

ADMINISTRATIVE PANEL DECISION

Banque et Caisse d'Epargne de l'Etat, Luxembourg v. Domain Privacy,
Domain Name Privacy Inc
Case No. D2024-1275

1. The Parties

The Complainant is Banque et Caisse d'Epargne de l'Etat, Luxembourg, Luxembourg, represented by Office Freylinger S.A., Luxembourg.

The Respondent is Domain Privacy, Domain Name Privacy Inc., Cyprus.

2. The Domain Name and Registrar

The disputed domain name <spuerkeess.online> (the "Disputed Domain Name") is registered with Commungal Communications Ltd. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on March 25, 2024. On March 25, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On April 2, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 April 9, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 29, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 30, 2024.

The Center appointed Isabelle Leroux as the sole panelist in this matter on May 14, 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 Banque et Caisse d'Epargne de l'Etat, Luxembourg, an autonomous public establishment created according to the Luxembourgish law of 24 March 1989. The Complainant is well known in the bank sector, and is widely exploiting the trademark SPUERKEESS for banking, insurance and financial services.

For the needs and purposes of its activities, the Complainant is also the owner, amongst others of:

- European Union trademark SPUERKEESS No. 009110552, filed on May 17, 2010 and registered on November 2, 2010, duly renewed, covering goods and services in classes 9, 16, 25, 35, 36, 38, 39, 41, 42, 43, 45;
- Benelux trademark  No. 0796132, filed on January 27, 2006 and registered on May 5, 2006, duly renewed, covering services in class 36;
- Swiss trademark SPUERKEESS No. 615157, filed on December 30, 2010 and registered on May 10, 2011, duly renewed covering goods and services in classes 09, 16, 25, 35, 36, 38, 39, 41, 42, 43, 45;
- United Kingdom trademark SPUERKEESS No. UK009110552, filed on May 17, 2010 and registered on November 2, 2010, duly renewed covering goods and services in classes 9, 16, 25, 35, 36, 38, 39, 41, 42, 43, 45;
- United Kingdom trademark SPUERKEESS No. UK00003345153 filed on October 12, 2018 and registered on December 28, 2018, duly renewed covering services in class 36.

The Disputed Domain Name <spuerkeess.online> was registered on January 7, 2024, reverts to a parking page displaying pay-per-click links related to financial services and inviting people/consumers to open a bank account without conditions and hidden fees or to offer bank loans.

Based on the information disclosed by the Registrar, the Complainant is Domain Privacy, Domain Name Privacy Inc, and domiciliated in Paphos, Cyprus.

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:

- (i) The Disputed Domain Name is confusingly similar to Complainant's trademarks, since it fully reproduces the Complainant's trademarks with the addition of a non-distinctive element.
- (ii) The Respondent has no rights or legitimate interests in the Disputed Domain Name since is not affiliated with Complainant in any way nor has he been authorized by Complainant to use and register its trademarks, or to seek registration of any domain name incorporating said trademark. Furthermore, the Respondent has no prior rights or legitimate interests in the Disputed Domain Name.
- (iii) The Respondent registered and used the Disputed Domain Name in bad faith since:

- It is implausible that Respondent was unaware of the Complainant's trademark rights when the Respondent registered the Disputed Domain Name since "SPUERKEESS" is generally known by the public in Luxembourg and the sourcing countries as being related to the Luxembourgish state saving bank;
- It is more than likely that Respondent's primary motive in registering and using the Disputed Domain Name was to capitalize on Complainant's goodwill— by phishing;
- The parking page redirects to affiliate links to pages offering financial services and inviting people/consumers to open a bank account without conditions and hidden fees or to offer bank loans.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that the Complainant proves each of the following three elements in order to succeed in its Complaint:

- (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 of 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

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.

The entirety of the mark is reproduced within the Disputed Domain Name. Accordingly, the Disputed Domain Name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, the extension ".online", may bear on assessment of the second and third elements, the Panel finds the addition of such term 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 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 has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Disputed Domain Name such as those enumerated in the Policy or otherwise.

There is no evidence that the Respondent is commonly known under the Disputed Domain Name. The Respondent was not licensed nor authorized by the Complainant to use the latter's SPUERKEESS trademark. The Disputed Domain Name resolves to a parking page, containing affiliate links to pages offering financial services, and there is no evidence that the Respondent is using or preparing to use it for any legitimate noncommercial or fair use.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that (i) the Complainant's trademark registrations predate the registration date of the Disputed Domain Name by many years, (ii) the SPUERKEESS trademarks are composed of a particularly complex invented name, which can only lead the Panel to consider that the Disputed Domain Name was registered with full knowledge of the prior trademarks, this assessment being further reinforced by the fact that the Disputed Domain Name resolves to a website constituting a potential phishing scam, (iii) the Disputed Domain Name resolves to a website with affiliate links to pages offering financial services, and (iv) the Respondent has not provided any evidence whatsoever of any actual or contemplated good faith use of the Disputed Domain Name, since it did not answer to this complaint.

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.

These circumstances indicate that the Respondent knew, targeted, and used the Complainant's prior trademarks in order to perpetuate a phishing scam. Such use cannot be considered a bona fide offering of goods or services.

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 <spuerkeess.online> be transferred to the Complainant.

/Isabelle Leroux/

Isabelle Leroux

Sole Panelist

Date: May 28, 2024