

## ADMINISTRATIVE PANEL DECISION

IMC B.V. v. Dawn Lawrence

Case No. D2024-4080

### 1. The Parties

The Complainant is IMC B.V., Netherlands (Kingdom of the), represented by DLA Piper LLP (US), United States of America (“United States”).

The Respondent is Dawn Lawrence, Singapore.

### 2. The Domain Names and Registrar

The disputed domain names <imceplus.cc>, <imceplus.com>, <imcpro.cc>, and <imcjk.cc> are registered with Domain International Services Limited (the “Registrar”).

### 3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on October 3, 2024 regarding three out of the four disputed domain names. On October 4, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On October 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 (UNIDENTIFIED REGISTRANT) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 9, 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 in English on October 14, 2024, in which the Complainant requested the addition of the disputed domain name <imcjk.cc> (the “Additional Disputed Domain Name”) into the proceeding.

On October 9, 2024, the Center informed the Parties in Chinese and English, that the language of the Registration Agreements for the three disputed domain names in the Complaint is Chinese. On October 14, 2024, the Complainant requested English to be the language of the proceeding. The Respondent did not submit any comment on the Complainant’s submission.

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 in Chinese and English of the Complaint, and the proceedings commenced on October 17, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 6, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on November 7, 2024.

The Center appointed Hong Yang as the sole panelist in this matter on November 13, 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.

On December 4, 2024, the Panel instructed the Center to transmit a request for Registrar Verification by email to the Registrar in connection with the Additional Disputed Domain Name. On December 5, 2024, the Registrar confirmed that the Respondent is listed as the registrant of the Additional Disputed Domain Name and providing the contact details, and the language of the Registration Agreement for the Additional Disputed Domain Name is Chinese. On December 6, 2024, the Panel issued the Administrative Panel Procedural Order No. 1, in which the Respondent was invited to comment on the Additional Disputed Domain Name by December 11, 2024. The Respondent did not respond to the Administrative Panel Procedural Order No. 1 by the specified due date.

#### **4. Factual Background**

The Complainant is a company was founded in 1989 in the Netherlands (Kingdom of the), and has grown on an international basis with offices in Amsterdam, the United States, Australia, India, the United Kingdom, and Hong Kong, China ("Hong Kong"). Its business covers trading on the basis of data and algorithms and using its execution platform to provide liquidity to financial markets. It was named the 2023 Market Maker of the Year for FOW International.

The Complainant is the owner of a number of trademarks containing the wording IMC in different jurisdictions, including: United States Registration No. 3643617, for IMC, registered on June 23, 2009; Benelux Registration No. 816010, for IMC, registered on April 5, 2007; and Hong Kong Registration No. 306286528, for  IMC, registered on December 29, 2023.

The Complainant is the owner of the domain name <imc.com>, registered on December 29, 1997, which directs to its official site.

The disputed domain names were respectively registered on May 5, 2024 for <imceplus.cc> and <imceplus.com>, on August 21, 2024 for <imcjk.cc>, and on August 22, 2024 for <imcpro.cc>. The evidence submitted by the Complainant shows that, at the time of filing of the Complaint, the disputed domain names resolved to virtually identical websites prominently featuring the Complainant's IMC trademark, including copying of its logo in the same stylized form. The associated websites contained contents related to trade and financial services that are also offered by the Complainant. Under the "About Us" section on the websites, it is indicated that "IMC was founded in 1989 by two traders working on the floor of the Amsterdam Equity Options Exchange", which is the Complainant's origin story.

#### **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 names.

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

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

## 6. Discussion and Findings

### 6.1 Preliminary Issue: Language of the Proceeding

The language of the Registration Agreement for the disputed domain names is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that: (1) the disputed domain names incorporate the Complainant's name and brand, IMC; (2) the websites under the disputed domain names copy Complainant's logo and appear all in English; (3) allowing the dispute to proceed in Chinese would give the Respondent an advantage and would force the Complainant to incur additional costs and expenses in seeking assistance.

The Respondent had been notified by the Center, in both Chinese and English, of the language of the proceeding, and the deadline for filing a Response in Chinese or English. The Respondent did not make any specific submissions with respect to the language of the proceeding, nor did the Respondent file any Response.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

### 6.2 Substantive Issues

#### 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 names. [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 finds the mark is recognizable within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here, "eplus", "pro", and "jk" may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Moreover, the applicable generic Top-level Domains ("gTLDs") ".cc" and ".com" in the disputed domain names do not change this finding, since the TLD in a domain name, as a standard registration requirement, is generally disregarded in such an assessment of confusingly similarity. [WIPO Overview 3.0](#), section 1.11.

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.

The Panel notes that the available record shows that the Respondent is not affiliated or otherwise authorized by the Complainant or held any registration of the IMC mark anywhere. There is no evidence indicating that the Respondent might be commonly known by the disputed domain names.

The disputed domain names resolve to virtually identical websites featuring the Complainant’s trademark, including copying its logo in the same stylized form, without any consent or approval. Nor is there any disclaimer about the Respondent’s (lack of) relationship with the Complainant. The websites under the disputed domain names show contents corresponding to trade/financial services that are also offered by the Complainant. Moreover, under the “About Us” section on the websites, it is indicated that “IMC was founded in 1989 by two traders working on the floor of the Amsterdam Equity Options Exchange”, which is the Complainant’s origin story. The Panel is convinced that the Respondent has attempted to create the false impression about the relationship with or endorsement from the Complainant, effectively impersonating the Complainant. Such use cannot constitute any bona fide offering of goods or services nor a legitimate noncommercial or fair use of the disputed domain names.

Panels have held that the use of a domain name for illegitimate activity, here, claimed impersonation/passing off, 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 used, without any license or authorization the Complainant’s trademark in full in the disputed domain names. The Complainant’s trademark IMC is reputational in its industry and the Complainant’s registration and use of its mark well predates the Respondent’s registration of the disputed domain names, so the Respondent knew or should have known of the Complainant’s mark and apparently targeted its famous mark at the time of registering the disputed domain names. Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a

descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4

The available record shows that the disputed domain names resolve to virtually identical websites, featuring the Complainant's trademark and logo, containing contents related to the Complainant's field of business (i.e., trade and finance), purportedly offering trade and financial services, as well as copying the Complainant's origin story under the "About Us" section. It is apparent that the Respondent impersonates the Complainant and targets it to attract Internet users to its websites by creating a likelihood of confusion, taking unfair advantage from the Complainant's reputational trademark. The disputed domain names were thus registered and are being used in bad faith.

Panels have held that the use of a domain name for illegitimate activity, here claimed impersonation/passing off, 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 <imceplus.cc>, <imceplus.com>, <imcpro.cc>, and <imcjk.cc> be transferred to the Complainant.

*/Hong Yang/*

**Hong Yang**

Sole Panelist

Date: December 14, 2024