

## ADMINISTRATIVE PANEL DECISION

Banque et Caisse d'Epargne de l'Etat, Luxembourg v. dfsgsdf gsfdgsdfg,  
dsqgqds

Case No. D2024-2864

### 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 dfsgsdf gsfdgsdfg, dsqgqds, United States of America ("United States").

### 2. The Domain Name and Registrar

The disputed domain name <opposition-spuerkeess.com> is registered with Squarespace Domains II LLC (the "Registrar").

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on July 15, 2024. On July 15, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 15, 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 July 22, 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 July 24, 2024.

The Center verified that 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 August 12, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 1, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on September 6, 2024.

The Center appointed Assen Alexiev as the sole panelist in this matter on September 13, 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 owned by the State of Luxembourg. It provides commercial bank services, including retail banking and private banking.

The Complainant is the owner of the following trademark registrations for the sign “SPUERKEESS” (the “SPUERKEESS trademark”):

- the European Union trademark SPUERKEESS with registration No. 009110552, registered on November 2, 2010 for goods and services in International Classes 9 and 36;
- the United Kingdom trademark SPUERKEESS with registration No. UK00909110552, registered on November 2, 2010 for goods and services in International Classes 9, 16, 25, 35, 36, 38, 39, 41, 42, 43 and 45; and
- the Swiss trademark SPUERKEESS with registration No. 615157, registered on May 10, 2011 for goods and services in International Classes 9, 16, 25, 35, 36, 38, 39, 41, 42, 43 and 45.

The Complainant is also the owner of the domain name <spuerkeess.lu>, which resolves to its official website.

There is no information in the case file about the activities of the Respondent.

The disputed domain name was registered on May 30, 2024. It is inactive.

#### **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.

The Complainant submits that the disputed domain name reproduces its SPUERKEESS trademark entirely. According to the Complainant, the name SPUERKEESS is particularly distinctive and there is no third-party trademark registration containing this term. The Complainant adds that the inclusion of the dictionary word “opposition” in the disputed domain name may lead Internet users to believe that it resolves to a special website of the Complainant for banking opposition.

According to the Complainant, the Respondent has no rights or legitimate interests in respect of the disputed domain name, because it is not affiliated with the Complainant and has not been authorized by it to use and register the SPUERKEESS trademark or to seek registration of any domain name incorporating this trademark. The Complainant adds that the Respondent has no prior rights or legitimate interests in the disputed domain name, and cannot pretend it was intending to develop a legitimate activity through the disputed domain name, which incorporates the Complainant's SPUERKEESS trademark.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. According to it, the Respondent must have been aware of the Complainant's trademark when registering the disputed domain name, because the name “Spuerkeess” does not exist in the English language and the

Complainant is the only entity in the world to have registered it as a trademark. The Complainant adds that the name “Spuerkeess” is generally known by the public in Luxembourg and the neighboring countries as being related to the Luxembourgish state savings bank, which has a history of 160 years (since 1856), and has acquired throughout the years a standing experience and reputation in the international financial markets. According to the Complainant, the Respondent’s primary motive in registering and using the disputed domain name was to capitalize on the Complainant’s trademark rights through phishing.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **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 the SPUERKEESS trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the SPUERKEESS trademark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the SPUERKEESS trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms (here, “opposition”) 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 SPUERKEESS trademark 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.

The disputed domain name is confusingly similar to the distinctive SPUERKEESS trademark of the Complainant, which is a bank dating back to the 19th century. The Respondent has not provided any explanation why it has registered and how it intends to use the disputed domain name, and the Panel is not aware of any use to which it may be put that would not refer to the Complainant and its trademark. The Respondent has not provided any information about itself, and the name that it has provided to the Registrar for the purposes of the registration of the disputed domain name (*dfsgsdf gsfsgsdfg, dsqgqds*) appears to be false and suggests an intention by the Respondent to hide its identity. Considering this, there is nothing in the case to rebut the Complainant's prima facie showing of lack of rights or legitimate interests of the Respondent in the disputed domain name.

The Panel therefore 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.

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.

Panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness of the Complainant's SPUERKEESS trademark, the composition of the disputed domain name, which incorporates this trademark, the failure of the Respondent to submit a Response and to provide any evidence of actual or contemplated good-faith use of the disputed domain name, the Respondent's use of what appear to be false contact details (*dfsgsdf gsfsgsdfg, dsqgqds*). The Panel is also not aware of any good faith use to which the disputed domain name, incorporating the distinctive SPUERKEESS trademark of the Complainant, which is banking institution, may be put. In these circumstances, the Panel finds that the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

The Panel therefore 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 <opposition-spuerkeess.com> be transferred to the Complainant.

*/Assen Alexiev/*

**Assen Alexiev**

Sole Panelist

Date: September 26, 2024