

## **ADMINISTRATIVE PANEL DECISION**

ESMA v. darche conteneur  
Case No. D2026-0202

### **1. The Parties**

The Complainant is ESMA, France, represented by BrandShelter, France.

The Respondent is darche conteneur, Togo.

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

The disputed domain name <esma-services.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 January 19, 2026. On January 21, 2026, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 22, 2026, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 22, 2026, 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 January 27, 2026.

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 January 28, 2026. In accordance with the Rules, paragraph 5, the due date for Response was February 17, 2026. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 18, 2026.

The Center appointed Edoardo Fano as the sole panelist in this matter on March 2, 2026. 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.

The Panel, after reviewing the case file, noted that, as a trademark or service mark in which the Complainant has rights, in the Complaint were provided the International Registration No. QO2355 for ESMA and the Canadian Registration No. 974646 for ESMA EUROPEAN SECURITIES AND MARKETS AUTHORITY (Prohibited Mark; Emblem): these registrations appear to be registered under the Article 6ter of the Paris Convention for the Protection of Industrial Property ("Paris Convention"). However, Article 6ter does not generate a trademark right, or any other type of intellectual property (IP) right, over the signs that are covered by that provision. Therefore, in accordance with paragraphs 10 and 12 of the Rules, on March 9, 2026, the Panel issued an Administrative Procedural Order inviting the Complainant to provide assertion and evidence as to whether the Complainant has established common law rights or unregistered trademark rights in ESMA within the meaning of section 1.3, WIPO Overview of WIPO Panel Views on Select UDRP Questions ("[WIPO Overview 3.1](#)"), on or before March 14, 2026, and the Respondent to comment on the Complainant's submission, if any, on or before March 19, 2026.

On March 16, 2026, the Complainant replied to the above Panel's Administrative Procedural Order stating not to have any other trademark for ESMA and without establishing any common law rights or unregistered trademark rights in ESMA within the meaning of section 1.3 of the [WIPO Overview 3.1](#). The Respondent did not comment.

Having reviewed the communication records in the case file provided by the Center, the Panel finds that the Center has discharged its responsibility under the Rules, paragraph 2(a), "to employ reasonably available means calculated to achieve actual notice to [the] Respondent". Therefore, the Panel shall issue its Decision based upon the Complaint, the Policy, the Rules, and the Supplemental Rules and without the benefit of a response from the Respondent.

The language of the proceeding is English, being the language of the Registration Agreement, as per paragraph 11(a) of the Rules.

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

The Complainant is ESMA, European Securities and Markets Authority, the European Union financial markets regulator and supervisor, whose mission is to enhance investor protection, promote orderly financial markets and safeguard financial stability authority of the European Union, and owning the following registrations for ESMA under the Article 6ter of the Paris Convention:

- International Emblem Registration No. QO2355 for ESMA, registered on March 31, 2023;
- Canadian Emblem Registration No. 974646 for ESMA EUROPEAN SECURITIES AND MARKETS AUTHORITY and design, registered on May 24, 2023.

The Complainant also operates on the Internet, with the subdomain <esma.europa.eu>.

The Complainant provided evidence in support of the above.

According to the Whois records, the disputed domain name was registered on February 23, 2025, and it resolves to a Registrar parking page with pay-per-click ("PPC") links. However, when the Complaint was filed, the disputed domain name resolved to a website purportedly offering financial services, that is the same services as the Complainant.

#### **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 states that the disputed domain name is confusingly similar to its trademark ESMA.

Moreover, the Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name since it has not been authorized by the Complainant to register the disputed domain name or to use its trademark within the disputed domain name, it is not commonly known by the disputed domain name, and it is not making either a bona fide offering of goods or services or a legitimate noncommercial or fair use of the disputed domain name. The disputed domain name resolved to a website qualified as a scam and no legitimate website by several websites, purportedly offering financial services, that is the same services as the Complainant.

The Complainant submits that the Respondent has registered the disputed domain name in bad faith, since the Complainant's trademark ESMA is distinctive and well-known in the financial services field. Therefore, the Respondent targeted the Complainant's trademark at the time of registration of the disputed domain name and the Complainant contends that the use of the disputed domain name to benefit from the Complainant's reputation while purportedly proposing financial services, as well as the relevant website being qualified as a scam and no legitimate website by several websites, qualifies as bad faith registration and use.

## **B. Respondent**

The Respondent has made no reply to the Complainant's contentions and is in default. In reference to paragraphs 5(f) and 14 of the Rules, no exceptional circumstances explaining the default have been put forward or are apparent from the record.

A respondent is not obliged to participate in a proceeding under the Policy, but if it fails to do so, reasonable facts asserted by a complainant may be taken as true, and appropriate inferences, in accordance with paragraph 14(b) of the Rules, may be drawn. [WIPO Overview 3.1](#), section 4.3.

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy lists three elements, which the Complainant must satisfy in order to succeed:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is 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 name. [WIPO Overview 3.1](#), section 1.7.

However, as anticipated above and in the Administrative Procedural Order issued by the Panel on March 9, 2026, based on the available record, the Panel finds the Complainant has not shown rights in respect of a trademark or service mark within the meaning of paragraph 4(a)(i) of the Policy. [WIPO Overview 3.1](#), section 1.2. In fact, both registrations provided in the Complaint for ESMA were made under the Article 6ter of the Paris Convention, which does not generate a trademark right. See *European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) v. Virtual Clicks / Registrant ID:CR36884430, Registration Private Domains by Proxy, Inc.*, WIPO Case No. [D2010-0475](#), in which the Panel stated that "the purpose of Article 6ter is to prohibit the registration and use of trademarks which are identical or similar to certain emblems or official signs. However, as this Panel sees it, Article 6ter does not in itself confer rights in a trademark."

Based on the available record, the Panel finds the first element of the Policy has not been established.

**B. Rights or Legitimate Interests / C. Registered and Used in Bad Faith**

Because of the Panel's finding above, it is not necessary for the Panel to also make findings on paragraphs 4(a)(ii) and (iii) of the Policy.

**7. Decision**

For the foregoing reasons, the Complaint is denied.

*/Edoardo Fano/*

**Edoardo Fano**

Sole Panelist

Date: March 25, 2026