

ADMINISTRATIVE PANEL DECISION

IPSOS v. Ipsos Market, ipsosmarketsurvey
Case No. D2023-2856

1. The Parties

Complainant is IPSOS, France, represented by Novagraaf France, France.

Respondent is Ipsos Market, ipsosmarketsurvey, United States of America.

2. The Domain Name and Registrar

The disputed domain name <ipsosmarket.com> (the “Domain Name”) is registered with Google LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 5, 2023. On July 5, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On July 5, 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 (Contact Privacy Inc. Customer 7151571251) and contact information in the Complaint. The Center sent an email communication to Complainant on July 18, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on July 18, 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 Respondent of the Complaint, and the proceedings commenced on July 20, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 9, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on August 17, 2023.

The Center appointed Dinant T. L. Oosterbaan as the sole panelist in this matter on August 25, 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 the information provided in the Complaint, Complainant was founded in 1975 and is a large market research company operating in 90 markets with more than 18.000 research professionals.

According to the evidence submitted, Complainant owns several registrations for the trademark IPSOS including European Union Trademark No. 005583621, registration date January 10, 2008.

In addition, Complainant owns the domain name <ipsos.com> since May 1995, and uses it to refer to its official website.

The Domain Name was registered on April 4, 2023. The Domain Name does not resolve to an active website.

5. Parties' Contentions

A. Complainant

Complainant submits that the Domain Name is confusingly similar to the IPSOS trademark. The Domain Name entirely and identically reproduces Complainant's trademark. The addition of the term "market" is not sufficient to exclude a likelihood of confusion with Complainant's prior rights. Complainant asserts that the word "market" is totally descriptive of the activity of Complainant, which is active in the market research field. According to Complainant, a likelihood of confusion is thus inevitable and is reinforced by the high notoriety enjoyed by Complainant in France and all over the world in relation to market research.

According to Complainant, Respondent has no rights or legitimate interests in respect of the Domain Name. Complainant has never authorized registration of the Domain Name. In addition, Complainant submits that Mail exchanges ("MXrecords") are configured in connection with the Domain Name. It is possible that Respondent has created an email address in order to send fraudulent emails to customers, service providers, suppliers, pretending to be Complainant to collect personal data, or to place orders in the name of Complainant. According to Complainant, this risk is even more true as Respondent pretends to be called "Ipsos Market" or "ipsosmarketsurvey".

According to Complainant, the Domain Name was registered and is being used in bad faith. Complainant asserts that although Respondent has made no active use of the Domain Name this non-use of the Domain Name does not prevent a finding of bad faith under the doctrine of passive holding. In addition the configuration of MX records as mentioned clearly proves the bad faith of Respondent as it provides a free ride on the reputation of the trademark IPSOS and it offers the potential to send fraudulent emails to customers, service providers and suppliers, pretending to be Complainant.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs the Panel to "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".

Paragraph 4(a) of the Policy requires that the complainant prove each of the following three elements to obtain an order that the disputed domain name should be transferred or cancelled:

- (i) the disputed domain name is 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 name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The Panel will proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied in this proceeding.

A. Identical or Confusingly Similar

Pursuant to paragraph 4(a)(i) of the Policy, Complainant must first of all establish rights in a trademark or service mark and secondly that the Domain Name is identical or confusingly similar to that trademark or service mark.

Complainant has established that it is the owner of a trademark registration for IPSOS. The Domain Name incorporates the trademark IPSOS in its entirety, with the addition of the term “market. Many UDRP panels have found that a disputed domain name is confusingly similar where the relevant trademark is recognizable within the disputed domain name. See sections 1.7 and 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”). The generic Top Level Domain (“gTLD”) “.com” is disregarded under the first element confusing similarity test. See section 1.11.1 of the [WIPO Overview 3.0](#).

The Panel finds that Complainant has proven that the Domain Name is confusingly similar to Complainant’s trademarks under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

In the opinion of the Panel, Complainant has made a *prima facie* case that Respondent lacks rights or legitimate interests in the Domain Name. Complainant has not licensed or otherwise permitted Respondent to use its IPSOS trademark or to register the Domain Name incorporating its trademark. Respondent is not making a legitimate noncommercial or fair use of the Domain Name without intent for commercial gain to misleadingly divert Internet users or to tarnish the trademarks of Complainant.

Based on the undisputed submission and evidence provided by Complainant, the Domain Name does not resolve to an active website. The Panel does not consider such use a *bona fide* offering of goods or services, nor a legitimate noncommercial or fair use of the Domain Name. Respondent is also not commonly known by the Domain Name nor has it acquired any trademark or service mark rights. In addition, based on the undisputed submission provided by Complainant, it is clear that Respondent may likely use the Domain Name for fraudulent purposes as MX records mentioned above have been set up.

In these circumstances it is clear to the Panel that Respondent may engage in some form of deceptive and fraudulent activity with a view to commercial gain and that the Domain Name was registered with that in mind. Such activity cannot confer any rights or legitimate interests upon Respondent.

No Response to the Complaint was filed and Respondent has not rebutted Complainant’s *prima facie* case.

Under these circumstances, the Panel finds that Respondent has no rights or legitimate interests in the Domain Name under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that the Domain Name has been registered and is being used in bad faith. The trademark of Complainant has been existing for a long time and is well known. The Panel notes that Complainant’s registration of its trademark predates the registration date of the Domain Name. Respondent knew or should

have known that the Domain Name included the entirety of Complainant's IPSOS trademark especially as the addition of the term "market" and the organization name used when registering the Domain Name "ipsosmarketsurvey" indicate that Respondent is familiar with the field of market research in which Complainant is active.

The Panel notes that the Domain Name does not resolve to an active website. This does not prevent the Panel in finding of bad faith under the doctrine of passive holding (see section 3.3 of the [WIPO Overview 3.0](#)).

The Panel in particular notes the following. Complainant has alleged that Respondent has configured MX records for the Domain Name, suggesting an intention to use the Domain Name for illegal purposes. Panels have consistently found that the mere registration of a domain name that is confusingly similar to a well-known trademark for illegal activity is considered evidence of bad faith (see section 3.1.4 of the [WIPO Overview 3.0](#)). The record in this case contains no evidence of illegal behavior, but the configuration of MX records presents the potential for an email phishing scheme impersonating Complainant. The use of a domain name that is confusingly similar to a trademark in emails that do not originate with the trademark owner presents a risk to the reputation of a trademark and its owner. Respondent has not rebutted that it may engage in this practice, which is noteworthy given the configuration of MX records for the Domain Name.

The Panel concludes that Respondent has attempted or is attempting to attract Internet users, for commercial gain, to the website of Respondent through the likelihood of confusion which may arise with the trademark of Complainant as to the source, sponsorship, affiliation, or endorsement of the website of Respondent, which constitutes registration and use in bad faith.

The Panel finds that Complainant has proven that the Domain Name has been registered and is being used in bad faith and 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 Domain Name <ipsosmarket.com> be transferred to Complainant.

/Dinant T. L. Oosterbaan/

Dinant T. L. Oosterbaan

Sole Panelist

Date: September 7, 2023