

## **ADMINISTRATIVE PANEL DECISION**

Ifchor Galbraiths UK Limited v. Forwading Admin, Forwading Inc  
Case No. D2024-3187

### **1. The Parties**

The Complainant is Ifchor Galbraiths UK Limited, United Kingdom, represented by SafeNames Ltd., United Kingdom.

The Respondent is Forwading Admin, Forwading Inc, France.

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

The disputed domain names <ifchogalbraiths.com> and <ifchorgalbratihs.com> are registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 2, 2024. On August 5, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On August 5, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names 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 August 6, 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 amended Complaint on August 6, 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 August 7, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 27, 2024. The Respondent did not submit any response. The Center received an email from a third party on August 19, 2024. Accordingly, the Center notified the commencement of panel appointment process on August 28, 2024.

The Center appointed Nayiri Boghossian as the sole panelist in this matter on August 30, 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 shipping network that resulted from the merger in 2022 of two companies, Ifchor and Galbraiths. The Complainant owns the following trademark registration for IFCHORGALBRAITHS:

Swiss Trademark Registration No. 814112, registered on May 7, 2024.

The Complainant's official website is found at the domain name <ifchorgalbraiths.com>.

The disputed domain name <ifchogralbraiths.com> was registered on December 18, 2023, and resolves to an inactive website. The disputed domain name <ifchorgalbratihs.com> was registered on April 23, 2024, and resolves to an inactive website. However, the Complainant has provided evidence that the disputed domain name <ifchorgalbratihs.com> has been used to send fraudulent emails impersonating the Complainant's employee.

#### **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 names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights. The Complainant has registered its trademark with design elements but these elements are not prominent. The Complainant's trademark has become a distinctive identifier associated with the Complainant. The disputed domain names differ from the Complainant's trademark by the misplacement of the letters "r" and "i", which is typosquatting. This deliberate misspelling satisfies the test of confusing similarity. The generic Top-Level-Domain ("gTLD") ".com" should be disregarded.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain names. The Respondent does not own any trademark rights to the terms used in the disputed domain names. The disputed domain names are held passively. There is no bona fide offering of goods or services. The disputed domain name <ifchorgalbratihs.com> has been used for phishing. The Respondent is not commonly known by the terms used in the disputed domain names. The Complainant's trademark is non-generic. There is no legitimate noncommercial or fair use of the disputed domain names.

The Complainant contends that the disputed domain names were registered and are being used in bad faith. The Complainant held unregistered rights in the trademarks since 2022, when the merger took place. The Respondent clearly targeted the Complainant and this is demonstrated by the phishing emails. The bad faith use is demonstrated through phishing and the typosquatting. Also, no response was received to the cease-and-desist letter. Passive holding does not prevent a finding of bad faith under certain circumstances, which are found here.

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

The Respondent did not reply to the Complainant's contentions. However, the Center received an email from a third party stating that its address has been used by the Respondent without authorization when

registering the disputed domain names, and that its company has no knowledge of or connection with “Forwading Admin, Forwading Inc”.

## **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. The Panel notes that the Complainant’s trademark registration occurred later than the registration of the disputed domain names but such fact has no impact on the assessment of the first element in the current case. [WIPO Overview 3.0](#), section 1.1.3.

The entirety of the mark is reproduced within the disputed domain names with typos whereby the letter “r” in <ifchogralbraiths.com> and the letter “i” in <ifchorgalbratihs.com> are misplaced. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.7 and 1.9.

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 names. 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 names such as those enumerated in the Policy or otherwise.

In relation to the disputed domain name <ifchorgalbratihs.com>, panels have held that the use of a domain name for illegal activity here, claimed phishing, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

In relation to the disputed domain name <ifchogralbraiths.com>, there is no evidence of use. Such non-use does not represent any bona fide offering nor does it confer rights or legitimate interests upon the Respondent under the circumstances of the case.

In addition, the Panel considers that since one of the disputed domain names has been used for phishing, it is likely that the other one may be put to a similar use. In this regard, the Panel notes particularly that the typosquatting nature of the disputed domain names as compared to the Complainant's mark is inherently misleading and such composition cannot constitute fair use.

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 Complainant is a shipping network that resulted from the merger in 2022 of two companies, which predates the registration of the disputed domain names. In the present case, the Panel notes that the Respondent must have been aware of the Complainant's merger and (nascent) trademark rights at the time of the registration of the first disputed domain name in 2023, as the disputed domain names are of a typosquatting nature. Additionally, the Respondent contacted a potential customer impersonating the Complainant and offering its services.

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.

In relation to the disputed domain name <ifchogralbraiths.com>, panels have found that the non-use of a domain name (including a blank page) would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the typosquatting in the composition of the disputed domain name and the Respondent use of a third party's contact details when registering the disputed domain names and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

In relation to the disputed domain name <ifchorgalbratihs.com>, panels have held that the use of a domain name for illegal activity here, claimed, phishing 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 names constitutes bad faith under 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 names <ifchogralbraiths.com> and <ifchorgalbratihs.com> be transferred to the Complainant.

*/Nayiri Boghossian/*

**Nayiri Boghossian**

Sole Panelist

Date: September 10, 2024