

## **ADMINISTRATIVE PANEL DECISION**

Fancade AB v. Dung Kieu and brave kieu  
Case No. D2025-0381

### **1. The Parties**

The Complainant is Fancade AB, Sweden, represented by Poki B.V., Netherlands (Kingdom of the).

The Respondents are Dung Kieu, Viet Nam and brave kieu, Yemen.

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

The disputed domain names <drive-mad.org> and <drivingmad.org> are registered with NameCheap, Inc. (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on January 30, 2025 regarding the disputed domain name <drive-mad.org>. On January 31, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with this disputed domain name. On January 31, 2025, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for this disputed domain name which differed from the named Respondent (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 3, 2025, 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 amendment to the Complaint on February 7, 2025.

The Center verified that the Complaint together with the amendment to the 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, Dung Kieu, of the Complaint, and the proceedings commenced on February 10, 2025. In accordance with the Rules, paragraph 5, the due date for Response was March 2, 2025. On February 12, 2025, the Center received an email communication from a third party who claimed the receipt of "a letter" and indicated they "are in no way shape or form affiliated with drive-mad.org". On February 20, 2025, the Complainant enquired the possibility of adding another disputed domain name to the proceeding. On February 28, 2025, the Complainant filed an amended Complaint requesting the addition of the disputed domain name <drivingmad.org> to the

proceeding. The Respondent, Dung Kieu, did not submit any response. On March 3, 2025, the Center notified the commencement of panel appointment process.

The Center appointed Luca Barbero as the sole panelist in this matter on March 7, 2025. 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.

On March 18, 2025, the Panel requested the Center to obtain the registrar verification for the disputed domain name <drivingmad.org>. On March 19, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with this disputed domain name. On the same day, the Registrar transmitted by email to the Center its verification response confirming the Respondent, brave kieu, is the registrant for this disputed domain name and providing contact information for this Respondent. On March 20, 2025, the Center transmitted to the Panel the Registrar-provided registrant information, showing that the registrant details were different from the ones provided in the Whois information of the disputed domain name <drive-mad.org>, except for the email address, which is identical.

On March 21, 2025, the Panel issued an Administrative Procedural Order (“Panel Order”) to allow the Complainant to provide possible further consolidation arguments, if any, by March 26, 2025 in light of the registrant information disclosed by the Registrar for the additional disputed domain name <drivingmad.org>, and the Respondents to make any submissions regarding the consolidation of the proceedings and to file a Response in respect of the additional disputed domain name <drivingmad.org> as it may deem appropriate by March 31, 2025. On April 1, 2025, the Complainant informed the Center that it did not wish to add further consolidation arguments, whilst the Respondents did not submit any reply to the Panel Order.

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

The Complainant is a developer of online games and creator of the popular web game Drive Mad. It has granted its representative, Poki B.V., an exclusive license to publish the game online and to undertake actions against infringements of the licensed rights on behalf of the Complainant, including filing UDRP complaints against abusive domain name registrations encompassing the Complainant’s registered trademarks (Annex 1 to the Complaint).

The Complainant is the owner of the European Union trademark registration No. 019008643 for DRIVE MAD (word mark), filed on April 3, 2024, and registered on August 28, 2024, in class 9, as per trademark registration details submitted as Annex 4 to the Complaint.

The disputed domain name <drive-mad.org>, registered on July 24, 2024, and <drivingmad.org>, registered on February 4, 2025, currently both redirect to the website “www.drivingmad.org”, which provides an unauthorized version of the Complainant’s DRIVE MAD game along with third-party games, making explicit reference to the Complainant’s trademark. Before being redirected to “www.drivingmad.org”, the disputed domain name <drive-mad.org> was redirected to a website, published at “www.drive-mad.org”, which displayed contents substantially identical to those currently published at “www.drivingmad.org”, the only difference being the use of “drive-mad” instead of “drivingmad” in some places.

#### **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 the disputed domain names <drive-mad.org> and <drivingmad.org> are identical and confusingly similar to the trademark DRIVE MAD in which the Complainant has rights.

With reference to rights or legitimate interests in respect of the disputed domain names, the Complainant states that the Respondents do not own any trademark registration for DRIVE MAD and are not commonly known by the disputed domain names. The Complainant further states that the Respondents are in no way using the disputed domain names in connection with a bona fide offering of goods or services since the disputed domain names have been deliberately registered and used to deceive the public by falsely purporting to be the same entity as the Complainant, or at least pretend to be rightfully offering the game DRIVE MAD.

With reference to the circumstances evidencing bad faith, the Complainant indicates that the Respondents intentionally attempted to attract, for commercial or other gain, internet users to their websites or other online locations, by creating the disputed domain names corresponding to the Complainant's trademark and publishing online a copy of the Complainant's popular web game DRIVE MAD.

The Complainant further states that the disputed domain name <drivingmad.org> was registered, after the filing of the original Complaint concerning the disputed domain name <drive-mad.org>, as an attempt to circumvent the Panel's decision, by redirecting users to a website published at the newly registered the disputed domain name.

## **B. Respondents**

Apart from a third party communication as described in section 3, the Respondents did not reply to the Complainant's contentions.

## **6. Discussion and Findings**

### **6.1. Preliminary procedural issues: consolidation and addition of domain names following complaint notification**

As mentioned in section 3 above, the Complaint was initially filed concerning the disputed domain name <drive-mad.org> and, only after the notification of the Complaint, the Complainant filed an amended Complaint requesting to add the disputed domain name <drivingmad.org> to this proceeding.

Pursuant to paragraph 3(c) of the Rules and in accordance with paragraph 10(e) of the Rules, consolidation of multiple domain name disputes is appropriate where the disputed domain names are registered by the same domain-name holder, or there are indicia of common control of the disputed domain names, and if consolidation would be equitable and procedurally efficient. See *Speedo Holdings B.V. v. Programmer, Miss Kathy Beckerson, John Smitt, Matthew Simmons*, WIPO Case No. [D2010-0281](#).

With regard to the addition of domain names to a case following complaint notification, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.12.2, states the following: "Requests for addition of domain names to a complaint after it has been notified to the respondent and the proceedings have formally commenced would be addressed by the panel on appointment. Except in limited cases where there is clear evidence of respondent gaming/attempts to frustrate the proceedings (e.g., by the respondent's registration of additional domain names subsequent to complaint notification), panels are generally reluctant to accept such requests because the addition of further domain names would delay the proceedings (which are expected to take place with due expedition). Moreover, a panel declining such request would not prevent the filing of a separate complaint where such additional domain names may be addressed. In those cases where panels would grant such a request, the complainant would need to hold relevant trademark rights and the proposed additional domain names would need to be prima facie registered by the same or related respondent. Moreover, in the event a panel would grant such a request, it may also order partial or full re-notification of the proceeding (which may impact case timelines)."

Based on the Complainant's submissions and the Registrar-provided registrant information for the disputed domain names, the Panel notes that the following commonalities in the registrant details and in the use of the disputed domain names suggest common control:

- i) The disputed domain names are both confusingly similar to the DRIVE MAD mark.
- ii) The disputed domain names are registered with the same Registrar and in the name of the same Whols privacy service.
- iii) The registrant information of the disputed domain names shows the same registrant email address.
- iv) The disputed domain names both currently redirect to the website "www.drivingmad.org", which is exactly the same as the website previously displayed at "www.drive-mad.org", except for some places where "drive-mad" has been replaced by "drivingmad".

The Panel decided to accept the Complainant's request for addition of the disputed domain name <drivingmad.org> to this proceeding since it was registered on February 4, 2025, a few days after the original Complaint regarding <drive-mad.org> was filed, and shortly after the Center informed the Complainant of the registrant information of <drive-mad.org> in which the Respondent, Dung Kieu, was copied in the same email, and given the circumstances, it appears that the registration of the new disputed domain name was made by the Respondents to attempt to frustrate the ongoing proceeding.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party. The Panel issued a Panel Order to provide the Respondents with an opportunity to submit comments on the consolidation of the disputed domain names in this proceeding and to file a response in light of the additional disputed domain name <drivingmad.org>, but they have failed to do so.

Accordingly, the Panel decides to allow the additional disputed domain name <drivingmad.org> to the proceeding and to consolidate the disputes regarding the nominally different disputed domain name registrants in a single proceeding.

Therefore, the Panel will now proceed to a decision on the merits of the case.

## **6.2. Substantive Issues**

According to 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." Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following:

- (i) that the disputed domain names registered by the Respondents are identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) that the Respondents have no rights or legitimate interests in respect of the disputed domain names; and
- (iii) that the disputed domain names have been registered and are being used in bad faith.

### **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 names. [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. Indeed, the Complainant is the owner of a valid trademark registration for DRIVE MAD.

The disputed domain name <drive-mad.org> reproduces the Complainant's trademark DRIVE MAD in its entirety with the mere addition of a hyphen between the words "drive" and "mad", which is not a distinguishing feature.

The disputed domain name <drivingmad.org> encompasses a slight variation of the first word "drive" included in the Complainant's trademark DRIVE MAD, as the verb "drive" has been written in its present participle equivalent: "driving", whilst the second part of the mark "mad" has remained unchanged. The Panel finds that, notwithstanding this minor variation, the DRIVE MAD mark is still recognizable within the disputed domain name.

Accordingly, both disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7

In addition, the generic Top-Level Domain ("gTLD") ".org" can be disregarded under the first element confusing similarity test, being a standard registration requirement. [WIPO Overview 3.0](#), section 1.11.1.

Therefore, 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 Respondents 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 Respondents lack rights or legitimate interests in the disputed domain names. The Respondents have not rebutted the Complainant's prima facie showing and have not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain names such as those enumerated in the Policy or otherwise.

According to the evidence on record, there is no relationship between the Complainant and the Respondents, and the Complainant has not authorized the Respondents to register or use its trademark or the disputed domain names. Moreover, there is no element from which the Panel could infer the Respondents' rights over the disputed domain names, or that the Respondents might be commonly known by the disputed domain names.

Furthermore, there is no evidence showing that the Respondents have made use or preparations to use the disputed domain names in connection with a bona fide offering of goods or services or a legitimate noncommercial use without intention to misleadingly divert consumers or to tarnish the trademark DRIVE MAD.

Indeed, the Respondents have used the disputed domain names to divert users to a website offering unauthorized versions of the DRIVE MAD game and promoting also third-party games, thereby creating a likelihood of confusion and association with the Complainant and its trademark.

Therefore, the Panel finds the second element of the Policy has also 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.

In the present case, the Panel notes that, in light of the prior use of the trademark DRIVE MAD in connection with the popular DRIVE MAD game of the Complainant, the confusing similarity of the disputed domain names with the trademark DRIVE MAD, and the redirection of the disputed domain names to a website featuring the Complainant's trademark and offering an unauthorized version of the DRIVE MAD game, the Respondents were clearly aware of, and intended to target the Complainant and its trademark DRIVE MAD at the time of registration of the disputed domain names.

The Panel also finds that, in view of the use of the disputed domain names to redirect users to a website – initially displayed at the disputed domain name <drive-mad.org>, and, subsequently, at the disputed domain name <drivingmad.org> – offering an unauthorized version of the DRIVE MAD game whilst promoting also third-party games without publishing a clear and prominent disclaimer of non-affiliation with the Complainant, the Respondents intentionally attempted to attract Internet users to their websites for commercial gain, by creating a likelihood of confusion with the trademark DRIVE MAD as to the source, sponsorship, affiliation or endorsement of their websites according to paragraph 4(b)(iv) of the Policy.

Therefore, the Panel finds that the Complainant has established the third element of the Policy as well.

### **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 <drive-mad.org> and <drivingmad.org> be transferred to the Complainant.

*/Luca Barbero/*

**Luca Barbero**

Sole Panelist

Date: April 8, 2025