

## **ADMINISTRATIVE PANEL DECISION**

INSPIRUS, LLC v. Wu Yu

Case No. D2023-2817

### **1. The Parties**

The Complainant is INSPIRUS, LLC, United States of America ("United States"), represented by Areopage, France.

The Respondent is Wu Yu, China.

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

The disputed domain name <inspirusconnects-devtest.com> (the "Disputed Domain Name") is registered with Dynadot, LLC (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on June 30, 2023. On July 3, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On July 4, 2023, 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 (Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 4, 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 amended Complaint on July 4, 2023.

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 July 6, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 26, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 7, 2023.

The Center appointed Michael D. Cover as the sole panelist in this matter on August 15, 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 was founded in 1893 and provides services in the areas of rewards, recognition and employee engagement and has a website at “www.inspirus.com”. The Complainant was purchased by SODEXO, a major company in employee engagement solutions in 2016. The Complainant provides employee incentive programs to over 350 international companies. These services include the INSPIRUS CONNEXTS platform, which connects employees to their colleagues, colleagues and company culture, where all involved can interact and connect. The Complainant has received many awards from 2009 to 2023 for its business and services.

The Complainant owns several IP rights consisting or including the mark INSPIRUS, including the domain name <inspirus.com>. These also include the United States registered trademarks No. 3805248 INSPIRUS filed on March 13, 2008, in Classes 35 and 41 and No. 3805249 INSPIRUS (logo) also filed March 13, 2008, in Classes 35 and 41.

The Disputed Domain Name was registered on May 4, 2023. As at the time of filing of the Complaint, the Disputed Domain Name connects to a parking page comprising pay-per-click (“PPC”) links.

#### **5. Parties’ Contentions**

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

##### **Identical or Confusingly Similar**

The Complainant sets out that the Disputed Domain Name is identical or confusingly similar to the trademarks INSPIRUS, in which the Complainant has rights and sets out details of its registered trademarks for INSPIRUS.

The Complainant states that its INSPIRUS trademark has a strong reputation, especially in the United States. The Complainant continues that the Disputed Domain Name is composed of the Complainant’s INSPIRUS trademark, associated with the descriptive word “connects” and the descriptive expression “devtest”, noting that the expression “devtest” is an expression used in software development that aims to bring the development and testing phrases closer together. The Complainant then submits that, in the Disputed Domain Name, the sign INSPIRUS keeps its individuality and is clearly perceived by consumers as the predominant part of the Disputed Domain Name.

The Complainant then submits that it is widely accepted that the addition of a descriptive term to a mark will not alter the fact that the Disputed Domain Name is confusingly similar to the mark in question and cites in support various previous UDRP Panel Decisions, including *Terex Corporation v. Texas International Property Associates- NA NA*, WIPO Case No [D2008-0733](#). The Complainant also submits that the addition of the descriptive elements “connects” and “devtest” in the Disputed Domain Name is not sufficient to distinguish it from the Complainant’s trademarks. The Complainant states that, on the contrary, these elements contribute to reinforce the risk of confusion with the INSPIRUS trademark, especially as the Complainant uses its INSPIRUS for a software named “Inspirus Connects”.

## **Rights or Legitimate Interests**

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name. The Complainant notes that the Respondent has no rights nor legitimate interests in the Disputed Domain Name, as he has no rights in INSPIRUS as a corporate name, trade name, shop sign, mark or domain name that would be prior to the Complainant's rights in INSPIRUS. The Complainant notes that the Respondent was not commonly known by the Disputed Domain Name prior to the adoption and use by the Complainant of the corporate name, business name and mark INSPIRUS and does not have any affiliation, association, sponsorship or connection with the Complainant and has not been authorized, licensed or otherwise permitted by the Complainant or any subsidiary or affiliated company to register the Disputed Domain Name and to use it.

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

The Complainant states that the Disputed Domain Name was registered and is being used in bad faith and sets out from the Policy, paragraph 4(b), what the Complainant refers to as a non-exhaustive list of circumstances indicating bad faith. The Complainant submits that the sign INSPIRUS is purely fanciful and nobody could legitimately choose this word or any variation of it, unless seeking to create an association with the Complainant. The Complainant continues that, due to the well-known character of the trademark INSPIRUS, especially in the United States, the Respondent most likely knew of its existence when he registered the Disputed Domain Name and knew that he had no rights or legitimate interests in the Disputed Domain Name.

The Complainant continues that previous UDRP Decisions have recognized that actual knowledge of the Complainant's trademarks and activities at the time of the registration of the Disputed Domain Name may be considered an inference of bad faith and cited various previous decisions in support of this contention, including *Accor, So Luxury HMC v. Youness Itsmail*, WIPO Case No. [D2015-0287](#). The Complainant submits that the Respondent is using the Disputed Domain Name by exploiting the confusion with the well-known INSPIRUS mark to attract Internet users and to incite them to click on third party links. The Complainant continues that this is an intentional attempt to attract for commercial gain Internet users to unrelated websites by creating a likelihood of confusion with the well-known mark INSPIRUS. The Complainant notes that WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([WIPO Overview 3.0](#)), section 2.9 states that panels have found that the use of a domain name to hosts 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.

The Complainant finally notes that it is important to point out that this is not the first time that the Respondent has been involved in domain name disputes, which involved reproducing marks owned by third parties and cites various examples.

## **The Remedy requested by the Complainant**

The Complainant requests the Panel to order that the Disputed Domain Name be transferred to the Complainant.

## **B. Respondent**

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

## 6. Discussion and Findings

The Complainant must establish on the balance of probabilities that the Disputed Domain Name is identical or confusingly similar to a trademark in which the Complainant has rights; that the Respondent has no rights or legitimate interests in the Disputed Domain Name; and that the Disputed Domain Name has been registered and is being used in bad faith.

### A. Identical or Confusingly Similar

The Complainant has established registered rights in its INSPIRUS trademark.

The Complainant has also established the Disputed Domain Name is confusingly similar to its INSPIRUS trademark, in which it has rights. The Disputed Domain Name contains the Complainant's INSPIRUS trademark in its entirety.

The Panel accordingly decides that the Disputed Domain Name is confusingly similar to a trademark, in which the Complainant has rights. It is well established that the addition of descriptive terms does not prevent a finding of confusing similarity. Where the relevant trademark is recognizable within the disputed domain name, the addition of other, descriptive terms would not prevent a finding of confusing similarity under the first element. In this case, the addition of the terms "connects-devtest" does not prevent the Complainant's INSPIRUS trademark from being recognizable within Disputed Domain Name. It is also well established that the addition of a generic Top-Level Domain ("gTLD"), in this case ".com", is to be disregarded in determine confusing similarity, as this is a technical requirement for the registration of a domain name.

The Panel therefore decides that the Disputed Domain Name is confusingly similar to a trademark in which the Complainant has rights.

### B. Rights or Legitimate Interests

The Panel finds that the Respondent has no rights or legitimate interests in the Disputed Domain Name and that the provisions of paragraph 4(a)(ii) of the Policy have been met.

The Panel accepts and finds that the Respondent has not been authorized, licensed or otherwise permitted by the Complainant by the Complainant to register or use the Complainant's trademark INSPIRUS as part of the Disputed Domain Name.

The Complainant has established a *prime facie* case, to which no response has been filed, that the Respondent has no rights or legitimate interests in the Disputed Domain Name. The Respondent has not, before any notice to the Respondent of the dispute, made use or demonstrable preparations to use the Disputed Domain Name or a name corresponding to it in connection with a *bona fide* offering of goods or services nor has the Respondent been commonly known by the Disputed Domain Name nor has the Respondent made 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 at issue. The use that has taken place of the Disputed Domain Name, as already set out, involved the Disputed Domain Name resolving to a parked page with PPC links. This does not constitute a *bona fide* offering of goods or services.

### C. Registered and Used in Bad Faith

The Panel finds that the Disputed Domain Name has been registered and is being used in bad faith. It is a reasonable inference that the Respondent knew of the Complainant and its well-known INSPIRUS trademark at the time when the Respondent registered the Disputed Domain Name and that the Respondent could have had no reason to register the Disputed Domain Name other than for the INSPIRUS trademark, which is entirely reproduced in the Disputed Domain Name.

With regard to the use being made of the Disputed Domain Name, this has resolved to a parking website comprising PPC links, which does not prevent a finding of bad faith. In addition, the Respondent has failed to use the opportunity to file a Response to the Complaint and, in particular, to file any evidence of good faith use and had sought to conceal the identity of the Respondent.

The Panel accordingly finds that the Respondent has registered and is using the Disputed Domain Name in bad faith and the provisions of the Policy, paragraph 4(a)(iii) have been met.

## **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, <inspirusconnects-devtest.com> be transferred to the Complainant.

*/Michael D. Cover/*

**Michael D. Cover**

Sole Panelist

Date: August 29, 2023