

ADMINISTRATIVE PANEL DECISION

Société de Négoce et de Participation v. Sergi Avaliani
Case No. D2024-4011

1. The Parties

The Complainant is Société de Négoce et de Participation, France, represented by Dreyfus & associés, France.

The Respondent is Sergi Avaliani, Georgia.

2. The Domain Name and Registrar

The disputed domain name <sonepar.shop> 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 30, 2024. On September 30, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 30, 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 (Not disclosed) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 3, 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 October 8, 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 October 9, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 29, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 30, 2024.

The Center appointed R. Eric Gaum 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

The Complainant owns the following international trademark registrations for the mark SONEPAR, as listed below:

International Trademark SONEPAR No. 736078, dated February 3, 2000, designating inter alia the United Kingdom (subsequent designation registered March 17, 2015), China, duly renewed and covering goods and services in classes 9, 11, 37 and 39;

International Trademark SONEPAR + logo No. 1654996, dated December 3, 2021, designating inter alia the European Union, the United Kingdom, United States of America, Canada and China, covering goods and services in classes 7, 9, 11, 35, 37, 38, 39, 41 and 42.

The Complainant also owns and operates the domain name <sonepar.com> registered on April 17, 1997.

The disputed domain name was registered on February 17, 2024, and resolves towards a parking page displaying commercial links of various content, including links related to the Complainant's field of activity. No email servers are configured on this domain name.

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 contends that it and its SONEPAR trademark enjoy a worldwide reputation, and that the Complainant own numerous SONEPAR trademark registrations around the world.

The Complainant contends that the full inclusion of its SONEPAR trademark in combination with the ".shop" Top-Level Domain ("TLD") enhances the false impression that the disputed domain name <sonepar.shop> is somehow officially related to the Complainant and does not dispel any likelihood of confusion.

The Complainant also contends that the disputed domain name is likely to confuse inattentive Internet users into believing that it will direct them to the official website containing information about the Complainant and its products.

The Complainant also states that the Respondent is neither affiliated with the Complainant in any way nor has been authorized by the Complainant to use and register its trademark, or to seek registration of any domain name incorporating said trademark.

The Complainant also contends that the Respondent cannot claim prior rights or legitimate interest in the disputed domain name as the SONEPAR trademarks precede the registration of the disputed domain name for years.

The Complainant further contends that the Respondent is not commonly known by the disputed domain name or the name "sonepar", and there is no evidence that the Respondent may be commonly known under the name "sonepar".

The Complainant also contends that the evidence demonstrates that the Respondent registered the disputed domain name in bad faith for the following reasons:

First, it is implausible that the Respondent was unaware of the Complainant when he registered the disputed domain name. The Complainant is well known throughout the world and has an undisputable reputation in the automotive industry and in French and foreign gastronomy.

Second, the composition of the disputed domain name, which identically reproduces the Complainant's SONEPAR trademark associated only with the TLD ".shop" confirms that the Respondent was aware of the Complainant and its trademarks, and that it registered the disputed domain name based on the attractiveness of the Complainant's trademarks. Given the reputation of the SONEPAR trademarks, registration in bad faith can be inferred.

Third, the Complainant's SONEPAR trademark registrations significantly predate the registration date of the disputed domain name.

Fourth, under section 2 of the ICANN Policy, by registering the <sonepar.shop> disputed domain name, the Registrant represented and warranted to the registrar that, to its knowledge, the registration of the disputed domain name would not infringe the rights of any third party. As such, the registrant had a duty to verify that the registration of the disputed domain name would not infringe the rights of any third party before registering the disputed domain name. A simple trademark search for "SONEPAR" would have revealed to the Respondent the existence of the Complainant and its trademark. Furthermore, a simple search via Google or any other search engine for "SONEPAR" would have alerted the Respondent to the Complainant's trademark and products.

The Complainant further contends that the evidence demonstrates that the Respondent has and is using the disputed domain name in bad faith for the following reasons:

First, in the absence of any license or permission from the Complainant to use such widely known trademark, no actual or contemplated bona fide or legitimate use of the disputed domain name could reasonably be claimed.

Second, because the disputed domain name is confusingly similar to the Complainant's trademark, a likelihood of confusion should be presumed, and such confusion will inevitably result in the diversion of Internet traffic from the Complainant's site to the Respondent's site.

Third, the Respondent uses the disputed domain name to direct Internet users to a webpage displaying pay-per-click links which are likely to generate revenues, and there is no indication of the Respondent's own activities on the site.

Fourth, the Respondent has not replied to any cease-and-desist letters and reminders the Complainant sent, which provides for an inference of use in bad faith.

B. Respondent

The Respondent did not reply to the Complainant's contentions. As the Respondent has failed to submit a response to the Complaint, the Panel accepts as true all of the allegations of the Complaint. See *Talk City, Inc. v. Michael Robertson*, WIPO Case No. [D2000-0009](#).

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. The inclusion of the TLD ".shop" is disregarded under the first element test. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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.

UDRP 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. [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.

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.

In the present case, the Panel notes that the Respondent registered the disputed domain name incorporating the Complainant's trademark in its entirety, i.e., the entire SONEPAR trademark. Furthermore, the SONEPAR trademark is highly distinctive and from a search on the Internet does not appear to have any generic meaning apart from the Complainant's use. A simple online search for the SONEPAR trademark would alert anyone of its substantial trademark use. Furthermore, the Respondent is using the disputed domain name to direct Internet users to a webpage displaying pay-per-click links some of which are related to the Complainant's business and which likely generate revenues. Finally, the Respondent has failed to submit a response to the Complaint.

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 <sonepar.shop> be transferred to the Complainant.

/R. Eric Gaum/

R. Eric Gaum

Sole Panelist

Date: November 19, 2024