

## **ADMINISTRATIVE PANEL DECISION**

Fiducial v. Milen Radumilo

Case No. D2022-2436

### **1. The Parties**

The Complainant is Fiducial, France, represented internally.

The Respondent is Milen Radumilo, Romania.

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

The disputed domain name <ceuesfiducial.com> is registered with Firstround Names LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 5, 2022. On July 5, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 7, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on July 8, 2022, 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 July 12, 2022.

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 13, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 2, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 3, 2022.

The Center appointed Jonathan Agmon as the sole panelist in this matter on August 12, 2022. 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, Fiducial, is a French company incorporated in 1984. The Complainant provides multidisciplinary services to small and medium-sized enterprises: legal professions, accounting expertise, auditing and statutory auditors, financial advice, and asset management. The Complainant also comprises a UES (Unité Economique Sociale) which is an Economic and Social Unit among which there is a CSE (Comité Social Economique), a Social and Economic Committee.

The Complainant states that it has invested substantially in the development of its services, marketing and advertising of its brand and that through this extensive use, its brand has become renowned globally for multidisciplinary services for businesses.

The Complainant owns the following trademark registrations for FIDUCIAL including but not limited to:

- French Trademark Registration No. 1591848, registered on May 14, 1990; and
- European Union Trade Mark Registration No. 010306141, registered on January 31, 2012.

The Complainant also owns a portfolio of domain names, which includes the mark FIDUCIAL, such as <cseuesfiducial.com> since September 4, 2020, and <fiducial.fr> since December 17, 1997. The Complainant also states that it previously owned the disputed domain name <ceuesfiducial.com>, which directed to the website of the Fiducial's CSE (social and economic Committee), which was subsequently changed it to <cseuesfiducial.com>. The Complainant then discovered that the disputed domain name was registered on April 16, 2021 by another entity.

The disputed domain name was registered on April 16, 2021, and redirected to a parking page with Pay-Per-Click ("PPC") links to a pornographic website and accounting websites, among others.

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

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

The Complainant argues that the disputed domain name is confusingly similar to the Complainant's registered FIDUCIAL mark as the disputed domain name comprises of the Complainant's FIDUCIAL mark and the addition of the acronym "ceues" which means 'Comité Economique UES" and generic Top-Level Domain ("gTLD") ".com".

The Complainant also argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name as it has not licensed or permitted the Respondent to use its trademark or register the disputed domain name. The Respondent is not using the disputed domain name in connection with a *bona fide* offering of goods or services and is not making a legitimate noncommercial or fair use of the disputed domain name.

The Complainant further argues that the disputed domain name was registered and is being used in bad faith as the Respondent was well aware of the Complainant and its FIDUCIAL mark at the time of registration of the disputed domain name, and there is no plausible good faith use to which the disputed domain name can be put to.

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

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

## 6. Discussion and Findings

### A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires the complainant to show that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. The Complainant has provided evidence that it owns the FIDUCIAL mark.

The disputed domain name comprises the Complainant's FIDUCIAL trademark in its entirety with the addition of the acronym "ceues", which means "Comité Economique UES" and the gTLD ".com" which does not prevent the finding of confusing similarity.

It is established that where a trademark is recognizable within the disputed domain name, the addition of other terms would not prevent a finding of confusing similarity under the first element. (See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8). It is further established that the applicable gTLD is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test ([WIPO Overview 3.0](#), section 1.11.1).

The disputed domain name consists of the Complainant's FIDUCIAL mark in its entirety and the addition of the acronym "ceues" and gTLD ".com" which in the Panel's view, does not prevent a finding of confusing similarity with the Complainant's trademark.

Therefore, the Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights and the element under paragraph 4(a)(i) of the Policy is satisfied.

### B. Rights or Legitimate Interests

Paragraph 4(a)(ii) of the Policy requires the complainant to show that the respondent has no rights or interests in respect of the disputed domain name. Once the complainant establishes a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name, the burden of production shifts to the respondent to show that it has rights or legitimate interests in respect to the disputed domain name (see [WIPO Overview 3.0](#), section 2.1).

In the present case, the Complainant has demonstrated *prima facie* that the Respondent lacks rights or legitimate interests in respect of the disputed domain name, and the Respondent has failed to assert any such rights or legitimate interests.

The Complainant provided evidence that it owns trademark registrations of the FIDUCIAL mark long before the date that the disputed domain name was registered, and that it is not affiliated with nor has it licensed or otherwise permitted the Respondent to use the Complainant's trademarks (see *LEGO Juris A/S v. DomainPark Ltd, David Smith, Above.com Domain Privacy, Transure Enterprise Ltd, Host master*, WIPO Case No. [D2010-0138](#)).

The Complainant also provided evidence that the Respondent is not commonly known by the disputed domain name (see [WIPO Overview 3.0](#), section 2.3). The Complainant also submitted evidence that its registrations and use of the FIDUCIAL mark predate the registration of the disputed domain name by many years, and that the disputed domain name is a typosquatted version of the Complainant's own domain name which is further proof that the Respondent has no rights or legitimate interests under the Policy (see *JCDecaux SA v. Pascal Ijeoma, Billcoin Company*, WIPO Case No. [DCO2018-0040](#); *Redbox Automated Retail, LLC d/b/a Redbox v. Milen Radumilo*, WIPO Case No. [D2019-1600](#); *River Light V, L.P., Tory Burch LLC v. Kung Chen Chang, PRIVATE*, WIPO Case No. [D2018-0046](#)).

The Complainant further submitted evidence that the disputed domain name redirects to parking pages with PPC links to pornographic and accounting websites, of which the latter competes with the Complainant's services, which past UDRP panels have found is not a *bona fide* offering of goods or services or legitimate noncommercial or fair use of the disputed domain name (see [WIPO Overview 3.0](#), section 2.9).

The Respondent did not submit a Response in the present case and did not provide any explanation or evidence to show rights or legitimate interests in the disputed domain name sufficient to rebut the Complainant's *prima facie* case. In the particular circumstances of the present case, the Respondent's use of the disputed domain name to host parked pages comprising PPC links which appear to generate click-through commissions does not represent a *bona fide* offering of goods or services.

The Panel is therefore of the view that the Respondent has no rights or legitimate interests in respect of the disputed domain name and accordingly, paragraph 4(a)(ii) of the Policy is satisfied.

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

The complainant must show that the respondent registered and is using the disputed domain name in bad faith (Policy, paragraph 4(a)(iii)). Paragraph 4(b) of the Policy provides circumstances that may evidence bad faith under paragraph 4(a)(iii) of the Policy.

The Complainant has submitted evidence that the disputed domain name redirects to parked pages comprising PPC links which appear to generate click-through commissions, and some of these links are to competing services with those of the Complainant.

Further, the Complainant previously owned the disputed domain name and subsequently registered the domain name <cseuesfiducial.com>, which it uses now. Notably, the Respondent may have decided to register the disputed domain name since it is a typosquatted version of the Complainant's current domain name.

In this case, the evidence shows that the Complainant's mark has attained significant goodwill and reputation. The significant goodwill and reputation of the Complainant's mark is evidence that the Respondent is unlikely to have registered the disputed domain name without sight and knowledge of the Complainant's marks, and it is implausible that there is any good faith use to which the disputed domain name may be put to. Moreover, the Complainant brings forth evidence that the Respondent could not have registered the disputed domain name without prior knowledge of the Complainant's mark as the Respondent's name has no connection with the Complainant's FIDUCIAL mark which was registered long before the Respondent registered the disputed domain name. This is another indication of bad faith on the part of the Respondent (see *Boursorama SA v. Estrade Nicolas*, WIPO Case No. [D2017-1463](#)).

The Complainant also submits that the Respondent has engaged in a pattern of bad faith registration and use of domain names. The Complainant submitted evidence that the Respondent has been involved in 128 UDRP complaints. The Respondent was found to have registered and used the disputed domain names in all 128 cases in bad faith. The Complainant also submitted evidence that the Respondent currently owns 176 domain names, some of which reproduce highly renowned trademarks such as <samsungsmartphones.com>, <hondafinancialservcies.com>, <adidasdeutschland.com> and so forth.

The Respondent did not submit a Response in this proceeding which is a further indication of the Respondent's bad faith, which was considered by the Panel.

In the particular circumstances of the present case and based on the fact that the disputed domain name's website displayed third-party links to competing services and/or pornographic websites, it is clear to the Panel that the Respondent specifically targeted the Complainant and its mark and registered the disputed domain name to divert Internet traffic and benefit commercially from unsuspecting Internet users seeking out the Complainant.

Based on the evidence presented to the Panel, including the confusing similarities between the disputed domain name and the Complainant's mark, the fact that the disputed domain name was used to host parked pages comprising PPC links competing with the Complainant and links to pornographic websites, the fact that no Response was submitted by the Respondent in response to the Complaint, and the fact that the Respondent has a long history of abusive domain name disputes against third-party trademark owners, the Panel draws the inference that the disputed domain name was registered and is being used in bad faith.

## **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, <ceuesfiducial.com>, be transferred to the Complainant.

*/Jonathan Agmon/*

**Jonathan Agmon**

Sole Panelist

Date: August 22, 2022