

ADMINISTRATIVE PANEL DECISION

Safran v. DNS Admin Buntai LTD

Case No. D2024-0092

1. The Parties

The Complainant is Safran, France, represented by Jean-Guy Odin, France.

The Respondent is DNS Admin Buntai LTD, Switzerland.

2. The Domain Name and Registrar

The disputed domain name <safran-helicopter-egines.com> is registered with Key-Systems GmbH (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on January 10, 2024. On January 11, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 11, 2024, 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 (UNKNOWN) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 15, 2024, 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 January 17, 2024.

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 January 23, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 12, 2024. The Respondent sent an email communication to the Center on February 12, 2024, requesting to settle the dispute. The Complainant sent a request for suspension of the proceeding to the Center on February 15, 2024. On the same day, the Center sent the notification of suspension of the proceeding. As the Parties could not reach an agreement, the Center sent the notification of the reinstatement of the proceeding on March 20, 2024.

The Center appointed Luca Barbero as the sole panelist in this matter on March 25, 2024. 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 the holding company of an international high-technology group of companies, operating in the aviation, defense, and space markets.

It has a global presence, with 83,000 employees and sales of EUR W19 billion in 2022 and holds, alone or in partnership, world or regional leadership positions in its core markets.

Safran Helicopter Engines, a company controlled by Safran, is a manufacturer of rotorcraft turbines. Operating worldwide, it employs 5,900 people and has more than 2,500 customers in 155 countries, and 21,000 engines in service.

The Complainant is the owner of several trademark registrations for SAFRAN, including the following:

- European Union trademark registration No. 004535209 for SAFRAN (word mark), filed on July 11, 2005, and registered on August 17, 2009, in classes 2, 7, 9, 1, 12, 13, 16, 35, 36, 37, 38, 39, 41, and 42;
- International trademark registration No. 884321 for SAFRAN (word mark), registered on August 5, 2005, in classes 2, 7, 9, 11, 12, 13, 16, 36, 37, 38, 41, and 42;
- European Union trademark registration No. 015759335 for SAFRAN HELICOPTER ENGINES (word mark), filed on August 17, 2016, and registered on May 31, 2021, in classes 7, 9, 12, 35, 36, 37, 38, and 42;
- International trademark registration No. 1327606 for SAFRAN HELICOPTER ENGINES (word mark), registered on August 12, 2016, in classes 7, 9, 12, 35, 36, 37, 38, and 42.

The Complainant owns and operates its main website at the domain name <safran-group.com>, which was registered on February 25, 2005, and is used by the Complainant to promote its products and services under the trademark SAFRAN.

The disputed domain name <safran-helicopter-egines.com> was registered on August 10, 2023, and is currently pointed to an inactive website.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is confusingly similar to the trademark SAFRAN HELICOPTER ENGINES in which the Complainant has rights as it reproduces the trademark in its entirety with the mere deletion of the letter "n" from the word "engines" and the addition of the generic Top-Level Domain (gTLD) ".com".

With reference to rights or legitimate interests in respect of the disputed domain name, the Complainant states that i) the Respondent has not used the disputed domain name nor a name corresponding to the disputed domain name, in connection with a bona fide offering of products or services; ii) the Respondent is not commonly known by the disputed domain name; iii) the Respondent has in no way been licensed or

otherwise granted rights of use of the Complainant's trademarks SAFRAN or SAFRAN HELICOPTER ENGINES marks; iv) the Complainant is in no way related or otherwise associated with the Respondent.

With reference to the circumstances evidencing bad faith, the Complainant indicates that considering i) the Respondent has no rights in - and is in no way connected to - the SAFRAN and SAFRAN HELICOPTER ENGINES, marks; ii) the Complainant's group and the SAFRAN trademarks are internationally known; iii) the disputed domain name is confusingly similar to the Complainant's <safran-helicopter-engines.com> domain name; iv) the disputed domain name prior to the present proceeding, randomly redirected users to websites such as "www.nike.com", "www.pixartprinting.fr", and "www.iosvpndefender.com" where users were offered to download a VPN with potential malware, the Respondent must have been well aware of the Complainant at the time of registering the disputed domain name and intentionally attempted to attract users by creating a likelihood of confusion with the Complainant's trademark.

B. Respondent

On February 12, 2024, the Respondent sent an informal communication to the Center, indicating that it rejected all allegations raised by the Complainant and requesting an extension to attempt to settle the dispute with the Complainant.

Since the Complainant also requested the suspension of the proceeding, the Center sent notification of the suspension, but no agreement was reached during the suspension period and the Respondent has not submitted any further documents or statements even after the proceeding was reinstated.

6. Discussion and Findings

According to 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." Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following:

- (i) that the disputed domain name registered by the Respondent is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. Indeed, the Complainant is the owner of trademark registrations for SARAN and SAFRAN HELICOPTER ENGINES.

The Panel finds the SAFRAN and SAFRAN HELICOPTER ENGINES marks are recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The disputed domain name reproduces the trademark SAFRAN with the addition of dashes and the dictionary terms “helicopter” and “engines”. Although the addition of the terms “helicopter” and “engines” may bear on assessment of the second and third elements, the Panel finds does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The disputed domain name also reproduces the SAFRAN HELICOPTER ENGINES mark in its entirety, with the mere deletion of the first letter “n” in the last term in the trademark “engines”. A domain name which consists of an obvious misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element. [WIPO Overview 3.0](#), section 1.9.

Moreover, the applicable TLD in a domain name, such as “.com” in this case, is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

Therefore, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent did not file a formal Response but sent an informal communication to the Center in which it stated that it rebutted the Complainant’s contentions, without however coming forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The Panel notes that there is no relation, disclosed to the Panel or otherwise apparent from the record, between the Respondent and the Complainant. The Respondent is not a licensee of the Complainant, nor has the Respondent otherwise obtained an authorization to use the Complainant’s trademarks.

Moreover, there is no element from which the Panel could infer a Respondent’s right over the disputed domain name, or that the Respondent might be commonly known by the disputed domain name.

The disputed domain name does not currently resolve to an active website. The Complainant stated that the disputed domain name was used to redirect users to third-party websites, one of which enabled to download a potential malware. In its informal communication to the Center, the Respondent stated that it rejected all the Complainant’s allegations, but it failed to provide any further comment about the reasons why it registered the disputed domain name and did not submitted any evidence from which the Panel could infer that the Respondent used or made preparation to use the disputed domain name in connection with a bona fide offering of goods or services or a legitimate non-commercial or fair use.

Furthermore, the disputed domain name, incorporating the Complainant's trademark SAFRAN with the addition of the terms "helicopter" and "egines" (clear misspelling of "engines"), which are descriptive of the Complainant's products, is inherently misleading. Even where a domain name consists of a trademark plus an additional term, UDRP panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner.

[WIPO Overview 3.0](#), section 2.5.1.

Therefore, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

In view of the prior registration and use of the Complainant's trademark SAFRAN in connection with the Complainant's products and services and considering the distinctiveness and widely known character of the trademark in the aviation industry, the Panel finds that the Respondent was or could have been aware of the Complainant and its trademark at the time of registration of the disputed domain name. 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. [WIPO Overview 3.0](#), section 3.1.4.

Moreover, considering the composition of the disputed domain name, combining the trademark SAFRAN with the dictionary terms "helicopter" and "engines", which are clearly descriptive of products manufactured and commercialized by the Complainant under the trademark SAFRAN, the Panel finds that the Respondent very likely registered the disputed domain name having the Complainant and its trademark in mind. Given the Complainant's prior registration of the SAFREN HELICPOTER ENGINES trademark, the Respondent's later registration of a typographical variation thereof reinforces the Panel's above view.

At the time of the drafting of this Decision, the disputed domain name is not pointed to an active website. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although 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; and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness and reputation of the Complainant's trademark SAFRAN, the composition of the disputed domain name, and the Respondent's failure to submit a substantive response and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Therefore, the Panel finds that the Complainant has established the third element 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 <safran-helicopter-egines.com> be transferred to the Complainant.

/Luca Barbero/

Luca Barbero

Sole Panelist

Date: April 8, 2024