaducdemillau.com> (Annex 6 to the Complaint).

The First Complainant owns several trademark registrations, amongst which (Annex 7 to the Complaint):

- French trademark registration No. 93458596 for the word mark EIFFAGE, registered on March 9, 1993, in classes 35, 36, 37, and 42; and
- International trademark registration No. 843144 for the word EIFFAGE, registered on July 22, 2004, in international classes 6, 9, 19, 35, 36, 37, 38, 39, 40, and 42.

The Second Complainant, in its turn, owns the following trademark registrations:

- French trademark registration No. 3124704 for the word and device mark LE VIADUC DE MILLAU, registered on October 8, 2001, in international classes 16, 25, 28, 36, 37, and 39; and
- French trademark registration No. 4060714 for the word and device mark VIADUC DE MILLAU, registered on January 13, 2014, in international class 39.

The disputed domain name was registered on February 16, 2012, by the Complainant, having been used in connection with the official website on the run, but was not timely renewed having then been sold through GoDaddy Auctions expired domains. Presently, the disputed domain name redirects Internet users to an active webpage in Thai, relating to gambling games. The Complainants attempted to contact the Respondent (Annex 13 to Complaint) prior to this procedure but have not received any reply to the form that was filled out.

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

##### **A. Complainants**

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

Notably, the Complainants contends that the disputed domain name is confusingly similar to the Complainants' EIFFAGE and VIADUC DE MILLAU well-known trademarks given that they are entirely incorporated in the disputed domain name with the addition of the French term "course" which refers to the run organized by the Second Complainant at the viaduct constructed by it and therefore incapable of avoiding a finding of confusing similarity.

Regarding the absence of the Respondent's rights or legitimate interests, the Complainants argue that:

- (i) the disputed domain name does not consist of a generic term, rather referring to the name of an event taking place on the Viaduct de Millau;
- (ii) the Respondent is not commonly known by the disputed domain name;
- (iii) the Respondent does not own any trademark for COURSE EIFFAGE VIADUC DE MILLAU or EIFFAGE or VIADUC DE MILLAU;
- (iv) the Complainants have never licensed or otherwise authorized the Respondent to use the EIFFAGE or VIADUC DE MILLAU trademarks as domain name and particularly for giving access to a commercial website; and
- (v) the website to which Internet users are redirected when accessing the disputed domain name consists of a gambling webpage in Thai and cannot be considered as a legitimate noncommercial or fair use of the disputed domain name.

As to the registration and use of the disputed domain name in bad faith, the Complainants state that:

- (i) the Respondent clearly knew of the Complainants' well-known trademarks and the event concerned at the time of registration because the Complainants' EIFFAGE and VIADUC DE MILLAU trademarks are reproduced in their entirety in the disputed domain name;
- (ii) EIFFAGE is a "coined distinctive word that appears to be exclusively associated with the Complainant" as recognized in past UDRP case (*Eiffage v. Pierre Naouri*, WIPO Case No. [D2022-0617](#));
- (iii) the Respondent took advantage of the problem with the disputed domain name's renewal by the Complainants and is using the disputed domain name to generate traffic to the gambling webpage to which Internet users are directed when accessing it, thus seeking to capitalize on the Complainants' trademarks and reputation;
- (iv) the lack of reply to the cease and desist letter sent is a further indicative of the Respondent's bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy sets forth the following three requirements which the Complainant must meet in order for the Panel to order the transfer of the disputed domain name:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainants have 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**

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 Complainants have 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 entirety of the marks is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms ("course" and hyphens) may bear on assessment of the second and third elements, the Panel finds the addition of such term 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.

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

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

Paragraph 6(c) of the Policy provides a non-exclusive list of circumstances that may indicate a respondent's rights to or legitimate interests in a domain name. These circumstances are:

(i) before any notice of the dispute, the respondent's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or

(ii) the respondent (as an individual, business, or other organization) has been commonly known by the domain name, even if it has not acquired trademark or service mark rights; or

(iii) the respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

In that sense, the Complainants indeed state that they have never licensed or otherwise authorized the Respondent to use the EIFFAGE or VIADUC DE MILLAU trademarks as domain name and particularly for giving access to a commercial website.

Also, the absence of any trademarks or trade names registered by the Respondent corresponding to the disputed domain name, or any possible link between the Respondent and the disputed domain name, that could be inferred from the details known of the Respondent or the webpage relating to the disputed domain name, corroborate the absence of a right or legitimate interest.

As seen above, the Respondent has used the disputed domain name to redirect Internet users to a webpage in Thai promoting a gambling website, what does not characterize a bona fide use. Moreover, the Panel finds that the nature of the disputed domain name carries a risk of implied affiliation with the Complainant. See [WIPO Overview 3.0](#), section 2.5.1.

Under these circumstances and absent evidence to the contrary, the Panel finds that the Respondent does not have rights or legitimate interests with respect to the disputed domain name.

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

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

The Policy indicates in paragraph 4(b)(iv) that bad faith registration and use can be found in respect of a domain name, where a respondent has intentionally attempted to attract, for commercial gain, Internet users to the respondent's website or other online location, by creating a likelihood of confusion with a complainant's mark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on the website or location.

In this case, both the registration and use of the disputed domain name in bad faith can be found pursuant to Policy, paragraph 4(b)(iv) in view of the redirection of the disputed domain name to a gambling website, which creates a likelihood of confusion with the Complainant's marks as to the source, sponsorship, affiliation, or endorsement thereof. In light of the circumstances of the case, the Panel considers reasonable to conclude that, in the absence of an alternative explanation, the Respondent was probably attempting to take an unfair advantage by profiting from traffic generated by the Complainant's previous use of the disputed domain name.

Moreover, bad faith of the Respondent is also supported here by (i) the lack of reply by the Respondent invoking any rights or legitimate interests; and (ii) the false or incomplete information used by the Respondent for registering the disputed domain name.

For the reasons above, the Respondent's conduct has to be considered, in this Panel's view, as bad faith registration and use of the disputed domain name pursuant to paragraph 4(b)(iv) of the Policy.

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

### **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 <course-eiffage-viaducdemillau.org> be transferred to the Complainant.

*/Wilson Pinheiro Jabur/*

**Wilson Pinheiro Jabur**

Sole Panelist

Date: August 16, 2024