

ADMINISTRATIVE PANEL DECISION

Internet Services Australia 1 Pty Ltd v. Alex Oli, Infordeveloper
Case No. D2025-3575

1. The Parties

The Complainant is Internet Services Australia 1 Pty Ltd, Australia, internally represented.

The Respondent is Alex Oli, Infordeveloper, Cambodia.

2. The Domain Name and Registrar

The disputed domain name <iconicevaluate.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 4, 2025. On September 4, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name and another domain name. On September 5, 2025, the Registrars 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 (Registrant of <https://iconicevaluate.com> and <https://iconicevaluating.com>) and contact information in the Complaint.

The Center sent an email communication to the Complainant on September 5, 2025 with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting the Complainant to either file separate complaints for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all domain names are under common control. The Complainant filed an amended Complaint and withdrew the claims against the other domain name on September 9 and 10, 2025.

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 September 10, 2025. In accordance with the Rules, paragraph 5, the due date for Response was September 30, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 1, 2025.

The Center appointed Andrew Brown K.C. as the sole panelist in this matter on October 9, 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.

4. Factual Background

The Complainant is a company incorporated in Australia on August 12, 2011.

The Complainant owns trademark registrations for THE ICONIC trademark in both Australia and New Zealand. In particular, the Complainant owns the following trademark registrations (“THE ICONIC Trademark”).

Mark No.	Jurisdiction	Priority Date	Class
THE ICONIC 1495348	Australia	June 7, 2012	14, 24, 25 and 28
THE ICONIC 1615663	Australia	June 7, 2012	35
THE ICONIC 2069308	Australia	February 14, 2020	3, 8, 9, 10, 16 and 18
THE ICONIC 2069309	Australia	February 14, 2020	36, 38, 39, 41, 42 and 45
THE ICONIC 2099878	Australia	June 30, 2020	3, 5, 20, 24, and 26
THE ICONIC 1004806	New Zealand	March 10, 2025	14, 24, 25, 28 and 35
THE ICONIC 1152432	New Zealand	February 2, 2021	3, 5, 8, 9, 16, 18, 20, 24, 26, 38, 39 41, 42 and 45

The Complainant is an Australian retailer of (amongst other products) a range of clothing, shoes and accessories for men, women and children – as well as beauty products, homewares and sports equipment. It also engages in retailing services in relation to these products.

Since 2011 the Complainant has continuously advertised and offered for sale its products to consumers in Australia and New Zealand on its THE ICONIC websites in Australia and New Zealand. Since 2014, the Complainant has continuously advertised and offered for sale its products to Australian and New Zealand consumers via an App (“THE ICONIC App”). The Complainant has operated social media using THE ICONIC Trademark on Facebook since 2011 and on Instagram since 2011.

The disputed domain name was registered on July 7, 2025. The disputed domain name has a landing page located there. This displays the trademark THE ICONIC and a series of images of men and women wearing various garments and types of apparel.

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 has trademark rights in THE ICONIC Trademark in respect of goods and services including apparel. It further claims that it has registered and used domain names incorporating THE ICONIC Trademark in both Australia and New Zealand and has also operated both Facebook and Instagram pages from well before registration of the disputed domain name on July 7, 2025.

The Complainant contends that the disputed domain name contains an essential part of THE ICONIC Trademark, i.e., “iconic”, and is highly similar to that mark. It asserts that the disputed domain name is confusingly similar to THE ICONIC Trademark and that the addition of the descriptive term “evaluate” does not detract from the near identical or confusing similarity of the disputed domain name.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. In this regard the Complainant states that:

- (a) It does not advertise or offer for sale its THE ICONIC trademarked products through third parties.
- (b) It does not outsource any quality review or evaluation of THE ICONIC branded products to any third party or parties, nor does it operate its business in Cambodia (where the Respondent is located) or in any part of Asia.
- (c) There appears to be no legitimate reason why the Respondent would adopt the word or trademark THE ICONIC in relation to fashion and lifestyle products or shopping services.
- (d) The Complainant has not approved of nor authorized the Respondent to use its images of THE ICONIC branded products from its websites.
- (e) Searches of the New Zealand Intellectual Property Office Register, the WIPO Trademark Database and the USPTO Register show no results where the Respondent has a registered trademark for ICONICEVALUATE or anything similar.

As regards bad faith registration and use, the Complainant states that by using the disputed domain name the Respondent is intentionally attempting to attract consumers (who are aware of THE ICONIC products) so as to obtain data from the Complainant's existing and prospective consumers. The Complainant notes that the content posted on the landing pages at the disputed domain name, including photographs, images, logos and text, have been directly copied from the Complainant's THE ICONIC web pages.

The Complainant contends that the Respondent has a clear intent to:

- (a) Disrupt the Complainant's business and divert consumers.
- (b) Mislead and deceive consumers that are looking for the Complainant.
- (c) Wrongfully trade off the Complainant's goodwill and reputation.

The Complainant asserts trademark infringement, passing off and misleading or deceptive conduct.

B. Respondent

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

6. Discussion and Findings

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 finds that THE ICONIC Trademark is clearly recognizable within the disputed domain name, although the word "the" has not been included in the disputed domain name. The Panel considers that a dominant feature of the trademark is reproduced and recognizable. Accordingly, the disputed domain name is confusingly similar to THE ICONIC Trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other items (here “evaluate”), may bear on assessment of the second and third elements, the Panel finds the addition of such a term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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.

Panels have held that the use of a domain name for here, claimed as applicable to this case: phishing or unauthorized account access or impersonation/passing off can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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.

In the present case, the Panel finds that the disputed domain name has been registered in bad faith for the following reasons:

(a) The Complainant has demonstrated that it has rights in THE ICONIC Trademark. It has provided evidence of continuous use of THE ICONIC Trademark by it since 2011, some 14 years prior to registration of the disputed domain name.

(b) The Panel finds that the Respondent had knowledge of the Complainant’s THE ICONIC Trademark. First, a trademark search or even a search entered into by an Internet search engine would unquestionably have revealed the Complainant and its use of THE ICONIC Trademark. Secondly, the Respondent’s knowledge of the Complainant’s trademark is demonstrated by the landing page located at the disputed domain name. Whereas the disputed domain name is <iconicevaluate.com> (ie without ‘THE’), the landing page prominently uses THE ICONIC Trademark and “Welcome to THE ICONIC”. This is exactly how the Complainant uses its Trademark. Further, the Respondent has copied photographs, images and signs from the Complainant’s web pages and used these on its landing page – thus clearly demonstrating knowledge of the Complainant and its THE ICONIC Trademark.

The Panel is also satisfied that the Respondent is using the disputed domain name in bad faith for the following reasons:

(a) The Panel is satisfied that the Respondent is seeking to take unfair advantage of the Complainant's THE ICONIC Trademark by intentionally attempting to attract consumers familiar with the Complainant's trademark for commercial gain. The landing page at the disputed domain name asks consumers to "Let's Get Started" by clicking on a button. The landing page also invites Internet users to log in or register by providing personal details. Further, there is a "Chat Now" button for use by consumers. Internet users encountering the disputed domain name and the landing page located there will be led to believe that the website is provided by the Complainant when this is not the case.

This use appears designed to attract consumers for commercial gain and for phishing purposes by creating a likelihood of confusion.

(b) The Panel is entitled to draw and does draw an adverse inference from the failure of the Respondent to respond to the Complaint and to the factual allegations made by the Complainant.

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 name <iconicevaluate.com> be transferred to the Complainant.

/Andrew Brown K.C./

Andrew Brown K.C.

Sole Panelist

Date: October 16, 2025