

ADMINISTRATIVE PANEL DECISION

Seeh Finance and Investments SA v. Andrej Pullenski

Case No. D2022-4899

1. The Parties

The Complainant is Seeh Finance and Investments SA, Switzerland, represented by Etude Fontanet & Associés, Switzerland.

The Respondent is Andrej Pullenski, Nigeria.

2. The Domain Name and Registrar

The disputed domain name <seehfinanceinvestments.com> (the “Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 20, 2022. On December 21, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On December 21, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Privacy Service Provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 27, 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 amendments to the Complaint on December 29, 2022, and January 6, 2023.

The Center verified that the Complaint together with the amendments 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 Respondent of the Complaint, and the proceedings commenced on January 10, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 30, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 1, 2023.

The Center appointed Jeremy Speres as the sole panelist in this matter on February 7, 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.

On February 16, 2023, the Panel issued Procedural Order No. 1, regarding the Complainant's evidence concerning the common law rights claimed in the Complaint and inviting the Complainant to further support its evidence, given that there was *prima facie* evidence of bad faith included in the Complaint. On February 22, 2023 the Complainant filed supplementary evidence in support of its claim to common law rights. The Respondent did not respond to the supplementary evidence.

4. Factual Background

The uncontested facts are as follows. The Complainant is a Swiss company registered in Geneva since 2006. The Complainant has traded under the name Seeh Finance and Investments since 2006 as an investment and finance company. The Complainant's Chairman is Mr. Mattiello. The Complainant registered the domain name <seehfinance.ch> in 2017, which the Complainant uses as its primary domain name for email purposes.

The Domain Name was registered on October 7, 2022. The Complainant's evidence establishes that the Domain Name has, in the past, resolved to a website entitled "Seeh Finance and Investments", claiming to be that of a finance and investment company based in Switzerland. The website states an address for the company that is virtually identical to that of the Complainant's registered address in Geneva, and claims that its Chairman is Mr. Mattiello. On the day of the Decision, the Domain Name resolved to a default web site page.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has, through longstanding use, acquired common law rights in its SEEH FINANCE AND INVESTMENTS mark. The Complainant further contends that the Domain Name is identical to its mark, that the Respondent has no rights or legitimate interests in the Domain Name, and the Domain Name was registered and has been used in bad faith given that the Domain Name has been used to impersonate the Complainant.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant's evidence establishes that it enjoys goodwill and common law rights, at least within its own industry and in Switzerland, in the SEEH FINANCE AND INVESTMENTS mark. The Complainant presented evidence of a company registration in that name, evidencing trade since 2006, as well as numerous exchanges with large commercial banks and financial service providers showing recognition of the name as a source identifier in trade. The Complainant also adduced correspondence that it received from the Swiss financial regulator, FINMA, querying whether the Complainant was licensed to offer financial services through the Domain Name. This shows recognition of the Complainant's name by the regulator.

As discussed below in relation to bad faith, it is quite clear that the Respondent targeted the Complainant with the Domain Name's website. The fact that a respondent is shown to have been targeting a complainant's mark (e.g., based on the manner in which the related website is used) may support the complainant's assertion that its mark has achieved significance as a source identifier (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") at section 1.3 and 1.15).

The Domain Name is virtually identical to the Complainant's mark and the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant's mark enjoyed longstanding use and goodwill prior to registration of the Domain Name. The Domain Name is virtually identical to the Complainant's mark, the Complainant has claimed that the Domain Name is unauthorised by it, the Respondent did not file a Response, and there is no evidence that any of the circumstances set out in paragraphs 4(c)(ii) and (iii) of the Policy pertain.

Regarding paragraph 4(c)(i) of the Policy, the Complainant has presented credible, uncontroverted evidence that the Domain Name has been used to impersonate the Complainant. Panels have categorically held that use of a domain name for illegal activity (e.g., impersonation, or other types of fraud) can never confer rights or legitimate interests ([WIPO Overview 3.0](#) at section 2.13.1).

The Complainant has satisfied paragraph 4(a)(ii) of the Policy by virtue of having made out an unrebutted *prima facie* case ([WIPO Overview 3.0](#) at section 2.1).

C. Registered and Used in Bad Faith

The Domain Name's website clearly impersonates the Complainant. It refers to the Complainant's Chairman by name and uses an address that is virtually identical to the Complainant's registered address. It also claims to offer services identical to those of the Complainant and makes prominent use of a name identical to the Complainant's mark. The fact that the Complainant's mark incorporates a seemingly invented term, "seeh", which has no obvious dictionary meaning, is further evidence of targeting.

Mail exchange (MX) records are set for the Domain Name, enabling use for email. This raises the risk of email-based fraud, which is particularly concerning given the Complainant's trade in the finance industry (*Statoil ASA v. Registration Private, Domains By Proxy, LLC / Eldar Saetre*, WIPO Case No. [D2018-0563](#)). The fact that FINMA raised a concern that the operator of the website is not licensed to offer the services that the Domain Name's website offered is further proof of general unlawful intent on the Respondent's part. The fact that FINMA contacted the Complainant about the Domain Name is evidence of actual confusion, which indicates targeting ([WIPO Overview 3.0](#) at section 3.1.4).

The Panel moreover draws adverse inferences from the Respondent's failure to take part in the present proceeding where an explanation is certainly called for ([WIPO Overview 3.0](#) at section 4.3) and the use of a privacy proxy service ([WIPO Overview 3.0](#) at section 3.6). The Respondent apparently supplied incomplete or false address details in the Whois record for the Domain Name; the Center's courier indicated that a "bad address" was supplied and that the Center's package could not be delivered to the Respondent. In the circumstances of this case, this suggests an attempt by the Respondent to evade pursuit (*Kabushiki Kaisha Raibudo v. Kubota, A*, WIPO Case No. [D2001-0817](#)).

The Complainant has satisfied paragraph 4(a)(iii) 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 Domain Name, <seehfinanceinvestments.com>, be transferred to the Complainant.

/Jeremy Speres/

Jeremy Speres

Sole Panelist

Date: March 6, 2023