

## **ADMINISTRATIVE PANEL DECISION**

42 v. Nourah Alsawi  
Case No. D2022-4841

### **1. The Parties**

Complainant is 42, France, represented by Scan Avocats AARPI, France.

Respondent is Nourah Alsawi, Saudi Arabia.

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

The disputed domain name <elearning42.com> (the “Domain Name”) is registered with Launchpad.com Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 16, 2022. On December 19, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On December 19, 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 (PRIVACY PROTECT, LLC) and contact information in the Complaint. The Center sent an email communication to Complainant on December 20, 2022 providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on December 20, 2022. On December 20, 2022, Respondent sent an email to the Center. The Center sent an email regarding possible settlement to the Parties, on December 21, 2022. Complainant requested suspension of the proceeding on December 27, 2022. On December 27, 2022, the Center sent the Notification of Suspension to the Parties, and confirmed the proceeding was suspended until January 26, 2023. On January 18, 2023, Complainant requested reinstatement of the proceeding.

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 Respondent of the Complaint, and the proceedings commenced on January 19, 2023. In accordance with the Rules, paragraph 5, the due

date for Response was February 8, 2023. Respondent did not submit any formal response. Accordingly, the Center informed the Parties the commencement of panel appointment process on February 9, 2023.

On February 16, 2023, Respondent sent an email to the Center, which indicates that she wishes to explore settlement options with Complainant. On February 16, 2023, Complainant requested suspension of the proceeding. On February 17, 2023, the Center sent Notification of Suspension to the Parties and confirmed the proceeding was suspended until March 19, 2023. On March 1, 2023, Complainant requested reinstatement of the proceeding. On March 6, 2023, the Center confirmed the proceeding reinstated on March 6, 2023 and the Center would proceed with panel appointment.

The Center appointed Marina Perraki as the sole panelist in this matter on March 6, 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 by the Center to ensure compliance with the Rules, paragraph 7.

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

Complainant is a free and non-profit private computer programming school operating under the website "www.42.fr". Its pedagogical approach is based on "peer-to-peer learning" in the fields of software development and creation, computer programming, digital professions and computer networks architecture. Complainant has gained recognition in its field and has been ranked first, among the best computer science schools in the world, by the online platform CodinGame dedicated to computer programming. Complainant's activity is often covered by the press. Complainant is also active on social networks such as Facebook (27,000 likes), Twitter (44,000 followers), Youtube (7,000 followers), LinkedIn (65,000 followers) or Instagram (11,000 followers). Per Complaint, initially designating a coding school based in Paris, the brand 42 now designates forty-seven campuses in 26 countries around the world, including six in France, three in the Middle East and four in Asia.

Complainant is the owner of several trademarks consisting of or including the number "42", including:

- French trademark registration number 4535555, 42 (figurative), filed on March 20, 2019, for services in international classes 35, 38, 41 and 42; and
- International trademark registration number 1488612, 42 (figurative), registered on June 26, 2019 for services in international classes 35, 38, 41 and 42.

Complainant is also the owner of domain name registrations for 42, including <42.fr> registered on May 26, 2004.

The Domain Name was registered on January 26, 2021 and resolves to a website written in Arabic offering educational services in relation to new technologies (the Website). All links on the Website lead to an identical authentication page where no information is available about the alleged teacher, nor a telephone number or an email address. Moreover, per Complaint, according to the information available on the Website, it is related to teaching at the University of Qassim in Saudi Arabia. However, per Complaint, no official reference to this University is provided, nor any photograph or logo showing an official partnership with this institution.

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

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

Complainant asserts that it has established all three elements required under paragraph 4(a) of the Policy for the transfer of the Domain Name.

## B. Respondent

Respondent did not formally reply to Complainant's contentions. On December 20, 2022 Respondent sent an email to the Center stating that there has been a misunderstanding and that she wanted to "close" the Domain Name, and she also sent an email on February 16, 2023 with an unclear content but referring to how she can help.

## 6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to the Domain Name:

- (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 has been registered or is being used in bad faith.

### A. Identical or Confusingly Similar

Complainant has demonstrated rights through registration and use on the 42 mark.

The Panel finds that the Domain Name that incorporates Complainant's 42 mark in its entirety plus the additional term "elearning" is confusingly similar to the 42 trademark of Complainant. The addition of the term "elearning" does not prevent a finding of confusing similarity. The fact that the Domain Name was directing to the Website regarding educational technology (Complainant's business field) affirms the Panel's finding of confusing similarity.

The generic Top-Level Domain ("gTLD") ".com" is disregarded, as gTLDs typically do not form part of the comparison on the grounds that they are required for technical reasons (*Rexel Developpements SAS v. Zhan Yequn*, WIPO Case No. [D2017-0275](#); *Hay & Robertson International Licensing AG v. C. J. Lovik*, WIPO Case No. [D2002-0122](#)).

Complainant has established Policy, paragraph 4(a)(i).

### B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

- (i) before any notice to Respondent of the dispute, Respondent's use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services; or
- (ii) Respondent (as an individual, business, or other organization) has been commonly known by the Domain Name, even if it has acquired no trademark or service mark rights; or
- (iii) Respondent is making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel concludes that Respondent lacks rights or legitimate interests in respect of the Domain Name.

Respondent has not submitted any formal response and has not claimed any such rights or legitimate interests with respect to the Domain Name. As per Complaint, Respondent was not authorized to register the Domain Name.

Prior to the notice of the dispute, Respondent did not demonstrate any use of the Domain Name or a trademark corresponding to the Domain Name in connection with a *bona fide* offering of goods or services.

On the contrary, as Complainant demonstrated, the Domain Name resolves to the Website, which purportedly offers educational services in the IT sector, just like Complainant.

A respondent's use of a complainant's mark to redirect users to a competing site would not support a claim to rights or legitimate interests (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 2.5.3).

The Panel finds that these circumstances do not confer upon Respondent any rights or legitimate interests in respect of the Domain Name.

Complainant has established Policy, paragraph 4(a)(ii).

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

Paragraph 4(b) of the Policy provides that the following circumstances, "in particular but without limitation", are evidence of the registration and use of the Domain Name in "bad faith":

(i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or

(ii) Respondent has registered the Domain Name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding Domain Name, provided that Respondent has engaged in a pattern of such conduct; or

(iii) Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent's website or other on line location, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website or location or of a product or service on Respondent's website or location.

The Panel concludes that Respondent has registered and used the Domain Name in bad faith. Because the 42 mark had been used and registered at the time of the Domain Name registration by Respondent, the Panel finds that Respondent had Complainant's marks in mind when registering the Domain Name (*Tudor Games, Inc. v. Domain Hostmaster, Customer ID No. 09382953107339 dba Whois Privacy Services Pty Ltd / Domain Administrator, Vertical Axis Inc.*, WIPO Case No. [D2014-1754](#); *Parfums Christian Dior v. Javier Garcia Quintas and Christiandior.net*, WIPO Case No. [D2000-0226](#)).

Furthermore, Respondent could have conducted a trademark search and would have found Complainant's prior registrations in respect of the 42 mark (*Citrix Online LLC v. Ramalinga Reddy Sanikommu Venkata*, WIPO Case No. [D2012-1338](#)).

As regards bad faith use of the Domain Name, Complainant has demonstrated that the Domain Name was used to create the Website, which purportedly provided services identical to those of Complainant, namely educational services in the field of IT. The Domain Name operated therefore by intentionally creating a likelihood of confusion with Complainant's trademark and business as to the source, sponsorship, affiliation or endorsement of the website it resolves to. This can be used in support of bad faith registration and use ([WIPO Overview 3.0](#), section 3.1.4).

Under these circumstances and on this record, the Panel finds that Respondent has registered and is using the Domain Name in bad faith.

Complainant has established Policy paragraph 4(a)(iii).

## **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 <elearning42.com> be transferred to Complainant.

*/Marina Perraki/*

**Marina Perraki**

Sole Panelist

Date: March 20, 2023