

ADMINISTRATIVE PANEL DECISION

Safran v. Mikhail Buslaev

Case No. D2023-2259

1. The Parties

The Complainant is Safran, France, represented internally.

The Respondent is Mikhail Buslaev, Ukraine.

2. The Domain Name and Registrar

The disputed domain name <safran-group.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 24, 2023. On May 25, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 26, 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 June 6, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 26, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 27, 2023.

The Center appointed Mihaela Maravela as the sole panelist in this matter on July 3, 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

According to information in the Complaint, the Complainant is an international high-technology group, operating in the aviation (propulsion, equipment and interiors), defense and space markets. It has a global presence, with 83,000 employees and sales of 19 billion in 2022.

The Complainant is the owner of several trademarks consisting of SAFRAN, such as the European Union Trade Mark no. 004535209 registered on August 17, 2009 or the International trademark no. 884321 registered on August 5, 2005. The Complainant also owns many domain names that include its trademark SAFRAN, such as the domain name <safran-group.com>, that it uses as its official website.

The disputed domain name was registered on September 9, 2022 and does not resolve to an active website.

5. Parties' Contentions

A. Complainant

The Complainant argues that the disputed domain name reproduces in a quasi-identical manner its trademark SAFRAN, as it only includes an additional "f" in the middle of the term "safran" and the term "group". This combination refers directly to the Complainant, which is often referred to as "Safran Group".

As regards the second element, the Complainant argues that it had not licensed the trademark SAFRAN to the Respondent and the Complainant has no relationship with the Respondent. Moreover, the Respondent does not use the disputed domain name, nor a name corresponding to the disputed domain name in connection with a good faith offer of products or services. In addition, the Respondent is not commonly known by the disputed domain name.

With respect to the third element, the Complainant argues that the Respondent, who has no rights with respect to the trademark SAFRAN and no link with the Complainant, has registered the disputed domain name imitating the trademark SAFRAN, therefore, the Respondent intentionally attempted to attract the Internet users, by creating a likelihood of confusion with the Complainant's trademark. The disputed domain name seems to not be used by the Respondent, but this non-use does not prevent a finding of bad faith under the doctrine of passive holding, especially given the Complainant's correspondence with the Respondent, which indicate that the disputed domain name was registered or acquired primarily for the purpose of selling, renting, or otherwise transferring the disputed domain name to the owner of the trademark or service mark (normally the Complainant) or to a competitor of the Complainant, for valuable consideration in excess of the Respondent's out-of-pocket costs directly related to the domain name.

B. Respondent

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

6. Discussion and Findings

No response has been received from the Respondent in this case. Under paragraph 10 of the Rules, the Panel is required to ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case, and also that the administrative proceeding takes place with due expedition.

While the Respondent's mailing address is stated to be in Ukraine, which is subject to an international conflict at the date of this decision, it is appropriate for the Panel to consider, in accordance with its discretion under paragraph 10 of the Rules, whether the proceeding should continue.

The Panel is of the view that it should. While the courier service provider was not able to deliver the written notice to the Respondent, the Panel notes that the Complaint was delivered to the Respondent's email address.

The Panel further notes that, for reasons set out below, the Panel has no serious doubt (albeit in the absence of any Response) that the Respondent registered and has used the disputed domain name in bad faith. The Panel concludes that the Parties have been given a fair opportunity to present their case. In order that the administrative proceeding takes place with due expedition, the Panel will proceed to a decision accordingly.

The applicable standard of proof in UDRP cases is the "balance of probabilities" or "preponderance of the evidence", and the Panel can draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (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.

Under paragraph 15(a) of the Rules, "[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

A. Identical or Confusingly Similar

Under paragraph 4(a)(i) of the Policy, the Complainant must prove that it has rights to a trademark, and that the disputed domain name is identical or confusingly similar to that trademark. This first element under the Policy functions primarily as a standing requirement. [WIPO Overview 3.0](#), section 1.7.

The Complainant has invoked in the Complaint it has rights in the SAFRAN trademark, indicating details of the registrations. Trademark certificates should have been submitted by the Complainant. Nevertheless, considering a panel's general powers under paragraphs 10 and 12 of the UDRP Rules, the Panel has verified the publicly available trademark databases and has found that the trademarks invoked in the Complaint are registered trademarks in the Complainant's name. [WIPO Overview 3.0](#), section 4.8.

As regards the second limb of the first element, the test for confusing similarity involves a reasoned but relatively straightforward comparison between the trademark and the disputed domain name. It is well established that the generic Top-Level Domain ("gTLD") may be ignored when assessing the confusing similarity between the disputed domain name and the Complainant's trademarks as they are viewed as a standard registration requirement. See section 1.11.1 of the [WIPO Overview 3.0](#).

The disputed domain name consists of the obvious misspelling of the SAFRAN trademark of the Complainant and the addition of "group" and a hyphen. The addition of other terms (whether geographical wording, descriptive, pejorative, meaningless, or otherwise) to trademarks in a domain name or a domain name which consists of a common, obvious, or intentional misspelling of a trademark would not prevent a finding of confusing similarity for purposes of the first element. See section 1.8 and 1.9 of the [WIPO Overview 3.0](#).

The Panel finds that the requirement of paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, the Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

As established by previous UDRP panels, it is sufficient for the Complainant to make a *prima facie* case demonstrating that the Respondent has no rights or legitimate interests in the disputed domain name in order to place the burden of production on the Respondent (see section 2.1 of the [WIPO Overview 3.0](#)).

In the present case, the Complainant holds rights over the SAFRAN trademark and claims that the Respondent has no legitimate reason to acquire and use the disputed domain name. There is no evidence that the Respondent is using the disputed domain name in connection with a *bona fide* offering of goods or services, nor does the Respondent appear to engage in any legitimate noncommercial or fair use of the disputed domain name within the meaning of paragraphs 4(c)(i) and (iii) of the Policy.

Furthermore, the typographical error in the Complainant's trademark represented in the disputed domain name with the added letter "f" is demonstrative of the Respondent's lack of rights or legitimate interests. Such typographical error illustrates the Respondent's intent to mislead unsuspecting Internet users, unaware of the error in the disputed domain name and expecting to find the Complainant.

Also, there is no evidence that the Respondent is commonly known by the disputed domain name within the meaning of paragraph 4(c)(ii) of the Policy.

The Panel considers that the Complainant has made a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent has failed to bring evidence to the contrary.

With the evidence on file, the Panel finds that the requirement of paragraph 4(a)(ii) of the Policy is satisfied.

C. Registered and Used in Bad Faith

To fulfill the third requirement of the Policy, the Complainant must prove that the disputed domain name was registered and is being used in bad faith.

At the date of registration of the disputed domain name, the Complainant's SAFRAN trademark was already registered and widely used for many years, including by way of the Complainant's official website at the domain name <safran-group.com>. The use of the term "group" in the disputed domain name indicates that the Respondent was targeting the Complainant and its trademarks, since the Complainant has been using its SAFRAN trademark with the term "group" in its own domain names.

As regards the use, the disputed domain name is passively held.

Section 3.3 of the [WIPO Overview 3.0](#) describes the circumstances under which the passive holding of a domain will be considered to be in bad faith: "While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put."

The Panel finds that the passive holding of the disputed domain name does not in the circumstances of this case prevent a finding of bad faith. There is no evidence in the record of a legitimate use of the disputed domain name. The trademark of the Complainant is distinctive and widely used in commerce. UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to

a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. See section 3.1.4 of the [WIPO Overview 3.0](#).

The Panel further notes that according to the un rebutted evidence put forward by the Complainant, the Respondent appears to have approached the Complainant for the selling of the disputed domain name. This is an additional element that sustains in the Panel's view the bad faith registration and use of the disputed domain name, primarily for the purpose of selling it to the Complainant under paragraph 4(b)(i) of the Policy.

Moreover, the Respondent has not formally participated in these proceedings and has failed to rebut the Complainant's contentions and to provide any evidence of actual or contemplated good-faith use and indeed none would seem plausible. Considering all the above, it is not possible to conceive any plausible actual or contemplated good faith registration and use of the disputed domain name by the Respondent.

Based on the evidence and circumstances of this case, the Panel concludes that the disputed domain name was registered and used in bad faith and that the requirement of paragraph 4(a)(iii) of the Policy is 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, <saffran-group.com>, be transferred to the Complainant.

/Mihaela Maravela/

Mihaela Maravela

Sole Panelist

Date: July 17, 2023