

## **ADMINISTRATIVE PANEL DECISION**

Agence Centrale des Organismes de Sécurité Sociale v. Bests, LLC  
Case No. D2022-1149

### **1. The Parties**

The Complainant is Agence Centrale des Organismes de Sécurité Sociale, France, represented by Alain Bensoussan SELAS, France.

The Respondent is Bests, LLC, United States of America (“United States”).

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

The disputed domain name <urssaf.com> is registered with Sea Wasp, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 1, 2022. On April 4, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 6, 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 7, 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 amended Complaints on April 10, 2022 and April 11, 2022.

The Registrar also indicated that the language of the Registration Agreement was English. The Complaint was filed in French. The Center sent an email communication to the Complainant on April 7, 2022, inviting the Complainant to provide sufficient evidence of an agreement between the Parties for French to be the language of proceeding, a Complaint translated into English, or a request for French to be the language of proceedings. The Complainant filed a request for French to be the language of proceedings on April 7, 2022. The Respondent sent an informal communication in English on April 11, 2022.

The Center verified that the Complaint together with the amended Complaints 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 in English and in French, and the proceedings commenced on April 14, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 4, 2022. The Respondent did not submit any formal response. Accordingly, the Center notified the Parties that it will proceed to Panel Appointment on May 5, 2022.

The Center appointed Edoardo Fano as the sole panelist in this matter on May 11, 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.

On May 13, 2022, the Center issued the Procedural Order No. 1. On May 18, 2022, the Complainant transmitted a translation of the Complaint. The Respondent did not submit any comments.

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 formal response from the Respondent.

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

The Complainant is Agence Centrale des Organismes de Sécurité Sociale, a French public body operating in the fields of social security and support services to self-entrepreneurs, that has been using the trademark URSSAF since 1960 in France and owns the following trademark registration for URSSAF:

- French Trademark Registration No. 4721802 for URSSAF and design, registered on May 7, 2021.

The Complainant's trademark URSSAF is an acronym standing for *Unions de recouvrement des cotisations de sécurité sociale et d'allocations familiales* (Unions for the collection of social security and family allowance contributions).

The Complainant also operates on the Internet, owning the domain name <urssaf.fr>.

The Complainant provided evidence in support of the above.

According to the Whois records, the disputed domain name was registered on November 23, 2007. The disputed domain name resolves to a parking page with sponsored links.

#### **5. Parties' Contentions**

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

The Complainant states that the disputed domain name is identical to its trademark URSSAF.

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 Respondent, in the website at the disputed domain name, has a parking page with sponsored links to the same fields of activity of the Complainant.

The Complainant submits that the Respondent has registered and is using the disputed domain name in bad faith, since it was registered with the only purpose of disrupting the business of the Complainant and attracting Internet users for commercial gain by creating confusion with the Complainant's trademark.

## **B. Respondent**

In this case, the Respondent submitted an informal email communication on April 11, 2022, stating the following:

“English please”.

The Respondent has made no formal reply to the Complainant’s contentions.

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 (see, e.g., *Reuters Limited v. Global Net 2000, Inc.*, WIPO Case No. [D2000-0441](#); *Microsoft Corporation v. Freak Films Oy*, WIPO Case No. [D2003-0109](#); *SSL INTERNATIONAL PLC v. MARK FREEMAN*, WIPO Case No. [D2000-1080](#); *ALTAVISTA COMPANY v. GRANDTOTAL FINANCES LIMITED et. al.*, WIPO Case No. [D2000-0848](#); *Confédération Nationale du Crédit Mutuel, Caisse Fédérale du Crédit Mutuel Nord Europe v. Marketing Total S.A.*, WIPO Case No. [D2007-0288](#)).

## **6. Discussion and Findings**

### **6.1 Language of Proceeding**

The Complaint has been filed in French, while the Registration Agreement for the disputed domain name is in English.

According to paragraph 11(a) of the Rules, “Unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.”

The Complainant has requested the language of the proceeding to be French because French is the language of the Complainant, the disputed domain name consist of an acronym corresponding to a French public service and the website at the disputed domain name is a parking page with links in French.

The Respondent sent an informal email communication to the Center, stating “English please”.

Further to the Procedural Order No. 1, the Complainant has transmitted a translation of the Complaint on May 18, 2022.

According to paragraph 10(b) of the Rules, “In all cases, the Panel shall ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case.”

The Panel decides that the language of the proceeding will be English, since the language of the Registration Agreement is English, there is not an agreement between the parties to change it and the reasons provided by the Complainant for the language of the proceeding to be French have to be considered as not applicable to the present case. In fact, the Respondent is based in United States and implicitly expressed disagreement, the disputed domain name corresponds to an acronym, not to a French word, and the language of the content of the website at the disputed domain name is French when viewed in France, since it consists of a parking page with pay-per-click links automatically generated, as it will be discussed further ahead.

### **6.2 Substantive Issues**

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; and
- (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**

The Panel finds that the Complainant is the owner of the trademark URSSAF and that the disputed domain name is identical to the trademark URSSAF.

It is well accepted that a generic Top-Level Domain (“gTLD”), in this case “.com”, is typically ignored when assessing the similarity between a trademark and a domain name. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([WIPO Overview 3.0](#)), section 1.11.

The Panel finds that the Complainant has therefore met its burden of proving that the disputed domain name is identical to the Complainant’s trademark, pursuant to the Policy, paragraph 4(a)(i).

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

Paragraph 4(a)(ii) of the Policy requires the Complainant to prove that the Respondent has no rights or legitimate interests in the disputed domain name.

The Respondent may establish a right or legitimate interest in the disputed domain name by demonstrating in accordance with paragraph 4(c) of the Policy any of the following circumstances, in particular but without limitation:

- “(i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or
- (iii) you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.”

According to paragraph 4(a) of the Policy, the Complainant has the burden of proving the three elements of the Policy. However, satisfying the burden of proving a lack of the Respondent’s rights or legitimate interests in respect of the disputed domain name according to paragraph 4(a)(ii) of the Policy is potentially difficult, since proving a negative circumstance is more complicated than establishing a positive one.

As such, it is well accepted that it is sufficient for the Complainant to make a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name in order to shift the burden of production on the Respondent. If the Respondent fails to demonstrate rights or legitimate interests in the disputed domain name in accordance with paragraph 4(c) of the Policy or on any other basis, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy. See [WIPO Overview 3.0](#), section 2.1.

The Respondent has failed to file a formal response in accordance with the Rules, paragraph 5.

The Complainant in its Complaint, and as set out above, has established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name. It asserts that the Respondent, who is not currently associated with the Complainant in any way, is not using the disputed domain name for a legitimate non-commercial or fair use or in connection with a *bona fide* offering of goods or services. The disputed domain name is used for a parking page with sponsored links to the same fields of

activity of the Complainant.

The *prima facie* case presented by the Complainant is enough to shift the burden of production to the Respondent to demonstrate that it has rights or legitimate interests in the disputed domain name. However, the Respondent has not presented any evidence of any rights or legitimate interests it may have in the disputed domain name, and the Panel is unable to establish any such rights or legitimate interests on the basis of the evidence in front of it.

Moreover, the Panel finds that the composition of the disputed domain name carries a risk of implied affiliation. See [WIPO Overview 3.0](#), section 2.5.1.

The Panel therefore finds that paragraph 4(a)(ii) of the Policy has been satisfied.

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

Paragraph 4(b) of the Policy provides that “for the purposes of paragraph 4(a)(iii) of the Policy, the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that [the respondent has] registered or has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of the complainant, for valuable consideration in excess of its documented out-of-pocket costs directly related to the domain name; or
- (ii) that [the respondent has] registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that [the respondent has] engaged in a pattern of such conduct; or
- (iii) that [the respondent has] registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) that by using the domain name, [the respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the respondent’s] website or other online location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of [the respondent’s] website or location or of a product or service on [the respondent’s] website or location.”

Regarding the registration in bad faith of the disputed domain name, the reputation of the Complainant’s activities under the term “URSSAF” in the fields of social services and support services for self-entrepreneurs since 1960 is clearly established, and the Panel finds that the Respondent likely knew of the Complainant, and deliberately registered the disputed domain name in bad faith, especially because the content of the website to which the disputed domain name resolves consists of providing the same services as the Complainant.

The Panel further finds that the disputed domain name is also used in bad faith since in the relevant website there are pay-per-click links, even in the case where they are automatically generated, mainly referring to social services and support services for self-entrepreneurs, and the Respondent is therefore knowingly taking advantage from user confusion.

The above suggests to the Panel that the Respondent intentionally registered and is using the disputed domain name in order to attract, for commercial gain, Internet users to its website in accordance with paragraph 4(b)(iv) of the Policy.

Furthermore, the Panel considers that the nature of the disputed domain name, which incorporates the Complainant’s trademark, further supports a finding of bad faith. See, [WIPO Overview 3.0](#), section 3.2.1.

The Panel finds that the Complainant has presented evidence to satisfy its burden of proof with respect to the issue of whether the Respondent has registered and is using the disputed domain name in bad faith.

The Panel therefore finds that paragraph 4(a)(iii) of the Policy has been satisfied.

## **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 <urssaf.com> be transferred to the Complainant.

*/Edoardo Fano/*

**Edoardo Fano**

Sole Panelist

Date: June 15, 2022