

## **ADMINISTRATIVE PANEL DECISION**

Immoval v. heng liang an  
Case No. D2022-5011

### **1. The Parties**

The Complainant is Immoval, France, represented by AARPI Scan Avocats, France.

The Respondent is heng liang an, China.

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

The disputed domain name <immoval.com> (the “Domain Name”) is registered with Arab Internet Names, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 28, 2022. On December 29, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On December 31, 2022, 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 (Perfect Privacy LLC). The underlying registrant had used a privacy service when registering the Domain Name. The Center sent an email communication to the Complainant on January 9, 2023, 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 January 16, 2023.

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 January 17, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 6, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 8, 2023.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on February 16, 2023. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required to ensure compliance with the Rules, paragraph 7.

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

The Complainant offers real estate agency services with properties for sale or rent in France, mainly in Alsace and Paris.

The Complainant owns numerous trademark registrations for IMMOVAL, such as French trademark number 3405432. The denomination is also the Complainant's company name. Moreover, the Complainant has registered numerous domain names such as <immoval.com> (registered on April 20, 2000) and <immoval.net> (registered on November 30, 2003).

The Domain Name was registered on April 9, 2022. At the time of drafting the decision, the Domain Name has resolved to a website containing pornographic content.

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

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

The Complainant provides evidence of trademark registrations and argues that the Complainant's trademark has a strong reputation. The Domain Name is confusingly similar to the Complainant's trademark as the only difference is the substitution of the middle "m" by the letter "n".

The Complainant asserts that it has never authorized or licensed the Respondent to use its trademark. The Respondent is not in any way related to the Complainant. It is not an authorized distributor of IMMOVAL and it does not carry out any activity for or has any business with it. The Complainant argues that the Respondent has no rights or legitimate interests in respect of the Domain Name.

The Complainant submits that the Respondent must have been aware of the Complainant prior to registering the Domain Name. The Complainant's trademark, company name and domain names predate the Respondent's registration of the Domain Name. The mere absence of rights or legitimate interests of the Respondent points out that the Domain Name has not been registered in good faith. The Domain Name resolves to a website containing pornographic content which has no relation with the Complainant's sector and business activities. The Respondent has taken active steps to conceal its identity.

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

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

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

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

The Complainant has established that it has rights in the trademark IMMOVAL. The test for confusing similarity involves a comparison between the trademark and the Domain Name. The Domain Name is almost identical to the Complainant's trademark, except for the substitution of the middle "m" by the letter "n". This does not prevent a finding of confusing similarity between the Domain Name and the trademark. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.9.

For the purpose of assessing under paragraph 4(a)(i) of the Policy, the Panel may ignore the generic Top-Level Domain ("gTLD"). See [WIPO Overview 3.0](#), section 1.11.1.

The Panel finds that the Domain Name is confusingly similar to a trademark in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

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

The Complainant has made unrebutted assertions that it has not granted any authorization to the Respondent to register a domain name containing the Complainant's trademark or otherwise make use of the Complainant's mark. There is no evidence that the Respondent has registered the Domain Name as a trademark or acquired unregistered rights. There is no evidence that the Respondent has been commonly known by the Domain Name.

The Respondent has not offered any explanation as to the registration of the Domain Name, which is confusingly similar to the Complainant's trademark, and has not provided any evidence of good faith use of the Domain Name. The current use of the Domain Name, a webpage with pornographic content, cannot be considered a *bona fide* offering of goods or services, but rather evidence of bad faith, noting the lack of an apparent connection between the term "inmoval" and such content, see below.

Accordingly, the Panel finds that the Complainant has established an unrebutted *prima facie* case that the Respondent has no rights or legitimate interests in respect of the Domain Name in accordance with paragraph 4(a)(ii) of the Policy.

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

The Panel notes that the Complainant's rights predate the Respondent's registration of the Domain Name. The Respondent has provided no evidence of any actual or contemplated good faith use and taken steps to conceal its identity. The Panel cannot see any plausible actual or contemplated active good faith use of the Domain Name (as it appears to be a typo of the Complainant's trademark) by the Respondent.

The Domain Name has been used to redirect to a website containing pornographic content. It suggests that the Respondent's intent in registering the Domain Name was most likely to profit in some fashion (for example, due to a typographical error when attempting to visit the Complainant's website) or otherwise exploit the reputation of the Complainant's trademark, by creating a likelihood of confusion with the Complainant's trademark.

For the reasons set out above, the Panel concludes that the Domain Name was registered and is being used in bad faith, within the meaning of paragraph 4(a)(iii) 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 <imnoval.com> be transferred to the Complainant.

*/Mathias Lilleengen/*

**Mathias Lilleengen**

Sole Panelist

Date: March 2, 2023