

## **ADMINISTRATIVE PANEL DECISION**

Software Brokers of America, Inc. d/b/a Intcomex v. just work, intconex.com  
Case No. D2024-3585

### **1. The Parties**

Complainant is Software Brokers of America, Inc. d/b/a Intcomex, United States of America (“U.S.”), represented by Ferraiuoli LLC, U.S.

Respondent is just work, intconex.com, U.S.

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

The disputed domain name <intconex.com> (the “Domain Name”) is registered with Tucows Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 4, 2024. On September 4, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On September 4, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to Complainant on September 9, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on September 11, 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 Respondent of the Complaint, and the proceedings commenced on September 13, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 3, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on October 7, 2024.

The Center appointed Kimberley Chen Nobles as the sole panelist in this matter on October 11, 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**

Complainant is a Florida-based company located in the U.S., involved in the distribution of computer products. Complainant owns U.S. registered trademark number 2216461 for INTCOMEX, registered on January 5, 1999, and the domain name <intcomex.com>, which was registered on April 14, 1996.

The Domain Name was registered on July 19, 2024 and was used send emails from "[...@intconex.com]" as part of a fraudulent scheme to provide fraudulent bank account status information to Complainant's clients and request payment from them. At the time of the Decision, the Domain Name resolves to an inactive or error webpage.

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

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

Complainant contends that it has satisfied each of the elements required under the Policy for a cancellation of the Domain Name.

Complainant contends that (i) the Domain Name is identical or confusingly similar to Complainant's trademark; (ii) Respondent has no rights or legitimate interests in the Domain Name; and (iii) Respondent registered and is using the Domain Name in bad faith.

In particular, Complainant contends that it has trademark registrations for INTCOMEX, and that Respondent registered and is using the Domain Name with the intention to confuse Internet users looking for bona fide and well known INTCOMEX services.

Complainant notes that it has no affiliation with Respondent. Complainant further contends that Respondent is using the Domain Name as a tool to exploit Complainant's reputation for its own commercial gain, and that Respondent has no rights or legitimate interests in the registration and use of the Domain Name other than trademark infringement. Further, Complainant contends that Respondent has acted in bad faith in acquiring and setting up the Domain Name, when Respondent clearly knew of Complainant's rights.

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

Respondent did not reply to Complainant's contentions.

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

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel that:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name was registered and is being used in bad faith.

Section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”) states that failure to respond to the complainant’s contentions would not by itself mean that the complainant is deemed to have prevailed; a respondent’s default is not necessarily an admission that the complainant’s claims are true.

Thus, although in this case, Respondent has failed to respond to the Complaint, the burden remains with Complainant to establish the three elements of paragraph 4(a) of the Policy by a preponderance of the evidence.

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

Ownership of a trademark registration is generally sufficient evidence that a complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. See [WIPO Overview 3.0](#), section 1.2.1. Complainant has provided evidence of its rights in the INTCOMEX trademark, as noted above under Section 4. Complainant has also submitted evidence which supports that the INTCOMEX trademark is widely known and a distinctive identifier of Complainant’s products and services. Complainant has therefore proven that it has the requisite rights in the INTCOMEX trademark.

With Complainant’s rights in the INTCOMEX trademark established, the remaining question under the first element of the Policy is whether the Domain Name, typically disregarding the Top-Level Domain (“TLD”) in which it is registered (in this case is, “.com”), is identical or confusingly similar to Complainant’s trademark. See, e.g., *B & H Foto & Electronics Corp. v. Domains by Proxy, Inc. / Joseph Gross*, WIPO Case No. [D2010-0842](#).

Here, the Domain Name is confusingly similar to Complainant’s INTCOMEX trademark. The use of Complainant’s trademark in its entirety, with the replacement and substitution of the letter “m” in INTCOMEX with the letter “n” does not prevent a finding of confusing similarity between the Domain Name and the INTCOMEX trademark as it is recognizable in the Domain Name.

Thus, the Panel finds that Complainant has satisfied the first element of the Policy.

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

Under paragraph 4(a)(ii) of the Policy, a complainant must make a prima facie showing that a respondent possesses no rights or legitimate interests in a disputed domain name. See, e.g., *Malayan Banking Berhad v. Beauty, Success & Truth International*, WIPO Case No. [D2008-1393](#). Once a complainant makes out such a prima facie showing, the burden of production shifts to the respondent, though the burden of proof always remains on the complainant. If the respondent fails to come forward with relevant evidence showing rights or legitimate interests, the complainant will have sustained its burden under the second element of the UDRP.

From the record in this case, it is evident that Respondent was, and is, aware of Complainant and its INTCOMEX trademarks, and does not have any rights or legitimate interests in the Domain Name. In addition, Complainant asserts that Respondent is not related to Complainant. Respondent is also not known to be associated with the INTCOMEX trademark and there is no evidence showing that Respondent has been commonly known by the Domain Name.

In addition, Respondent has not used the Domain Name in connection with a bona fide offering of goods or services or a legitimate noncommercial or fair use. Rather, at the time of the filing of the Complaint, the Domain Name was used as part of a fraudulent scheme in an attempt to obtain payments from Complainant’s clients.

Complainant asserts that Respondent has registered the Domain Name to use in connection with a phishing scheme, unauthorized bank account access/hacking or otherwise attempting to pass off as Complainant. As an example, Complainant notes that it received a forwarded copy of an email dated July 24, 2024 from

someone claiming to be “[Redacted]”, using the email address “[...]@intcomex.com”, and a second email dated August 2, 2024 from someone claiming to be “[Redacted]” using the email address “[...]@intcomex.com” – i.e., posing to be Complainant - each with copies to email addresses at “[...]@intercomnex.com” – i.e., to Respondent, providing fraudulent information regarding bank information status and requesting fraudulent payment.

Such activities indicate that Respondent, falsely posing as Complainant, was attempting to direct Complainant’s clients, to provide sensitive information to extract fraudulent payments from Complainant’s clients. The resulting confusion would cause damage to Complainant’s reputation, good will and interfere with Complainant’s business activities.

Such use does not constitute a bona fide offering of goods or services or a legitimate noncommercial or fair use and cannot under the circumstances confer on Respondent any rights or legitimate interests in the Domain Name.

Accordingly, Complainant has provided evidence supporting its prima facie claim that Respondent lacks any rights or legitimate interests in the Domain Name. Respondent has failed to produce countervailing evidence of any rights or legitimate interests in the Domain Name, reinforcing the notion that Respondent was not using the Domain Name in connection with a bona fide offering.

Thus, the Panel concludes that Respondent does not have any rights or legitimate interests in the Domain Name, and Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

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

The Panel finds that Respondent’s actions indicate that Respondent registered and is using the Domain Name in bad faith.

Paragraph 4(b) of the Policy provides a non-exhaustive list of circumstances indicating bad faith registration and use on the part of a domain name registrant, namely:

“(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or trademark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or  
(ii) you have registered the domain name in order to prevent the owner of the trademark or trademark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or  
(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or  
(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location.”

The Panel finds that Complainant has provided ample evidence to show that registration and use of the INTCOMEX trademark long predates the registration of the Domain Name. Complainant is also well established and known. Indeed, the record shows that Complainant’s INTCOMEX trademark and related services are widely known and recognized. Therefore, Respondent was aware of the INTCOMEX trademarks when it registered the Domain Name, knew, or should have known that the Domain Name was confusingly similar to Complainant’s trademarks. See [WIPO Overview 3.0](#), section 3.2.2; see also *TTT Moneycorp Limited v. Privacy Gods / Privacy Gods Limited*, WIPO Case No. [D2016-1973](#).

The Panel therefore finds that Respondent’s awareness of Complainant’s trademark rights at the time of registration suggests bad faith. See *Red Bull GmbH v. Credit du Léman SA, Jean-Denis Deletraz*, WIPO

Case No. [D2011-2209](#); *Nintendo of America Inc v. Marco Beijen, Beijen Consulting, Pokemon Fan Clubs Org., and Pokemon Fans Unite*, WIPO Case No. [D2001-1070](#); and *BellSouth Intellectual Property Corporation v. Serena, Axel*, WIPO Case No. [D2006-0007](#).

Further, the registration of the Domain Name incorporating Complainant's INTCOMEX trademark in its entirety with a typo suggests Respondent's actual knowledge of Complainant's rights in the INTCOMEX trademark at the time of registration of the Domain Name and its effort to opportunistically capitalize on the registration and use of the Domain Name.

As noted above, Respondent has registered the Domain Name to use in connection with a phishing scheme to extract sensitive personal information and fraudulent payments from Complainant's clients, while attempting to pass off as Complainant.

At the time of the Decision, the Domain Name resolves to an inactive or error webpage, which does not change the Panel's finding of Respondent's bad faith.

Further, the Panel also notes the reputation of the INTCOMEX trademark, the failure of Respondent to submit a Response or to provide any evidence of actual or contemplated good-faith use, and the implausibility of any good-faith use to which the Domain Name may be put.

Accordingly, the Panel finds that Respondent registered and is using the Domain Name in bad faith and Complainant succeeds under the third element of paragraph 4(a) 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 Domain Name <intconex.com> be cancelled.

*/Kimberley Chen Nobles/*

**Kimberley Chen Nobles**

Sole Panelist

Date: October 18, 2024