

## **ADMINISTRATIVE PANEL DECISION**

### **ISAE SUPAERO v. MR ELHADJI NIANG**

#### **Case No. D2023-3714**

#### **1. The Parties**

The Complainant is ISAE SUPAERO, France, represented by Clairmont Novus Avocats, France.

The Respondent is MR ELHADJI NIANG, United Kingdom.

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

The disputed domain names <isae-supaero-fr.com> and <isea-supaero-fr.com> are registered with NetEarth One Inc. d/b/a NetEarth (the “Registrar”).

#### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 4, 2023. On September 5, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On September 5, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (UNKNOWN) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 6, 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 September 12, 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 September 15, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 5, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 6, 2023.

The Center appointed Alvaro Loureiro Oliveira as the sole panelist in this matter on October 26, 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 ISAE SUPAERO, a French educational institution specialized in aeronautics and space education. The Complainant is the world leader in higher education in the field of aerospace engineering, providing higher education with the aim of training highly qualified engineers in aeronautics, space and related fields; specialization, advanced training and updating of knowledge; conducting scientific research and technological development work within the framework of a scientific and technical information policy; providing doctoral training.

The Complainant owns several trademarks with the elements ISAE and SUPAERO, *inter alia*:

- European Union Trade Mark ISAE (Registration n° 017921815, registered on December 5, 2018);
- European Union Trade Mark ISAE INSTITUT SUPÉRIEUR DE L'AÉRONAUTIQUE ET DE L'ESPACE (Registration n° 007045743, registered on July 29, 2009);
- French Trademark ISAE INSTITUT SUPÉRIEUR DE L'AÉRONAUTIQUE ET DE L'ESPACE (Registration 3581520, registered on June 11, 2008);
- European Union Trade Mark SUPAERO (Registration No. 017921820, registered on December 5, 2018);
- French trademark SUPAERO (Registration No. 4463500, registered on June 21, 2018).

Proof of these and other marks was attached to the Complaint as Annexes F1 to F8.

The Complainant also holds the domain name <isaea.sup aero.fr> since June 20, 2014, as states Annex E of the Complaint.

The disputed domain names were registered on June 12, 2023 (<isae-sup aéro-fr.com>) and on July 7, 2023 (<isea-sup aéro-fr.com>).

The disputed domain names resolve to inactive sites.

#### **5. Parties' Contentions**

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

The Complainant is a world leader in higher education in the field of aerospace engineering. ISAE-SUPAERO was created in October 2007 from the merger of two Toulouse engineering schools, the National School of Aeronautical Construction Engineers (ENSICA) and the National School of Aeronautics and Space (SUPAERO), both under the supervision of the Ministry of Defense.

The disputed domain names are confusingly similar to both ISAE and SUPAERO trademarks, over which the Complainant has rights. While one of the disputed domain names incorporates both trademarks in their entirety, the other one has the mark ISAE with an inversion of the vowels, reading ISEA. The inverted position of the vowels is not sufficient to escape the finding that the disputed domain name is confusingly similar to the Complainant's ISAE trademark in the second disputed domain name. The Complainant further argues that it is clear case of typosquatting.

Further, the expression chosen by the Respondent to compose the disputed domain names together with ISAE and SUPAERO is “fr”, which is the common abbreviation for France – the country where the Complainant is seated. The abbreviation does not negate the confusing similarity between the disputed domain names and the Complainant’s trademark. On the contrary, it leads to confusion, given the presence of the Complainant’s mark.

The Respondent has no rights or legitimate interests in respect of the disputed domain names. The Respondent was not commonly known under the disputed domain names and has not been authorized by the Complainant to use these trademarks. Moreover, there is no evidence of the Respondent’s use, or demonstrable preparation to use, the disputed domain names in connection with a *bona fide* offering of goods and services.

The Respondent failed to respond to two formal notices sent by the Complainant to the Registrar, as seen in Annex K to the Complaint.

In sum, the Complainant alleges that the registration and use of the disputed domain names is intentional to mislead Internet users, that it is clear that the Respondent has no rights or legitimate interests in the disputed domain names, and that the disputed domain names were registered and are being used in bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

The Policy, in its paragraph 4(a), determines that three elements must be presented and duly proven by a complainant to obtain relief. These elements are:

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

### **A. Identical or Confusingly Similar**

The disputed domain names are, indeed, confusingly similar to the ISAE and SUPAERO trademarks, as they are entirely incorporated in the disputed domain names. The inversion of the vowels “a” and “e” of the ISAE trademark in the second disputed domain name does not prevent a finding of confusing similarity.

The Complainant has presented consistent evidence of ownership of trademarks ISAE and SUPAERO in jurisdictions throughout the world, by presenting a substantial number of registrations for them, as well as comprehensive evidence of the use of the trademarks.

The use of the trademarks ISAE and SUPAERO with the country abbreviation “fr” in the disputed domain names does not prevent a finding of confusing similarity with the trademarks. Where the relevant trademark is recognizable within the disputed domain names, the addition of other terms would not prevent a finding of confusing similarity under the first element.

Given the above, the Panel concludes that the disputed domain names are confusingly similar to the registered trademarks of the Complainant.

## **B. Rights or Legitimate Interests**

Given the clear evidence that trademarks ISAE and SUPAERO are registered in the Complainant's name and are widely known as identifying the Complainant's activities, and that the Complainant has not licensed this to the Respondent, the Panel finds that the Complainant has established *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain names.

In the absence of a Response, the Respondent has not rebutted such *prima facie* case. Furthermore, the Respondent does not appear to be commonly known by the disputed domain names.

Furthermore, the fact that the disputed domain names consist of the Complainant's trademarks along with a geographic abbreviation "fr" carries a risk of implied affiliation, potentially conveying to unsuspecting Internet users the false belief that any website related thereto would be associated or endorsed with the Complainant's official products and services. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 2.5.1.

The Respondent is not using the disputed domain names for a *bona fide* offering of goods or services, nor for a legitimate noncommercial or fair use of the disputed domain names - the Respondent is not making any direct use of the disputed domain names.

The Panel, thus, finds for the Complainant under the second element of the Policy.

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

Given the circumstances of this case, the facts outlined in sections A and B above can also evidence the Respondent's bad faith in the registration and use of the disputed domain names.

The Panel finds that the Respondent has probably registered the disputed domain names with the purpose of taking unfair advantage of the Complainant's marks - hence the intentional typo in the trademark on the second disputed domain name. Besides, both disputed domain names reproduce the Complainant's marks ISAE and SUPAERO, with the addition of the letters "fr".

The composition of the disputed domain names points towards the Respondent's likely intent to give an impression that the disputed domain name is associated with the Complainant or to confuse internet users. In the absence of any reasonable explanation for the selection of the disputed domain names by the Respondent, and in the circumstances of this case, the Panel finds that it is more likely than not, that the disputed domain names have been registered to take advantage due to the value of the trademarks owned by the Complainant.

The current passive holding of the disputed domain names is also evidence of bad faith from the Respondent. Previous UDRP panels have found that the apparent lack of so-called active use of the domain name without any active attempt to sell or to contact the trademark holder does not prevent a finding of bad faith. See, e.g., *Redcats S.A. And La Redoute S.A. v. Tumay Asena*, WIPO Case No. [D2001-0859](#); see also *DCI S.A. v. Link Commercial Corporation*, WIPO Case No. [D2000-1232](#).

Here, the Panel further notes the distinctive and well-known nature of the Complainant's trademarks ISAE and SUPAERO, the failure of the Respondent to submit a Response, and the implausibility of any good faith use to which the disputed domain names may be put, support a finding of bad faith.

## 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 names <isae-supero-fr.com> and <isea-supero-fr.com> be transferred to the Complainant.

*/Alvaro Loureiro Oliveira/*

**Alvaro Loureiro Oliveira**

Sole Panelist

Date: November 9, 2023