

## ADMINISTRATIVE PANEL DECISION

Ifchor Galbraiths UK Limited v. Brad Bright  
Case No. D2024-3199

### 1. The Parties

The Complainant is Ifchor Galbraiths UK Limited, United Kingdom, represented by SafeNames Ltd., United Kingdom.

The Respondent is Brad Bright, United States of America.

### 2. The Domain Names and Registrar

The disputed domain names <ifchorgallbraith.com> and <ifchorgallbraiths.com> are registered with Realtime Register B.V. (the "Registrar").

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on August 5, 2024. On August 5, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On August 6, 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 (REDACTED FOR PRIVACY, REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 8, 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 on August 8, 2024.

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 August 9, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 29, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Parties of the Respondent's default on September 2, 2024.

The Center appointed Ingrīda Kariņa-Bērziņa as the sole panelist in this matter on September 9, 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**

The Complainant is a global shipping network formed by the 2022 merger of Ifchor (established in Switzerland in 1977), active in shipbroking, dry bulk, and tankers and Galbraiths (established in the United Kingdom in the 1870s), active in shipbroking and maritime services. It is the proprietor of Swiss Trademark Registration No. 814112 for IG IFCHOR GALBRAITHS (device mark), registered on May 7, 2024, for services in class 39.

The Complainant operates its primary business website at the domain name <ifchorgalbraiths.com>. Additionally, it has registered a number of other domain names incorporating the element “ifchorgalbraiths”.

The disputed domain names were registered on February 28, 2024. At the time of the Complaint and of this Decision, neither resolved to an active website.

The record reflects that a cease-and-desist letter was sent by the Complainant to the Respondent on March 18, 2024. The record does not reflect the Respondent’s response thereto.

#### **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 name.

Notably, the Complainant contends that it is a leader in the shipping industry and operates a network of over 20 offices worldwide with over 300 employees. Its 2022 merger was widely covered in the industry press. Within the maritime industry, the IFCHOR GALBRAITHS mark has achieved considerable recognition as a union between two prominent companies. The Complainant was recognized by an industry publication as one of the Top Ten Shipbrokers in 2023. The Complainant promotes its mark at its website and through its LinkedIn profile. The Complainant has amassed consumer goodwill in its sector by virtue of numerous decades of widespread use initially through the Ifchor and Galbraiths brands, and more recently under the brand name IFCHOR GALBRAITHS, which has become well-known in the shipbroking industry. The disputed domain names differ from the IFCHOR GALBRAITHS mark by the additional letter “l”, and in one case the removal of the final letter “s”, thereby typosquatting on the Complainant’s mark. The Respondent is not associated with the Complainant and has no rights in respect of its IFCHOR GALBRAITHS mark. The Respondent failed to respond to the Complainant’s cease-and-desist letter. The disputed domain names are being passively held in bad faith.

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

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

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

Paragraph 4(a) of the UDRP requires the Complainant to make out all three of the following:

- (i) the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and

- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain names; and
- (iii) the Respondent has registered and is using the disputed domain names in bad faith.

Under paragraph 15(a) of the Rules, “[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”.

### **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 name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (“[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 notes that the Complainant’s IG IFCHOR GALBRAITHS mark was registered at the time of the Complaint, which, according to UDRP practice, is the relevant date for purposes of evaluating the Complainant’s standing under the first element. [WIPO Overview 3.0](#), section 1.1.3.

The Panel finds the mark is recognizable within the disputed domain names. [WIPO Overview 3.0](#), section 1.7. In comparing Complainant’s mark with the disputed domain names, the Panel finds that the disputed domain names are deliberate misspellings of Complainant’s trademark. See [WIPO Overview 3.0](#), section 1.9. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy.

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 name. 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 name such as those enumerated in the Policy or otherwise.

The Panel notes there is no evidence that the Respondent has used the disputed domain names in connection with a bona fide offering of goods or services, nor that the Respondent has been commonly known by the disputed domain names. There is no evidence that the Respondent has made a legitimate noncommercial or fair use of the disputed domain names. The use of the disputed domain names reflected in the evidence does not support an inference that the Respondent was engaged in a legitimate business. These circumstances indicate the Respondent’s lack of rights or legitimate interests.

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.

According to UDRP practice, where a domain name has been registered before a complainant has acquired trademark rights, only in exceptional cases would a complainant be able to prove a respondent's bad faith. [WIPO Overview 3.0](#), section 3.8.2. Accordingly, the Panel must consider whether the record supports a finding that the Complainant had established rights in its mark as of February 28, 2024, the date that the disputed domain names were registered.

To establish unregistered or common law trademark rights for purposes of the UDRP, the complainant must show that its mark has become a distinctive identifier which consumers associate with the complainant's goods and/or services. [WIPO Overview 3.0](#), section 1.3. The evidence in the record supports a finding that the Complainant has established unregistered trademark rights as of 2022, when the IFCHOR GALBRAITHS mark was first used in commerce. The Panel notes the extent and nature of the use of the IFCHOR GALBRAITHS mark in connection with shipping services. The Complainant registered its domain name at <ichforgalbraiths.com> in 2022. The Panel finds that the ICHFOR GALBRAITHS mark is not descriptive in respect of the goods and services for which the Complainant claims rights. The fact that the Respondent sought to register disputed domain names composed of deliberate misspellings of the Complainant's trademark also supports the notion that the Complainant's trademark was already recognized a source identifier for the Complainant at the time of registration. [WIPO Overview 3.0](#), section 1.3.

Accordingly, in the present case the Panel notes that the Respondent intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark. The disputed domain names were registered after the Complainant established rights in its IFCHOR GALBRAITHS trademark. They reflect a deliberate misspelling of the Complainant's mark.

Panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Complainant's trademark, and the composition of the disputed domain names, and finds that in the circumstances of this case the passive holding of the disputed domain names does not prevent a finding of 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 <ifchorgallbraith.com> and <ifchorgallbraiths.com> be transferred to the Complainant.

*/Ingrīda Kariņa-Bērziņa/*

**Ingrīda Kariņa-Bērziņa**

Sole Panelist

Date: September 23, 2024