

## **ADMINISTRATIVE PANEL DECISION**

SEEH Finance and Investments SA v. Janna N Sopelnik  
Case No. D2024-3508

### **1. The Parties**

The Complainant is SEEH Finance and Investments SA, Switzerland, represented by Etude Fontanet & Associés, Switzerland.

The Respondent is Janna N Sopelnik, Ukraine.

### **2. The Domain Name and Registrar**

The disputed domain name <seehfinanceinvestment-ch.com> is registered with OnlineNic, Inc. d/b/a China-Channel.com (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 28, 2024. On August 30, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 1, 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 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 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 Tobias Malte Müller as the sole panelist in this matter on October 11, 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. Further Procedural Considerations**

Under paragraph 10 of the Rules, the Panel is required to ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case, and also that the administrative proceeding takes place with due expedition.

Since the Respondent's mailing address is stated to be in Ukraine, which is subject to an international conflict at the date of this Decision that may impact case notification, it is appropriate for the Panel to consider, in accordance with its discretion under paragraph 10 of the Rules, whether the proceeding should continue.

Having considered all the circumstances of the case, the Panel is of the view that it should. The Panel has reached this conclusion in part because the Panel recognizes that the Center employed all reasonably available means calculated to achieve actual notice to the Respondent. In particular, the Center successfully sent the Notification of the Complaint to the email address disclosed for the Respondent by the Registrar in its Registrar Verification Response. There is no indication that the email notification has not been successfully delivered.

Furthermore, the Panel notes that the Center sent a notice of the Notification of the Complaint to the email address disclosed at the website at the disputed domain name and also used the contact form. Further email notification to the postmaster email addresses failed.

Finally, for the reasons which are set out later in this Decision, the Panel has no serious doubt that the Respondent registered and has used the disputed domain names in bad faith.

The Panel therefore concludes that the Respondent has been given a fair opportunity to present his case, and so that the administrative proceeding takes place with due expedition the Panel will proceed to a Decision accordingly.

#### **5. Factual Background**

It results from the Complainant's undisputed evidence that it has been recorded as a Swiss private company in Geneva under the business name "SEEH FINANCE AND INVESTMENTS SA" on June 29, 2006 and has been trading under said business name since 2006 as an investment and finance company.

The Complainant registered the domain name <seehfinance.ch> in 2017 and uses it as its primary domain name for email purposes.

The Complainant has further provided evidence – which remained undisputed – that the disputed domain name resolves to a website purporting to offer banking and investment services under the Complainant's company name "SEEH FINANCE AND INVESTMENTS SA" which is displayed prominently. In addition, the imprint of said website names the Complainant's business address (street, city, ZIP code) with the only difference that the street number is indicated as "88A" instead of "38A".

The Complainant has recently received a letter from a law firm claiming damages from Complainant for the alleged unauthorized use of an image on the website available under the disputed domain name.

#### **6. 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,

- (1) it has, through longstanding use, acquired unregistered, common-law rights in its SEEH FINANCE AND INVESTMENTS mark. It provided evidence that it constantly used the company name and business identifier in professional correspondence e.g. with banks, real estate professionals, notary publics, payment and risk managers, asset managers, fund administrators, public administration of Geneva and others at least since 2018. In the Complainant's view, the disputed domain name is identical to its unregistered mark;
- (2) the Respondent has no rights or legitimate interests in the disputed domain name, and
- (3) the disputed domain name was registered and has been used in bad faith given that it is being used to impersonate the Complainant.

## **B. Respondent**

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

## **7. Discussion and Findings**

Paragraph 15(a) of the Rules instructs this Panel to "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".

Furthermore, paragraph 4(a) of the Policy requires the Complainant to prove each of the following three elements in order to obtain an order that the disputed domain name should be transferred or cancelled:

- (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.

The Panel is satisfied that the registrant of record for the disputed domain name is the Respondent and will therefore proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied.

### **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 Panel finds the Complainant has established unregistered trademark or service mark rights in the sign "SEEH FINANCE AND INVESTMENTS" for the purposes of the Policy, [WIPO Overview 3.0](#), section 1.3. In the Panel's view, the Complainant has sufficiently shown that its mark SEEH FINANCE AND INVESTMENTS, which corresponds to its registered business name, has become a distinctive source-identifier because it is inherently distinctive and has been used in commerce as a designation of source. In fact, Complainant provided – undisputed – evidence showing that it constantly used the company name and business identifier in professional correspondence e.g. with banks, real estate professionals, notary publics, payment and risk managers, asset managers, fund administrators, public administration of Geneva and others at least since 2018.

The Panel finds the mark SEEH FINANCE AND INVESTMENTS is recognizable within the disputed domain name <seehfinanceinvestment-ch.com>. 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, here, “-ch”, may bear on assessment of the second and third elements, the Panel finds the addition of that element as well as the omission of other elements (here, “and”, “s”) 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.

In addition, also the content of the website, to which the disputed domain name resolves, confirms confusing similarity. In fact, as will be explained in more detail under the second and third element, said content purports to offer banking and investment services under the Complainant’s mark and company name. In addition, the imprint of said website names the Complainant’s business address (street, city, ZIP code) with the only difference that the street number is indicated as <88A> instead of <38A>. Therefore, it appears prima facie that the Respondent seeks to target said trademark through the disputed domain name, [WIPO Overview 3.0](#), section 1.15.

Finally, the Panel notes that confusion already occurred since Complainant has been contacted by a law firm for alleged copyright infringement occurring on the website available under the disputed domain name.

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.

Firstly, it results from the Complainant’s undisputed allegations that the disputed domain name resolves to a website that purports to offer banking and investment services under the Complainant’s mark which is displayed prominently on the website. In addition, the imprint of said website names the Complainant’s business address (street, city, ZIP code) with the only difference that the street number is indicated as “88A” instead of “38A”. The Panel assesses this use as being commercial, so that it cannot be considered 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 pursuant to paragraph 4(c)(iii) of the Policy.

Secondly, such use as described above cannot be qualified as a bona fide offering of goods or services in accordance with paragraph 4(c)(i) of the Policy. In fact, this Panel considers that a registrant has no legitimate interest in a domain name that is similar to a third party’s mark, where the composition of the

domain name is associated to the business of the trademark holder, and that is being used to address consumers in the same business as the trademark holder operates (see paragraph 2.5 of the [WIPO Overview 3.0](#)).

Thirdly, the Panel notes that there is no evidence showing that the Respondent might be commonly known by the disputed domain name in the sense of paragraph 4(c)(ii) of the Policy.

Finally, Panels have categorically held that use of a domain name for illegal activity (e.g., impersonation, or other types of fraud) can never confer rights or legitimate interests, [WIPO Overview 3.0](#) at section 2.13.1. In the present case the Panel holds that Complainant has presented credible, uncontroverted evidence, demonstrating that the Respondent is indeed using the disputed domain name to impersonate the Complainant.

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.

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. One of these circumstances is that the respondent by using the disputed domain name, has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website or location or of a product or service on its website or location (paragraph 4(b)(iv) of the Policy).

It is the view of this Panel that these circumstances are met in the case at hand. It results from the Complainant's undisputed allegations that the disputed domain name resolves to a website purporting to offer banking and investment services under the Complainant's mark and company name, which is displayed prominently. In addition, the imprint of said website names the Complainant's business address (street, city, ZIP code) with the only difference that the street number is indicated as "88A" instead of "38A". For the Panel, it is therefore evident that the Respondent positively knew the Complainant's SEEH FINANCE AND INVESTMENTS mark. Consequently, and in the absence of any evidence to the contrary, the Panel is convinced that the Respondent also knew that the disputed domain name included the Complainant's mark when it registered said domain name. Registration of a domain name which contains a third party's mark, in awareness of said mark, to take advantage of its similarities with the mentioned mark, and in the absence of rights or legitimate interests amounts to registration in bad faith.

The finding of bad faith registration and use is supported by the further circumstances resulting from the case at hand which are:

- (i) the Respondent's failure to submit a response to the Complaint;
- (ii) the Respondent's failure to provide any evidence of actual or contemplated good faith use; and

the implausibility of any good faith use to which the disputed domain name may be put, in particular considering that it is currently used to impersonate the Complainant.

The Panel finds that the Complainant has established the third element of the Policy.

## 8. 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 <seehfinanceinvestment-ch.com> be transferred to the Complainant.

*/Tobias Malte Müller/*

**Tobias Malte Müller**

Sole Panelist

Date: October 25, 2024