

## **ADMINISTRATIVE PANEL DECISION**

Safran v. Host Master, Transure Enterprise Ltd  
Case No. D2023-2275

### **1. The Parties**

The Complainant is Safran, France, represented by Ebrand France, France.

The Respondent is Host Master, Transure Enterprise Ltd, United States of America.

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

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

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 25, 2023. On May 25, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On May 30, 2023, 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 (Registry Registrant ID: above\_privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 30, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint on May 30, 2023.

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 Respondent of the Complaint, and the proceedings commenced on June 5, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 25, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 27, 2023.

The Center appointed Nicholas Smith as the sole panelist in this matter on July 4, 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 is a French company that provides high technology solutions in the aviation, defense, and space industries. The Complainant had sales of EUR 16.5 billion in 2020 and employs over 95,000 people worldwide. The Complainant operates various websites featuring the term SAGEMCOM including a website at “www.sagemcom.com”.

The Complainant holds a number of registered trade marks for the term SAGEMCOM (the “SAGEMCOM Mark”) including International trade mark registration number 1023960 registered on July 30, 2009, for goods and services in classes 9, 38, and 42.

The Domain Name <comsagemcom.com> was registered on September 12, 2022, and is presently inactive. Prior to the commencement of the proceedings the Domain Name redirected to various websites including a website (the “Respondent’s Website”) that offered various advertisements for which the Respondent likely would receive revenue (often referred to as pay-per-click advertisements) for various third-party consumer products.

#### **5. Parties’ Contentions**

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

The Complainant makes the following contentions:

- (i) the Domain Name is identical or confusingly similar to the Complainant’s SAGEMCOM Mark;
- (ii) the Respondent has no rights nor any legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

The Complainant is the owner of the SAGEMCOM Mark having registered an international and European Union trade mark for the SAGEMCOM Mark. The Domain Name is confusingly similar to the SAGEMCOM Mark since it adds an additional “com” to the wholly incorporated SAGEMCOM Mark, which is a classic case of typosquatting.

There are no rights or legitimate interests held by the Respondent in respect of the Domain Name. The Complainant has not granted any license or authorization for the Respondent to use the SAGEMCOM Mark. The Respondent does not use the Domain Name for a *bona fide* purpose or a legitimate noncommercial use. Rather the Domain Name resolves or has resolved to a page with links to advertisements, which does not provide the Respondent with rights or legitimate interests.

The Domain Name was registered and is being used in bad faith. Given the reputation of the SAGEMCOM Mark, the registration of the Domain Name can only be taken as an attempt by the Respondent to gain an unfair benefit from the Complainant’s reputation. The Domain Name also had MX servers configured, meaning it could be used to send illicit e-mails. The Respondent has also used the Domain Name for a pay-per-click site which amounts to bad faith use.

##### **B. Respondent**

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

## 6. Discussion and Findings

### A. Identical or Confusingly Similar

To prove this element the Complainant must have trade or service mark rights and the Domain Name must be identical or confusingly similar to the Complainant's trade or service mark.

The Complainant is the owner of the SAGEMCOM Mark, having registrations for the SAGEMCOM Mark as a trade mark in many jurisdictions.

Disregarding the ".com" generic Top-Level Domain ("gTLD") as a necessary technical requirement of the Domain Name, the Domain Name is confusingly similar to the SAGEMCOM Mark since it wholly incorporates the SAGEMCOM Mark and adds the letters "com". Other UDRP panels have repeatedly held that where the relevant trade mark is recognizable within the disputed domain name, the addition of other terms does not prevent a finding of confusing similarity under the first element; see section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Panel finds that the Domain Name is confusingly similar to the Complainant's SAGEMCOM Mark. Consequently, the requirement of paragraph 4(a)(i) of the Policy is satisfied.

### B. Rights or Legitimate Interests

To succeed on this element, a complainant must make out a *prima facie* case that the respondent lacks rights or legitimate interests in the domain name. If such a *prima facie* case is made out, then the burden of production shifts to the respondent to demonstrate rights or legitimate interests in the domain name.

Paragraph 4(c) of the Policy enumerates several ways in which a respondent may demonstrate rights or legitimate interests in a domain name:

"Any of the following circumstances, in particular but without limitation, if found by the Panel to be proved based on its evaluation of all evidence presented, shall demonstrate your rights or legitimate interests to the domain name for purposes of paragraph 4(a)(ii):

- (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."

The Respondent is not affiliated with the Complainant in any way. The Respondent has not been authorized by the Complainant to register or use the Domain Name or to seek the registration of any domain name incorporating the SAGEMCOM Mark or a mark similar to the SAGEMCOM Mark. There is no evidence that the Respondent is commonly known by the Domain Name or any similar name. There is no evidence that the Respondent has used or made demonstrable preparations to use the Domain Name in connection with a legitimate noncommercial or fair use or a *bona fide* offering of goods and services. The Domain Name is currently unused, previously redirected to various websites that offered various advertisements, and there is no evidence of any use that would amount to legitimate noncommercial or fair use or a *bona fide* offering.

In particular, the use of the Domain Name for the Respondent's Website which contains pay-per-click advertisements unrelated to the Domain Name does not amount to use for a *bona fide* offering of goods and services in these circumstances. The Panel notes the statements in the [WIPO Overview 3.0](#) on the question

of whether “parked” pages comprising pay-per-click links support respondent rights or legitimate interests. The [WIPO Overview 3.0](#), section 2.9, notes that:

“Applying UDRP paragraph 4(c), panels have found that the use of a domain name to host a parked page comprising PPC links does not represent a *bona fide* offering where such links compete with or capitalize on the reputation and goodwill of the complainant’s mark or otherwise mislead Internet users.

[...]

Panels have recognized that the use of a domain name to host a page comprising PPC links would be permissible – and therefore consistent with respondent rights or legitimate interests under the UDRP – where the domain name consists of an actual dictionary word(s) or phrase and is used to host PPC links genuinely related to the dictionary meaning of the word(s) or phrase comprising the domain name, and not to trade off the complainant’s (or its competitor’s) trademark.”

In the present case, the Domain Name has no inherent meaning and hence the Respondent’s use of the confusingly similar Domain Name to host a parking page with pay-per-click links does not, absent any further explanation, provide the Respondent with rights or legitimate interests in the Domain Name.

The Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the Domain Name. The Respondent has had the opportunity to put on evidence of its rights or legitimate interests, including submissions as to why its conduct amounts to a right or legitimate interest in the Domain Name under the Policy. In the absence of such a Response, the Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name under paragraph 4(a)(ii) of the Policy.

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

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 trade mark 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) the Respondent has registered the Domain Name in order to prevent the owner of the trade mark 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) the Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the Domain Name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its 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. (Policy, paragraph 4(b)).

The Panel finds that the Respondent must have been aware of the Complainant and its reputation in the SAGEMCOM Mark at the time the Respondent acquired the Domain Name. The SAGEMCOM Mark consists of a coined word and the Complainant registered and has been using the SAGEMCOM Mark many years before the registration of the Domain Name. The Respondent has provided no explanation, and none is immediately obvious, why an entity would register a domain name containing a typosquatting of the

SAGEMCOM Mark and redirect it to website containing pay-per-click links unless there was an awareness of and an intention to create a likelihood of confusion with the Complainant and its SAGEMCOM Mark. In these circumstances, the Respondent's conduct in registering the Domain Name when it was aware of the Complainant's rights and lack of rights or legitimate interests of its own amounts to registration in bad faith.

The Respondent's Website offers what appear to be pay-per-click links for which the Respondent will undoubtedly receive some commercial gain. In these circumstances where the Respondent has offered no plausible explanation for the registration of the Domain Name, the Panel finds that the Respondent is using the Domain Name to intentionally attempt to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the SAGEMCOM Mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's Website. The fact that the Domain Name is presently inactive does not prevent a finding of bad faith. As such the Panel finds that the Domain Name has and is being used in bad faith.

Accordingly, the Panel finds that the Respondent has registered and is using the Domain Name in bad faith under 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 disputed domain name <comsagemcom.com> be transferred to the Complainant.

*/Nicholas Smith/*

**Nicholas Smith**

Sole Panelist

Date: July 13, 2023