

ADMINISTRATIVE PANEL DECISION

Banque et Caisse d'Epargne de l'Etat, Luxembourg v. Host Master, Transure Enterprise Ltd

Case No. D2024-3482

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 Host Master, Transure Enterprise Ltd, United States of America.

2. The Domain Name and Registrar

The disputed domain name <spuerkeess-lu.website> is registered with Above.com, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on August 27, 2024. On August 27, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 3, 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 (TRANSURE ENTERPRISE LTD) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 6, 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 September 9, 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 September 10, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 30, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 1, 2024.

The Center appointed Meera Chature Sankhari as the sole panelist in this matter on October 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 an autonomous public establishment in Luxembourg, incorporated in June 22, 1989 and internationally active in the banking services. The Complainant is well known in the bank sector, and is widely using the trademark SPUERKEESS for banking, insurance, and financial services. That the Complainant is the owner of, inter alia, the following trademarks which cover class 36 - European Union trademark SPUERKEESS (word), No. 009110552, registered on November 2, 2010; Benelux trademark SPUERKEESS YOU LIFE. YOUR BANK. (device), Nos. 0796132 and 0796133, both registered on May 5, 2006; and United Kingdom trademark SPUERKEESS (word), Nos. UK00909110552 and UK00003345153, registered on November 2, 2010 and December 28, 2018, respectively.

The Complainant became aware of registration of the disputed domain name which entirely reproduces its trademark SPUERKEESS. The disputed domain name was registered on July 19, 2024, and resolves to a website displaying pay-per-click ("PPC") links with links on the opening of a bank account, about investment and several other third-party websites. The disputed domain name also may be for sale as there is an option to buy this disputed domain name.

5. Parties' Contentions

A. Complainant

The Complainant contends that it is a well-known Luxembourgish company, active internationally in the banking sector and widely using the trademark SPUERKEESS for banking, insurance, and financial services. The Complainant owns several trademark registrations for the mark SPUERKEESS registered across various jurisdictions and numerous classes. The Complainant claims that trademark SPUERKEESS is particularly distinctive and no other trademark registration containing this term exists, even in relation to unrelated activities of the Complainant. The disputed domain name encapsulates the Complainant's registered mark in its entirety and is nearly identical to the said trademarks in which the Complainant has exclusive rights.

The Complainant contends that the element "lu" is commonly recognized as the abbreviation for "Luxembourg" and is the international standard code for the country. Given that the Complainant is a Luxembourgish company, this element increases the risk of public confusion, leading people to believe that the disputed domain name and website are associated with the Complainant.

The Complainant also claims that the Respondent has no rights and legitimate interests with respect to the disputed domain name. The Respondent is not associated with the Complainant in any way, nor has it been authorized by the Complainant to use or register its trademarks, or to seek registration of any domain name incorporating said trademark.

The Complainant has further alleged that the disputed domain name has been registered by the Respondent in bad faith. The Respondent knew or at least should have known the existence of the Complainant's trademark SPUERKEESS at the time of the registration of the disputed domain name, especially considering the fact that the SPUERKEESS trademark registrations are well-known in the Benelux and the European Union countries.

The Complainant alleges that the composition of the disputed domain name may lead people into believing that the disputed domain name is endorsed by the Complainant or mislead the users into believing that it will direct them to an official website promoting its products and services.

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

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 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 confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, "-lu" here, may bear on assessment of the second and third elements, the Panel finds the addition of such terms 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.

It is also an established rule that the mere adjunction of a Generic Top-Level Domain such as ".website" is irrelevant as it is well established that the generic Top-Level Domain is insufficient to avoid a finding of confusing similarity. [WIPO Overview 3.0](#), section 1.11.

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

B. Rights or Legitimate Interests

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.

That the Respondent is not affiliated with the Complainant and neither has the Complainant authorized the Respondent to use and register its trademarks, or to seek registration of any domain name incorporating said trademark. The Respondent has also not shown any prior or legitimate interest in the disputed domain name.

The Complainant has also submitted the search report for the mark SPUERKEESS on the specialized platform FOVEA showing that the Respondent has no registration anywhere in the world for the said mark.

Panels have found that the use of a domain name to host a parked page comprising PPC links does not represent a bona fide offering where such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users.. [WIPO Overview 3.0](#), section 2.9.

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 the Respondent is using the trademark SPUERKEESS which is not an English word. The trademark is exclusively associated with the Complainant in Luxembourg and the other countries. Given the reputation of the Complainant's mark, the Respondent's adoption of a domain name which is solely associated with the Complainant is unlikely to be a mere coincidence.

The Panel takes note of the Complainant's contention about the Respondent's 242 domain name disputes since 2008 with over 93% cases resulting in a transfer of the domain names. That the Respondent has shown a pattern of registering domain names with well-known registered trademarks without any intention of exploiting them which directly constitutes bad faith as per [WIPO Overview 3.0](#), section 3.2.1.

The Respondent's unauthorized registration and utilization of the disputed domain name, aimed at attracting Internet users to third party websites, for commercial gain.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

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-lu.website> be transferred to the Complainant.

/Meera Chature Sankhari/

Meera Chature Sankhari

Sole Panelist

Date: October 16, 2024