

## **ADMINISTRATIVE PANEL DECISION**

Agence Centrale Des Organismes De Sécurité Sociale (ACOSS) v. Host Master, EdenMedia  
Case No. D2022-1182

### **1. The Parties**

The Complainant is Agence Centrale Des Organismes De Sécurité Sociale (ACOSS), France, represented by Alain Bensoussan Avocats, France.

The Respondent is Host Master, EdenMedia, Seychelles.

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

The disputed domain name <urssaf.net> is registered with Key-Systems GmbH (the “Registrar”).

### **3. Procedural History**

The Complaint was filed in French with the WIPO Arbitration and Mediation Center (the “Center”) on April 5, 2022. On the same day, 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 11, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. On the same day, the Center received an email communication from the Respondent addressing the merits of the dispute. The Complainant filed an amended Complaint in French on April 13, 2022.

On April 11, 2022, the Center transmitted an email in English and French to the Parties regarding the language of the proceeding. On the same day, the Complainant confirmed its request that French be the language of the proceeding. On April 14, 2022, the Respondent sent an email communication in English in which it opposed the Complainant’s request.

On April 14, 2022, the Respondent sent another email communication to the Center and the Complainant in which it proposed a settlement. On April 26, 2022, at the request of the Complainant, the proceeding was suspended until May 26, 2022 to allow the Parties to explore settlement options. The Parties then corresponded with each other in English. On May 18, 2022, the Respondent provided a signed settlement form in English. On May 26, 2022, at the request of the Complainant and with the consent of the Respondent, the suspension of this proceeding was extended until June 25, 2022. At the request of the

Complainant, the proceeding was reinstated on June 22, 2022. On the same day, the Center transmitted an email in English and French to the Complainant in which it requested a translation of the Complaint into English. The Complainant filed a translation of the Complaint in English on June 28, 2022.

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 June 29, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 19, 2022.

The Center appointed Matthew Kennedy as the sole panelist in this matter on July 28, 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.

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

“Urssaf” is a French acronym for “Unions de recouvrement des cotisations de sécurité sociale et d’allocations familiales”, which may be translated as “Organizations for the collection of social security and family allowance contributions”. Urssaf is a network of funds created by French law in 1960. The Complainant was established as a French administrative body in 1967 as the central or national fund of the network and its trade name was changed to “Urssaf Caisse Nationale” (meaning “Urssaf National Fund”) in January 2021. The Complainant holds French trademark registration number 4 721 802 for a semi-figurative mark featuring the textual element URSSAF, filed on January 15, 2021, and registered on May 7, 2021, specifying services in classes 35, 36, and 45 (the “URSSAF mark”). That trademark registration remains current. Urssaf funds collect social security contributions from 25 million employees and 9.8 million employers and entrepreneurs in France and redistribute these to 900 organizations that pay social security benefits. According to evidence submitted by the Complainant, Urssaf funds use the term “Urssaf” on all documents that they issue. The Complainant also registered the domain name <urssaf.fr> in 1995 and has used it in connection with a website since 1996, where it provides information about social security and now displays the URSSAF mark.

The Respondent is a business in the Seychelles. According to evidence provided by the Complainant, a panel in a prior proceeding under the Policy concluded that the Respondent registered and was using another domain name in bad faith. See *Muitas Ltd v. on behalf of clipis4sale.com OWNER c/o whoisproxy.com / Host Master, EdenMedia*, WIPO Case No. [D2022-0175](#).

The disputed domain name was registered on March 17, 2019, and acquired by the Respondent in September 2021. It resolves to a landing page displaying pay-per-click (“PPC”) links for websites regarding online business accounting and payroll software, among other things.

#### **5. Parties’ Contentions**

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

The disputed domain name is identical to the textual element of the Complainant’s URSSAF mark.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. It has no connection whatsoever with the French social security system and is not entrusted with any task carried out in the French public interest of any kind whatsoever that would allow it freely to register and use the protected sign URSSAF.

The disputed domain name was registered and is being used in bad faith. It was deliberately intended to divert Internet users searching for the Complainant's website to the Respondent's parked page which offers links to site for payroll and business creation services, which are similar and strongly linked to the activities covered by the Complainant's URSSAF mark.

## **B. Respondent**

In its email communication of April 11, 2022, the Respondent submitted that the disputed domain name was acquired in September 2021 as part of a monetization domain portfolio of more than 50,000 domain names used exclusively to direct users to paid advertisements selected by various PPC or zero click advertising networks. Upon acquisition, the Respondent performed a scan of the entire portfolio for potential infringing trademarks using a well-known domain appraisal tool. The disputed domain name was and is not flagged in the scan. The Respondent was entirely unaware of the Complainant's trademark or the Complainant itself at the time. Therefore, the Respondent did not acquire the disputed domain name in bad faith. The actual use of the domain names is determined by the advertising networks. The Respondent has no direct control over the advertisements chosen for delivery to the visitor but alerts the advertising networks to any malicious advertising campaigns (such as the content described by the Complainant) that it is notified of to allow them to remove these advertisers from their network. To the date of the Complaint, the Respondent had received no complaints regarding the disputed domain name. The Respondent has a legitimate interest in the disputed domain name as it generates advertising revenues as part of the above-mentioned portfolio in a manner that is to the Respondent's knowledge not infringing upon the classes of the Complainant's trademarks. Besides, the disputed domain name was first registered on March 3, 2019, way before the trademark was registered.

## **6. Discussion and Findings**

### **6.1 Procedural Issues**

#### **A. Language of the Proceeding**

The Registrar confirmed that the language of the Registration Agreement is English. The Complainant requested that the language of the proceeding be French but the Respondent objected to that request and submitted the Response in English. The Parties communicated with each other in English during this proceeding and the Complainant later submitted an English translation of the Complaint. Accordingly, the Panel determines that the language of this proceeding is English.

#### **B. Respondent's Consent to Transfer**

During this proceeding, the Respondent executed a standard settlement form in which it requested the Registrar to transfer the disputed domain name from its control to the Complainant free of charge. The Complainant did not accept the form because it lacked proof of the legal existence of the Respondent.

The Panel will proceed to an evaluation of the merits given that (i) the Respondent has submitted that it did not register the disputed domain name in bad faith and maintains that it does not intend to infringe the Complainant's trademark; and (ii) the circumstances in this case and a prior case involving the Respondent are similar and may form part of a pattern of conduct. See generally WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.10.

## 6.2 Substantive Issues

Paragraph 4(a) of the Policy provides that the Complainant must prove each of the following elements with respect to each disputed domain name:

- (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

Based on the evidence submitted, the Panel finds that the Complainant has rights in the URSSAF mark. Given that the figurative elements of the mark cannot be represented in a domain name for technical reasons, the Panel will disregard these in its comparison with the disputed domain name. See WIPO Overview 3.0, section 1.10.

The disputed domain name is identical to the URSSAF mark, but for the addition of a generic Top-Level Domain extension (".net") which may be largely disregarded for the purposes of the first element of paragraph 4(a) of the Policy. See WIPO Overview 3.0, section 1.11.

Accordingly, the Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

Therefore, the Complainant has satisfied the first element in paragraph 4(a) of the Policy.

### B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets out the following circumstances which, without limitation, if found by the Panel, shall demonstrate that the respondent has rights to, or legitimate interests in, a disputed domain name, for the purposes of paragraph 4(a)(ii) of the Policy:

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

As regards the first circumstance set out above, the disputed domain name resolves to a landing page displaying PPC links for websites regarding online business accounting and payroll software, among other things. This use capitalizes on the meaning of the URSSAF trademark as a fund to collect social security contributions from employers, employees and entrepreneurs. Despite the Respondent's submission that the PPC links, to its knowledge, do not infringe upon the classes of the Complainant's trademarks, the Panel does not consider that the use of a disputed domain name in this way is in connection with a *bona fide* offering of goods or services for the purposes of the Policy. See WIPO Overview 3.0, section 2.9.

As regards the second circumstance set out above, the Respondent's name is listed in the Registrar's Whois database as "EdenMedia", not the disputed domain name. There is no evidence indicating that the Respondent has been commonly known by the disputed domain name as envisaged by paragraph 4(c)(ii) of the Policy.

As regards the third circumstance set out above, it is not disputed that the PPC links generate advertising revenues for the Respondent. Accordingly, the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name for the purposes of the Policy.

Nothing in the evidence on record indicates that the Respondent has any other rights to or legitimate interests in the disputed domain name for the purposes of the Policy.

Therefore, the Complainant has satisfied the second element in paragraph 4(a) of the Policy.

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

Paragraph 4(b) of the Policy provides that certain circumstances, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith. The fourth circumstance is as follows:

(iv) by using the [disputed] 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.

As regards registration, the Respondent points out that the disputed domain name was first registered in March 2019. However, the Panel will assess the registration as of the date on which the current registrant acquired the disputed domain name. See WIPO Overview 3.0, section 3.9. In the present case, according to the Response, the disputed domain name was acquired by the Respondent in September 2021, which was after the Complainant obtained its registration of the URSSAF mark. The disputed domain name is identical to the textual element of that mark, which has no other apparent meaning than as the Complainant's trademark. The Respondent submits that the disputed domain name was acquired as part of a bulk purchase, in which case the Panel considers that the Respondent had an obligation to make a good faith effort to screen for trademark conflicts. See WIPO Overview 3.0, section 3.2.3. The Respondent does not substantiate its assertion that it conducted a scan using a domain portfolio appraisal tool at the time of acquisition, nor that it ran another such scan during this proceeding. Some such evidence is required as the disputed domain name is identical to the textual element of the URSSAF mark and all the top results of a basic Google search for URSSAF refer to the Complainant's website or the network that it manages. Although the mark is used in France, the term "Urssaf" has been in widespread use in that country for decades, including online. In view of these circumstances, the Panel finds that the Respondent should have known of the Complainant's mark at the time when it registered the disputed domain name.

As regards use, the disputed domain name resolves to a landing page displaying PPC links. It is used to attract Internet users by creating a likelihood of confusion with the Complainant's URSSAF mark as to the source, sponsorship, affiliation, or endorsement of the parking page to which it resolves. The use of the disputed domain name with PPC links is intentional and for the commercial gain of the Respondent. Although the Respondent submits that it has no direct control over the advertisements chosen for delivery to the visitor to its landing page, as the holder of the disputed domain name it remains responsible for the use to which it is put. Accordingly, the Panel considers that these circumstances fall within the terms of paragraph 4(b)(iv) of the Policy.

Therefore, the Panel finds that the disputed domain name has been registered and is being used in bad faith. The Complainant has satisfied the third element in paragraph 4(a) 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 <urssaf.net> be transferred to the Complainant.

*/Matthew Kennedy/*

**Matthew Kennedy**

Sole Panelist

Date: August 11, 2022