

ADMINISTRATIVE PANEL DECISION

Unipolsai Assicurazioni S.p.A. v. Daniele Tasciotti, FULLJOB LIMITED, and ADELE CORACI, Fulljob Limited

Case No. D2022-4833

1. The Parties

The Complainant is Unipolsai Assicurazioni S.p.A., Italy, represented by Bugnion S.p.A., Italy.

The Respondents are Daniele Tasciotti, FULLJOB LIMITED, Italy, and ADELE CORACI, Fulljob Limited, United Kingdom.

2. The Domain Names and Registrars

The disputed domain name <unipolsai.org> is registered with Register SPA.

The disputed domain name <unipolsai.biz> is registered with NameCheap, Inc.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on December 16, 2022. On December 16, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On December 16, 2022, and December 19, 2022, the Registrars transmitted by email to the Center its verification response disclosing multiple underlying registrants and contact information for the disputed domain names which differed from the named Respondents and contact information in the Complaint. The Center sent an email communication to the Complainant on December 22, 2022, providing the registrants and contact information disclosed by the Registrars, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint on December 22, 2022.

The Center verified that the Complaint together with the amendment to 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 Respondents of the Complaint, and the proceedings commenced on January 5, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 25, 2023. The Respondents did not submit any response.

Accordingly, the Center notified the Respondents' default on January 26, 2023.

The Center appointed Edoardo Fano as the sole panelist in this matter on February 9, 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.

The Panel has not received any requests from the Complainant or the Respondents regarding further submissions, waivers or extensions of deadlines, and the Panel has not found it necessary to request any further information from the Parties.

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 Respondents.

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

4. Factual Background

The Complainant is Unipolsai Assicurazioni S.p.A., an Italian company operating in the insurance field, subsidiary of Unipol Gruppo S.p.A. Unipol Assicurazioni S.p.A. owns several trademark registrations for UNIPOLSAI, among which the following:

- Italian Trademark Registration No. 0001552597 for UNIPOLSAI, registered on July 31, 2013;
- International Trademark Registration No. 1158882 for UNIPOLSAI, registered on January 25, 2013.

Unipolsai Assicurazioni S.p.A. owns the following trademark registrations for UNIPOLSAI:

- Italian Trademark Registration No. 302021000099950 for UNIPOLSAI and design, registered on January 3, 2022;
- European Union Trademark Registration No. 018479175 for UNIPOLSAI and design, registered on September 30, 2021.

The Complainant operates also on the Internet, its main websites being "www.unipolsai.it", owned by Unipol Assicurazioni S.p.A., and "www.unipolsai.com", owned by Unipolsai Assicurazioni S.p.A.

The Complainant provided evidence in support of the above.

According to the Whois records, the disputed domain names were registered on the following dates: <unipolsai.org> on March 8, 2022, and <unipolsai.biz> on September 13, 2022. The disputed domain name <unipolsai.org> is inactive, while the disputed domain name <unipolsai.biz> resolves to a webpage in Italian, in which the Complainant's trademark and logo are reproduced and there is a brief description of the Complainant's company and services. The Complainant has provided evidence that also the disputed domain name <unipolsai.org>, before being inactive, resolved to the same webpage in Italian as the disputed domain name <unipolsai.biz>, in which the Complainant's trademark and logo were reproduced and there was a brief description of the Complainant's company and services.

5. Parties' Contentions

A. Complainant

The Complainant states that the disputed domain names are identical to its trademark UNIPOLSAI, as the disputed domain names wholly incorporate the Complainant's trademark.

Further to section 6.1 below, the Complainant argues that the disputed domain names are under common control and thus addresses the Respondents in the singular. The Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain names since it has not been authorized by the Complainant to register the disputed domain names or to use its trademark within the disputed domain names. Both the disputed domain names resolved, and one of them, namely <unipolsai.biz>, still resolves, to a webpage in which the Complainant's trademark and logo were reproduced and there was a brief description of the Complainant's company and services.

The Complainant submits that the Respondent has registered the disputed domain names in bad faith, since the Complainant's trademark UNIPOLSAI is distinctive and known in the insurance field. Therefore, the Respondent targeted the Complainant's trademark at the time of registration of the disputed domain names and the Complainant contends that the use of the disputed domain names with the purpose to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's trademark as to an affiliation between the Respondent and the Complainant, qualifies as bad faith registration and use.

B. Respondents

The Respondents have made no reply to the Complainant's contentions and are 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 (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](#); and *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 Consolidation of Multiple Respondents

The Complainant has requested consolidation of multiple Respondents and stated that the disputed domain names are subject to common control. No objection to this request was made by the Respondents.

Pursuant to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") section 4.11.2, "[w]here a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario". The Panel may consider a range of factors to determine whether consolidation is appropriate, such as examining relevant registrant contact information, and any naming patterns in the disputed domain names, or other evidence of respondent affiliation that indicate common control of the disputed domain names.

The Panel notes that the Respondents result to be two members of the same company, namely Fulljob Limited, that both registrants also provided phone numbers with an Italian prefix, and the disputed domain

names resolved to identical webpages in Italian, in which the Complainant's trademark and logo were reproduced and there was a brief description of the Complainant's company and services, as it can still be seen on the webpage at the disputed domain name <unipolsai.biz>. The Panel finds that there is evidence that the disputed domain names are subject to common control, and that it would be procedurally efficient, fair and equitable to all Parties to accept the Complainant's consolidation request. The Panel further notes that the Respondents did not object to the consolidation request. The Panel therefore accepts the Complainant's consolidation request. Hereinafter, the Panel will refer to the Respondents in the singular, *i.e.*, "the Respondent".

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 names are 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 names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

A. Identical or Confusingly Similar

The Panel finds that the Complainant is the owner of the trademark UNIPOLSAI both by registration and acquired reputation and that the disputed domain names are identical to the trademark UNIPOLSAI.

It is well accepted that a generic Top-Level Domain ("gTLD"), in this case ".org" and ".biz", is typically ignored when assessing the similarity between a trademark and a domain name. See [WIPO Overview 3.0](#), section 1.11.

The Panel finds that the Complainant has therefore met its burden of proving that the disputed domain names are 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 names.

The Respondent may establish rights or legitimate interests in the disputed domain names 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 names according to paragraph 4(a)(ii) of the Policy is potentially quite difficult, since proving a negative circumstance is generally 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 names in order to shift the burden of

production to the Respondent. If the Respondent fails to demonstrate rights or legitimate interests in the disputed domain names 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.

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 names. It asserts that the Respondent has not been authorized by the Complainant to register the disputed domain names or to use its trademark within the disputed domain names: both the disputed domain names resolved, and one of them, namely <unipolsai.biz>, still resolves, to a webpage in which the Complainant's trademark and logo were reproduced and there was a brief description of the Complainant's company and services, the Respondent likely attempting to pass off as the Complainant or as being affiliated to the Complainant.

According to the [WIPO Overview 3.0](#), section 2.13.1:

"Panels have categorically held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent [...]."

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 names. However, the Respondent has not presented any evidence of any rights or legitimate interests it may have in the disputed domain names.

Moreover, the Panel finds that the composition of the disputed domain names carries a high risk of implied affiliation as they effectively impersonate or suggest sponsorship or endorsement by the Complainant. 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 on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of [the respondent's] web site or location or of a product or service on [the respondent's] web site or location."

Regarding the registration in bad faith of the disputed domain names, the reputation of the Complainant's trademark UNIPOLSAI in the insurance field is clearly established and the Panel finds that the Respondent likely knew of the Complainant and deliberately registered the disputed domain names, especially because both the disputed domain names resolved, and one of them, namely <unipolsai.biz>, still resolves, to a webpage in which the Complainant's trademark and logo were reproduced and there was a brief description of the Complainant's company and services.

The Panel further notes that the disputed domain names are also being used in bad faith since the Respondent is trying to attract Internet users to its webpages by creating likelihood of confusion with the Complainant's trademark.

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

As regards the actual use in bad faith of the disputed domain name <unipolsai.org>, which is inactive, the Panel considers that bad faith may exist even in cases of so-called "passive holding", as found in the landmark UDRP decision *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#). In the circumstances of this case, the Panel finds that such passive holding does not prevent a finding of bad faith. See [WIPO Overview 3.0](#), section 3.3.

Furthermore, the Panel considers that the nature of the inherently misleading disputed domain names, which are identical to the Complainant's trademark UNIPOLSAI, further supports a finding of bad faith and intent to confuse users about a non-existent affiliation trading off of the Complainant's reputation and goodwill. 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 names 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 names <unipolsai.org> and <unipolsai.biz> be transferred to the Complainant.

/Edoardo Fano/

Edoardo Fano

Sole Panelist

Date: February 20, 2023