

ADMINISTRATIVE PANEL DECISION

IPSOS v. Sam Morgan

Case No. D2023-0296

1. The Parties

The Complainant is IPSOS, France, represented by Novagraaf France, France.

The Respondent is Sam Morgan, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <ippsos.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 23, 2023. On January 24, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 25, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 of the Complaint, and the proceedings commenced on February 1, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 21, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 23, 2023.

The Center appointed Angelica Lodigiani as the sole panelist in this matter on March 8, 2023. 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 was founded in 1975 and operates in the field of market research in 90 markets with more than 18,000 professionals. The Complainant is listed on the Paris Stock Exchange since July 1, 1999, and is the third largest global market research company worldwide. The Complainant serves over 5,000 clients and is well known in its field of activity.

The Complainant is the owner of the following trademarks:

- IPSOS, European Union Trade Mark registration No. 005583621, filed on December 14, 2006, and registered on January 10, 2008, covering goods and services in classes 35, 41 and 42;
- IPSOS (figurative), European Union Trade Mark registration No. 018161418, filed on December 5, 2019, and registered on May 22, 2020, covering goods and services in classes 9, 16, 35, 41 and 42.

The Complainant is also the owner of the domain name <ipsos.com>, registered on May 27, 1998, which resolves to the Complainant's official website and of the company name IPSOS, registered in France since November 14, 1975.

The disputed domain name was registered on October 18, 2022, and does not resolve to an active website. Mail exchanges ("MX records") are set up for the disputed domain name. On November 17, 2022, the Complainant sent a cease and desist letter to the Respondent, asking for the removal of the MX records and the cancellation of the disputed domain name. The Respondent failed to reply to the Complainant's letter.

5. Parties' Contentions

A. Complainant

According to the Complainant, the disputed domain name is confusingly similar to the Complainant's trademark IPSOS, as it consists of the same word "ipsos" written with two letters "p", and is therefore a misspelling and typosquatting of the Complainant's mark.

The Complainant further maintains that the Respondent lack rights or legitimate interests in the disputed domain name as the Respondent has no registered rights consisting of, or including the term "ippsos", and the Complainant has never authorized the registration of the disputed domain name.

Lastly, the Complainant contends that the Respondent registered and is being using the disputed domain name in bad faith. In particular, according to the Complainant, its trademark IPSOS is renowned and the Respondent could not ignore its existence at the time of the registration of the disputed domain name. As far as use in bad faith is concerned, the Complainant notes that MX records are set up for the disputed domain name. The Complainant sent a cease and desist letter to the Respondent informing of the Complainant's rights over the trademark IPSOS and asking for the removal of the MX records and the cancellation of the disputed domain name. The Respondent did not reply to the cease and desist letter and passively holds the disputed domain name.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Panel agrees with the Complainant that the disputed domain name is confusingly similar to the Complainant's IPSOS trademark. The disputed domain name is a misspelling of the Complainant's trademark as it consists of the word "ipsos" written with two letters "p". According to Section 1.9 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), "[a] domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element".

Accordingly, the Panel is satisfied that the first condition under the Policy is met.

B. Rights or Legitimate Interests

While the overall burden of proof rests with the complainant, UDRP panels have recognized that this could result in the often impossible task of proving a negative, requiring information that is often primarily within the knowledge of the respondent. As such, where a complainant makes a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name.

In the instant case, the Complainant maintains that it never authorized the Respondent to incorporate its trademark in a domain name and that the Respondent has no registered rights over the term "ipsos".

The Panel notes that the disputed domain name does not resolve to an active website and that there is no indication in the file that the Respondent could be linked to the Complainant by any kind of relationship, including a professional relationship. Furthermore, the relevant Whois does not show that the Respondent is commonly known by the disputed domain name.

The Respondent had the chance to rebut the Complainant's arguments concerning its lack of rights or legitimate interests in the disputed domain name but decided not to file a Response. Therefore, the Panel takes the view that the Complainant has at least made a *prima facie* case that the Respondent does not have rights or legitimate interests in the disputed domain name.

In consideration of the foregoing, the Panel is satisfied that also the second condition under the Policy is met.

C. Registered and Used in Bad Faith

The Complainant maintains that its trademark enjoys reputation worldwide and that consequently the Respondent could not ignore the existence of the Complainant and of its IPSOS trademark when it registered the disputed domain name. The Panel finds that the Respondent must have been aware of the Complainant's mark when it registered the disputed domain name. The Complainant filed its first IPSOS trademark application more than 15 years before the date of registration of the disputed domain name. The IPSOS mark consists of a coined word that the Complainant has been using for over 40 years. The Complainant has shown that it operates in various countries worldwide, including in the United States, where it has offices in different towns and states, including in New York City, where the Respondent is located according to the relevant Whois. All considered and absent any contrary indication, the Panel finds that the Respondent either knew or should have known the Complainant's trademark when it registered the disputed domain name, and that the disputed domain name was registered in bad faith.

The Respondent registered a domain name containing a misspelling version of the Complainant's trademark in what appears on the face of it to be a typosquatting registration. The Panel further notes that the disputed domain name does not resolve to an active website. However, the MX records are set up for the disputed domain name, which would enable the Respondent to send emails under a domain name that is confusingly

similar to the Complainant's mark. If so, such behavior would amount to a use of the disputed domain name in bad faith. In any case, the fact that the disputed domain name does not resolve to an active website cannot prevent a finding of bad faith. According to section 3.3 of the [WIPO Overview 3.0](#), passive holding does not prevent a finding of confusing similarity if the circumstances supports an inference of bad faith. Prior to filing its UDRP Complaint, the Complainant sent a cease and desist letter to the Respondent, informing him of the existence of its earlier registered trademarks, and requesting the removal of the MX records from the disputed domain name as well as its cancellation. The Respondent did not reply to the Complainant's letter and did not take any action in this regard. Pursuant to the general powers conferred to the Panel by paragraph 10 of the Rules, the Panel has made some limited investigations on the Respondent. The Panel has so found that the Respondent has been the respondent in another UDRP case (*Arista Networks Inc. v. Sam Morgan*, WIPO Case No. [D2022-4352](#)), where it was found to have registered a domain name containing a typosquatting of the complainant's mark (with two letters instead of one as is the case here) and to have used such domain name to engage in a business email compromise or phishing scam to impersonate the complainant. Thus, the Respondent has already engaged in a similar conduct in the past.

For all the aforementioned reasons, the Panel finds that the Respondent registered and used the disputed domain name in bad faith.

The Panel is therefore satisfied that also the third and last condition under the Policy has been met.

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 <ippsos.com> be transferred to the Complainant.

/Angelica Lodigiani/

Angelica Lodigiani

Sole Panelist

Date: March 23, 2023