

ADMINISTRATIVE PANEL DECISION

Investec Bank Limited v. Name Redacted
Case No. D2024-3971

1. The Parties

Complainant is Investec Bank Limited, United Kingdom (“UK”), represented by CSC Digital Brand Services Group AB, Sweden.

Respondent is Name Redacted¹.

2. The Domain Name and Registrar

The disputed domain name <investec.ing> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 27, 2024. On September 27, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 27, 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, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to Complainant on October 1, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on October 4, 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”).

¹ Respondent appears to have used the name of a third party when registering the disputed domain name. In light of the potential identity theft, the Panel orders that Respondent’s name be redacted from this Decision. The Panel has attached as Annex 1 to this Decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding and has indicated Annex 1 to this Decision should not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified Respondent of the Complaint, and the proceedings commenced on October 7, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 27, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on October 28, 2024.

The Center appointed Stephanie G. Hartung as the sole panelist in this matter on November 5, 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

Complainant is a company organized under the laws of the UK that is active in the financial industry with a focus on asset management as well as on wealth and investment banking.

Complainant has provided evidence that it is the registered owner of various trademarks relating to its company name and brand INVESTEC, including, but not limited to, the following:

- word mark INVESTEC, United Kingdom Intellectual Property Office (UKIPO), registration number: UK00001583072, registration date: March 8, 1996, status: active;
- word mark INVESTEC, European Union Intellectual Property Office (EUIPO), registration number: 000537712, registration date: March 29, 2001, status: active.

Also, Complainant has demonstrated to own since 1995 the domain name <investec.com> which resolves to Complainant's main website at "www.investec.com", used to promote Complainant's business in the financial industry internationally.

As regards Respondent, in light of the potential identity theft, it remains open where it is located. The disputed domain name was registered on December 9, 2023. By the time of rendering this Decision, the disputed domain name does not resolve to any active content on the Internet. Complainant, however, has demonstrated that, at some point before the filing of the Complaint, the disputed domain name resolved to a website at "www.investec.ing", which advertised financial services provided by a Complainant's competitor, thereby prominently displaying Complainant's INVESTEC trademark, a highly similar logo and logotype without any authorization to do so. Also, the Whois information in the registration details for the disputed domain name provided by the Registrar includes the personal name of one of Complainant's key employees, Complainant's own entity name and its official address in Johannesburg, South Africa, thus obviously do not refer to Respondent as the true underlying registrant of the disputed domain name.

Complainant requests that the disputed domain name be transferred to Complainant.

5. Parties' Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name. Notably, Complainant contends that it has expanded, after 30 years operating in the UK, to nowadays operating in 40 cities on five continents, and that its INVESTEC trademark is meanwhile well recognized and respected worldwide in the financial industry.

Complainant submits that the disputed domain name is identical to Complainant's INVESTEC trademark, as the second level domain thereof consists solely of such trademark. Moreover, Complainant asserts that Respondent has no rights or legitimate interests in respect of the disputed domain name since (1) Complainant has not licensed, authorized, or permitted Respondent to register domain names incorporating

Complainant's INVESTEC trademark, (2) Respondent has used false information to identify itself as, or associated with, Complainant, even though Respondent is not sponsored by or affiliated with Complainant in any way, and (3) Respondent's inclusion of Complainant's INVESTEC trademark, logo and logotype on the website previously available at the disputed domain name was a direct effort to take advantage of the fame and goodwill that Complainant has built in its brand, and, thus, sought to take advantage of Complainant's INVESTEC trademark's fame and the trust and goodwill that Complainant has fostered among consumers to, at minimum, illegitimately increase traffic to Respondent's website for commercial gain, and at worst, phish personal information from Complainant's customers. Finally, Complainant argues that Respondent has registered and is using the disputed domain name in bad faith since (1) Complainant and its INVESTEC trademark are known internationally, with trademark registrations across numerous countries, (2) by registering a domain name that solely consists of Complainant's INVESTEC trademark and doing so under false Whois information, including e.g., Complainant's own entity name and its Johannesburg address, Respondent has demonstrated knowledge of and familiarity with Complainant's brand and business, and (3) Respondent has used the website under the disputed domain name to fraudulently pose as Complainant, presumably for the purpose of launching a phishing attack.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, Complainant carries the burden of proving:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) that Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

Respondent's default in the case at hand does not automatically result in a decision in favor of Complainant, however, paragraph 5(f) of the Rules provides that if Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute solely based upon the Complaint. Further, according to paragraph 14(b) of the Rules, the Panel may draw such inferences from Respondent's failure to submit a Response as it considers appropriate.

A. Identical or Confusingly Similar

First, 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 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.

Complainant has shown rights in respect of its INVESTEC trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. Also, the entirety of such trademark is reproduced within the disputed domain name, without any deviations whatsoever. Accordingly, the disputed domain name is identical with Complainant's INVESTEC trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. In this context, the Panel has also taken into account that the applicable Top-Level Domain ("TLD") in a domain name (here, ".ing") is viewed as a standard registration requirement and as such is disregarded under the first element identity/confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

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

B. Rights or Legitimate Interests

Second, paragraph 4(c) of the Policy provides a list of circumstances in which 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 Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Respondent has not rebutted 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.

In particular, Respondent has not been authorized to use Complainant’s INVESTEC trademark, either as a domain name or in any other way. Also, and in light of the potential identity theft committed by Respondent when registering the disputed domain name, there is no reason to believe that Respondent’s name somehow corresponds with the disputed domain name and Respondent does not appear to have any trademark rights associated with the term “investec” on its own. To the contrary, the disputed domain name, which is identical to Complainant’s INVESTEC trademark, at some point resolved to a website at “www.investec.ing”, which advertised financial services provided by a Complainant’s competitor, thereby prominently displaying Complainant’s INVESTEC trademark, a highly similar logo and logotype without any authorization to do so. In this context, UDRP panels have found that a domain name identical to a complainant’s trademark carries a high risk of implied affiliation, which is why such use of the disputed domain name neither qualifies as bona fide nor as legitimate noncommercial or fair within the meaning of the Policy (see [WIPO Overview 3.0](#), section 2.5.1.) Also, UDRP panels widely agree that a respondent’s use of a complainant’s trademark to redirect users, as in the case at hand, to a competing website would not support a claim to rights or legitimate interests in the disputed domain name (see [WIPO Overview 3.0](#), section 2.5.3). Finally, the potential identity theft at the disadvantage of Complainant and one of its key employees affirms Respondent’s intention of somehow taking unfair advantage of Complainant and the reputation of its well-known INVESTEC trademark, thus, stands in the way of recognizing rights or legitimate interests of Respondent in the disputed domain name, too..

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

C. Registered and Used in Bad Faith

Finally, 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.

The circumstances of this case leave no doubts that Respondent was fully aware of Complainant’s business and its rights in the undisputedly well-known INVESTEC trademark when registering the disputed domain name and that the latter is clearly directed thereto. Moreover, using the disputed domain name, which is even identical with Complainant’s INVESTEC trademark, to run a website at “www.investec.ing”, which advertises financial services of a Complainant’s competitor, thereby prominently displaying Complainant’s INVESTEC trademark, a highly similar logo and logotype without any authorization to do so, is a clear indication that Respondent intentionally attempted to attract, for commercial gain, Internet users to its own

website by creating a likelihood of confusion with Complainant's INVESTEC trademark as to the source, sponsorship, affiliation, or endorsement of Respondent's website. Such circumstances are evidence of registration and use of the disputed domain name in bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

In this context, the Panel also recognizes that Respondent has committed an identity theft at the disadvantage of Complainant and one of its key employees, which at least supports the Panel's finding of Respondent's acting in bad faith.

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

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, <investec.ing>, be transferred to Complainant.

/Stephanie G. Hartung/

Stephanie G. Hartung

Sole Panelist

Date: November 18, 2024