

ADMINISTRATIVE PANEL DECISION

Banque et Caisse d'Epargne de l'Etat, Luxembourg v. John Doe, Stichting SingularityNET

Case No. D2024-1681

1. The Parties

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

The Respondent is John Doe, Stichting SingularityNET, Netherlands (Kingdom of the).

2. The Domain Name and Registrar

The disputed domain name <snet.services> is registered with Gandi SAS (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 22, 2024. On April 22, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 23, 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 (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 26, 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 amended Complaint on April 26, 2024.

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 May 3, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 23, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 27, 2024.

On May 28, 2024, the Respondent replied to the Notification of Respondent Default stating that:

“We do not agree with the complaint about the domain name 'snet.service'. We have our site on singularitynet.io and we are using domain 'snet.service' for internal services as well as 'snet.sh'. Our company name is Singularitynet and we are using SNET as a short name for it. We have no intention of committing phishing attacks or other harmful actions. If you have information about any attack from our resources, please let us know about this so we could handle it.”

The Center acknowledged receipt of this communication and informed the Parties, that the Center will forward the communication to the Panel, (when appointed).

The Center appointed Warwick A. Rothnie as the sole panelist in this matter on June 4, 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 a bank incorporated in Luxembourg in 1989 although it appears it can trace its origins back to 1865. It has operated for some time under the commercial name “Spuerkees”.

At the end of December 2023, the Complainant had some 56 billion Euros in total assets and annual operating income of just over one billion Euros. So far as the Panel understands the Complaint, the Complainant’s customers are largely based in Luxembourg although it has been accepting deposits from foreigners since at least 1862.

In 2019, the Complainant was ranked as one of the 10 safest banks in the world.

According to its website at “www.spuerkees.lu”, the Complainant launched its “S-Line” product in 1996 – a service which enabled customers to carry out their banking transactions at home using a personal computer.

In 1999, the Complainant launched its Internet and later Mobile banking service under the name “S-net”.

The Complaint includes evidence that the Complainant owns three registered trademarks for S-NET:

- (a) Benelux Registered Trademark No 936196, which was registered on August 1, 1999, for a range of relevant services in International Class 36;
- (b) European Union Trademark No 009119644, which was registered on July 1, 2012 in respect of a range of services in International Classes 35, 36, 38, and 41; and
- (c) The United Kingdom counterpart to the EUTM, Registered Trademark No UK00909110644.

The disputed domain name was registered on February 14, 2019.

So far as the record in this proceeding shows, it has not resolved to a publicly accessible website. The Respondent claims, however, that it uses the disputed domain name for unspecified “internal purposes”.

5. Discussion and Findings

Paragraph 4(a) of the Policy provides that in order to divest the Respondent of a disputed domain name, the Complainant must demonstrate each of the following:

- (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.

Paragraph 15(a) of the Rules directs the Panel to decide the 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.

Although the Response (such as it is) was received after the due date and without any explanation for that lateness, the Panel admits it into the record of the proceeding in the exercise of the Panel's powers under paragraph 10 of the Rules. The Response was received by the Center before the appointment of the Panel, has not delayed the determination of the proceeding and the Complainant has not pointed and, so far as the Panel can see, could not point to any prejudice suffered by reason of the reception of the Response into the record.

A. Identical or Confusingly Similar

The first element that the Complainant must establish is that the disputed domain name is identical with, or confusingly similar to, the Complainant's trademark rights.

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.

There are two parts to this inquiry: the Complainant must demonstrate that it has rights in a trademark at the date the Complaint was filed and, if so, the disputed domain name must be shown to be identical or confusingly similar to the trademark.

The Complainant has proven ownership of the registered trademarks for S-NET identified in Section 4 above.

In undertaking the comparison of the disputed domain name to the Complainant's trademark, it is permissible in the present circumstances to disregard the Top-Level Domain (TLD) component as a functional aspect of the domain name system. [WIPO Overview 3.0](#), section 1.11.1.

Disregarding the ".services" TLD, the disputed domain name consists of the Complainant's registered trademark without a "hyphen". The presence or absence of such punctuation marks can usually be disregarded. See e.g., *Telstra Corporation Limited v Ozurls*, WIPO Case No [D2001-0046](#). In any event, the Complainant's trademark remains visually and aurally recognisable within the disputed domain name.

Accordingly, the Panel finds that the Complainant has established that the disputed domain name is identical with the Complainant's trademark and the requirement under the first limb of the Policy is satisfied.

B. Rights or Legitimate Interests

The second requirement the Complainant must prove is that the Respondent has no rights or legitimate interests in the disputed domain name.

Paragraph 4(c) of the Policy provides that the following circumstances can be situations in which the Respondent has rights or legitimate interests in a disputed domain name:

- (i) before any notice to [the Respondent] of the dispute, [the Respondent's] use of, or demonstrable preparations to use, the [disputed] domain name or a name corresponding to the [disputed] domain name in connection with a bona fide offering of goods or services; or
- (ii) [the Respondent] (as an individual, business, or other organization) has been commonly known by the [disputed] domain name, even if [the Respondent] has acquired no trademark or service mark rights; or
- (iii) [the Respondent] is making 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 or service mark at issue.

These are illustrative only and are not an exhaustive listing of the situations in which a respondent can show rights or legitimate interests in a domain name.

While 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 often impossible 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. 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.

The Respondent registered the disputed domain name after the Complainant began using its trademark and also after the Complainant had registered its trademark.

The Complainant states that it has not authorised the Respondent to use the disputed domain name. Nor is the Respondent affiliated with it.

The Complainant has also provided evidence of trademark searches showing that the Respondent does not appear to own any registered trademark corresponding to the disputed domain name.

The Respondent does not dispute any of these matters.

The Complainant therefore contends that, in the absence of any licence or permission from the Complainant, the Respondent cannot reasonably claim any actual or good faith legitimate use of the disputed domain name. Further, as the disputed domain name is identical to the Complainant's trademark, the Complainant contends that the Respondent cannot pretend that it was intending to develop any legitimate activity through the disputed domain name.

In support of its contentions, the Complainant cites by way of example the prior decision in *Groupe Auchan v Gan Yu*, WIPO Case No D2013-0188. The facts in that case appear to be rather different to the present case. First, the respondent in that case unsuccessfully claimed it registered the domain name in connection with a website regarding food. Further, despite the uncorroborated claims about the purported website, there was evidence that the respondent had offered the domain name for sale. Further still, there was no evidence that the respondent was known by any name from which “Auchan” could be derived. These factors all arose in a context where the Panel accepted that “Auchan” was a well-known trademark of the complainant in relation to food products and retail services and was particularly known as the operator of a chain of hypermarkets.

In the present case, the Respondent does claim to be using the disputed domain name for unspecified internal purposes. Somewhat like the *Groupe Auchan* case, supra, however, there is no evidence to support that claim and, accordingly, that assertion cannot be blindly or automatically accepted as a basis for finding the disputed domain name is being used in connection with a good faith offering of goods or services. See [WIPO Overview 3.0](#), section 2.2.

Unlike the respondent in the *Groupe Auchan* case, supra, however, the Respondent's corporate name is Sighting SingularityNET which is a name from which the disputed domain name could be derived.

Neither party has provided any evidence about when this company was incorporated or the derivation of the name. However, the Panel recognises that "singularity" is an ordinary dictionary word in English, can also refer to the center of a black hole and is also a popular reference for a point in time when technology becomes uncontrollable.¹

The Complaint does include what appears to be a partial Google search related to "s-net" or "snet", showing a link for the Complainant's website. The Panel's own Google search does disclose the Complainant's website as the first and fourth organic search results. The results also include other links to a telecommunications company, a venture company specializing in network integration and several other companies or meanings. One of these is a link to a Github page, "singnet/snet-daemon", which is said to be a "Service Daemon [which] exposes an AI application as an API that is accessible through the SingularityNET Network."²

It is not clear to the Panel whether this last link is associated with the Respondent or not. What the Google search does show, however, is that there are at least some other uses of "snet" or "s-net" other than as a reference to the Complainant's services.

It is in this context that a further significant difference to the *Groupe Auchan* case, supra, is important. Unlike that case, there is no evidence here that the Respondent has sought to target the Complainant or the Complainant's trademark through the disputed domain name. It has not, for example, been offered for sale (so far as the evidence in this proceeding shows) at a price which takes advantage of the Complainant's reputation.

Pointing to the close resemblance of the disputed domain name to the Complainant's trademark and the lack of apparent public use, the Complainant alleges that the Respondent's primary purpose in registering the disputed domain name is to use it for "phishing". The Complainant cites the cases of *Archer-Daniels-Midland Company v. Chamiris Mantrana*, WIPO Case No. [D2013-0257](#) and *Halifax plc v. Sontaja Sunducl*, WIPO Case No. [D2004-0237](#) in support of this allegation. In both those cases, however, there was evidence that the respondents had set up fake websites which mimicked the complainant's own website so there was a basis to infer both misrepresentation of association and intent to harvest information from misled members of the public.

There is no basis on the materials before the Panel to infer such a purpose in the present case. Having regard to the matters set out above and even accepting the Complainant's claim to be well-known around the world, on the record in this case, the Panel cannot find that the Respondent has opportunistically sought to take advantage of the Complainant's trademark nor that there is no reasonable, good faith use of the disputed domain name outside the field of ranking and finance associated with the Complainant.

In these circumstances, the Panel finds that the Complainant has failed to establish the required prima facie case that the Respondent does not have rights or legitimate interests in the disputed domain name. Accordingly, the Complaint must fail.

C. Registered and Used in Bad Faith

As the Complaint must fail, no good purpose would be served by considering the third requirement under the Policy.

¹See e.g. <https://www.techtarget.com/searchenterpriseai/definition/Singularity-the#:~:text=In%20the%20theory%2C%20a%20singularity,ever%20escape%2C%20not%20even%20light>.

² <https://github.com/singnet/snet-daemon>

6. Decision

For the foregoing reasons, the Complaint is denied.

/Warwick A. Rothnie/

Warwick A. Rothnie

Sole Panelist

Date: June 18, 2024