

## **ADMINISTRATIVE PANEL DECISION**

ITC Global, Inc. v. Domains By Proxy, LLC / Eduardo Berisso, mandisovi  
Case No. D2022-1091

### **1. The Parties**

The Complainant is ITC Global, Inc., United States of America (“United States”), represented by Inlex IP Expertise, France.

The Respondent is Domains By Proxy, LLC, United States / Eduardo Berisso, mandisovi, Argentina.

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

The disputed domain name <itcxglobal.com> is registered with GoDaddy.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 30, 2022. On March 31, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 1, 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 April 4, 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 April 5, 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 April 13, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 3, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 4, 2022.

The Center appointed Martin Michaus Romero as the sole panelist in this matter on May 16, 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**

- 1) The Complainant is specialized in installation and support of communication networks and systems. It ensures its client global communications are performing securely and reliably, as per its website at “www.itcglobal.com”.
- 2) Is part of Marlink Group, a leading provider of fully managed smart network solutions, based on an intelligent hybrid network and unrivalled digital solutions, as per its website at “www.marlink.com”.
- 3) In the scope of its activities to promote its services the Complainant has filed and uses several trademarks and notably
  - ITC GLOBAL, Canadian word trademark No. TMA910875 filed on June 27, 2012, in classes 37, 38, and 42
  - ITC GLOBAL, European Union word trademark No. 011001245 filed on June 28, 2012, in classes 37, 38, and 42
  - ITC GLOBAL, United Kingdom word trademark No. UK00911001245 filed on June 28, 2012.
- 4) Is also the owner of the domain name <itcglobal.com> registered since October 15, 1997, which directs to the Complainant’s official website “www.itcglobal.com”.
- 5) The disputed domain name was registered on February 9, 2022. It currently resolves to a webpage featuring what appears to be sponsored links to entities other than the Complainant.

#### **5. Parties’ Contentions**

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

The Complainant states in its Complaint that the Respondent:

- 1) Registered the disputed domain name which is confusingly similar to the Complainant’s trademark ITC GLOBAL without the Complainant’s knowledge or authorization.
- 2) Registered the disputed domain name which included the ITC GLOBAL trademark to create confusion in the Internet users that the disputed domain name is affiliated with the Complainant.
- 3) Has no rights or legitimate interests in the disputed domain name.
- 4) Likely intended to confuse the Complainant’s customers or potential customers, considering the complete reproduction of the ITC GLOBAL trademark.

Accordingly, the disputed domain name was selected, registered, and used by the Respondent in bad faith and not for a *bona fide* offering of goods or services, nor any legitimate noncommercial or fair use, but rather to mislead Internet users, disrupt the Complainant’s business and affect the reputation of the ITC GLOBAL trademark

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

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

## **6. Discussion and Findings**

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

The Complainant has submitted evidence of its rights in the ITC GLOBAL trademark. The disputed domain name is confusingly similar to the Complainant's ITC GLOBAL trademark. The disputed domain name reproduces the Complainant's trademark ITC GLOBAL, adding the letter "x" between the terms "itc" and "global" and the generic Top-Level Domain ("gTLD") ".com".

The Complainant's trademark is included in the disputed domain name and the additions of the gTLD, ".com", and the letter "x" do not prevent a finding of confusing similarity between the disputed domain name and the ITC GLOBAL trademark.

The Panel finds that the Complainant established the first element under paragraph 4(a)(i) of the Policy.

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

The Respondent has not received permission or authorization to use the Complainant's trademark. The Respondent did not reply to the Complainant's contentions, therefore has not provided any evidence to demonstrate anything to the contrary. It should be pointed out that nothing in the available record indicates that the Respondent is an individual, business, or corporation commonly known by the name "ITCX GLOBAL".

Furthermore, the Respondent is not using the disputed domain name for a *bona fide* offering of goods or services, nor is making a legitimate noncommercial or fair use that might give rise to rights or legitimate interests in the disputed domain name.

There is also no evidence that the Respondent owned a trademark corresponding to the disputed domain name.

According to the Complainant, the Respondent has chosen not to respond to the Complainant's communication sent before filing the Complaint. He also did not respond to the Complaint nor took any steps to counter the *prima facie* case established by the Complainant. The disputed domain name points to a parking page displaying pay-per-click ("PPC") links. Several WIPO decisions considered that the use of a disputed domain name to direct internet users to a directory page containing PPC links does not amount to a *bona fide* offering of goods and services where the respondent is using the confusingly similarity between the disputed domain name and the complainant's mark in order to attract internet users to its website.

The Panel finds that the Complainant established the second element under paragraph 4(a)(ii) of the Policy

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

According to the evidence submitted by the Complainant, it is clear to the Panel that the registration and the use of the disputed domain name has been in bad faith, by incorporating the ITC GLOBAL trademark to intentionally attract Internet users for commercial gain. The inclusion of the letter "x" in the disputed domain name along with the Complainant's trademark attempts to deceive Internet users or lead them to believe that the disputed domain name is operated by the Complainant or at least to take unfair advantage of the confusing similarity of the disputed domain name with the Complainant's trademark and Complainant's domain name <itcglobal.com>.

The Respondent has demonstrated, by registering the disputed domain name, an intent to capitalize on the goodwill of the Complainant's trademark. Furthermore, the Respondent intentionally attempted to attract for commercial gain Internet users to his own website or other online location by creating a likelihood of confusion with the Complainant's ITC GLOBAL trademark. These activities constitute, in the Panel's view, clear evidence of registration and use of the disputed domain name in bad faith.

The Complainants ITC GLOBAL trademark registrations and common law rights predate the registration of the disputed domain name and the Respondent knew or should have known of the Complainant's trademark rights, considering the notoriety and worldwide reputation of its trademarks. Therefore, it is unlikely that the Respondent was not aware of the Complainant's rights.

Considering that: 1) The disputed domain name is confusingly similar to the well-known trademark ITC GLOBAL; 2) the Respondent was fully aware of the Complainant's business activities and its ITC GLOBAL trademark at the time of registration of the disputed domain name; 3) the Respondent did not reply to the Complainant's email communication sent before filing the Complaint nor to the Complaint upon filing; 4) the disputed domain name points to a parking page displaying PPC links in order to attract internet users to the Respondent's website, the Panel finds that registration and use of the disputed domain name were in bad faith.

The Respondent's use of the disputed domain name also negatively affects the Complainant's online presence and disrupts the Complainant's business. See paragraphs 4(b)(iv) and 4(b)(iii) of the Policy.

The Panel finds that the Complainant established the third element under 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 disputed domain name <itcxglobal.com> be transferred to the Complainant.

*/Martin Michaus Romero/*

**Martin Michaus Romero**

Sole Panelist

Date: May 30, 2022