

ADMINISTRATIVE PANEL DECISION

IPSEN v. ipse Commun, Marius Keppler
Case No. D2024-4159

1. The Parties

The Complainant is IPSEN, France, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is ipse Commun, Marius Keppler, Germany.

2. The Domain Name and Registrar

The disputed domain name <ipsen.team> is registered with One.com A/S (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 9, 2024. On October 10, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 11, 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 October 14, 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 16, 2024.

On October 14, 2024, the Center informed the parties in French and English, that the language of the registration agreement for the disputed domain name is French. On October 16, 2024, the Complainant requested English to be the language of the proceeding. The Respondent did not submit any comment on the Complainant’s submission.

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 22, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 11, 2024. The Respondent did not submit any response.

Accordingly, the Center notified the Respondent’s default on November 12, 2024.

The Center appointed William A. Van Caenegem as the sole panelist in this matter on November 19, 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 global mid-size biopharmaceutical company focused on medicines in oncology, rare disease and neuroscience. It is based in France and has been listed on the Paris Stock Exchange/Euronext since 2005.

The Complainant is the owner of trademark registrations for the word mark IPSEN in various jurisdictions, including USPTO Reg No 4084238, registered on January 10, 2012, in class 5; United States Reg No 3868711 registered on October 26, 2010, in classes 16, 41, 42 and 44; International Reg No 470005 registered on July 6, 1982 in classes 5 and 35; International Reg No 823036 registered on March 19, 2004, in classes 1, 3, 5, 9, 10, 16, 31, 32, 36, 38, 41, 42 and 44; and United Kingdom Reg No UK00002146516 registered on June 05, 1998, in classes 5, 42 and 44.

The disputed domain name was registered on March 30, 2024.

The disputed domain name previously redirected to the Complainant's website at <ipsen.com>, and presently resolves to an inactive webpage indicating that 'This site can't be reached'.

5. Parties' Contentions

A. Complainant

The Complainant asserts that in the fiscal year 2023, it achieved total sales of EUR 3.128 billion. The Complainant employs over 5,000 professionals across 42 countries, and IPSEN products are marketed and distributed in over 80 countries. Its primary domain name <ipsen.com> has been registered since May 7, 1997.

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 the disputed domain name is identical to its IPSEN registered trademark, and thus the requirements under paragraph 4(a)(i) of the Policy are met.

Further, the Complainant asserts that the Respondent is not commonly known by the disputed domain name, which evinces a lack of rights or legitimate interests in accordance with Policy, paragraph 4(c)(ii). The Complainant has not licensed, authorized, or permitted the Respondent to register domain names incorporating its trademark. The Complainant points out that the pertinent Whois information identifies the Registrant as "ipse Commun / Marius Keppler", which does not resemble the disputed domain name. In fact, the Respondent's full business name is "IPSE Communicates", according to the Complainant, which is even further removed in sound and appearance from the IPSEN brand and trademark.

Further, the Complainant contends that even if the Respondent were to contend that the disputed domain name was created to reflect their company name, that still does not explain why the Respondent then used the disputed domain name to redirect to the Complainant's actual website. The Complainant says that it is more likely that the identification details are fraudulent and were chosen as a means for lending legitimacy to the registration. Ultimately, the Complainant contends that there is no evidence to suggest that the Respondent is commonly known by the disputed domain name and thus the Respondent cannot be regarded as having acquired rights to or legitimate interests in it.

The Complainant asserts that the disputed domain name previously redirected Internet users to the Complainant's primary website at <ipSen.com>, and thus the Respondent was not using it to provide a bona fide offering of goods or services as allowed under Policy, paragraph 4(c)(i), nor putting it to a legitimate noncommercial or fair use as allowed under Policy, paragraph 4(c)(iii). Such use does not bestow legitimate rights or interests upon a respondent, the Complainant says.

The Complainant points out that, at present, the disputed domain name resolves to a blank page that lacks content, and therefore the Respondent has not made any attempt to make legitimate use of it, which evinces a lack of rights or legitimate interests.

Furthermore, at the time of filing of the Complaint, the Respondent was using a privacy Whois service, which past UDRP panels have also found to equate to a lack of legitimate interests, the Complainant contends.

The Complainant points out that the Respondent registered the disputed domain name on March 30, 2024, which is significantly after the Complainant filed for registration of its IPSEN trademark, and also significantly after the Complainant's first use in commerce of its IPSEN trademark in 1975. The Complainant and its IPSEN trademark are said to be known internationally, with trademark registrations across numerous countries. The Respondent has demonstrated a knowledge of and familiarity with the Complainant's brand and business by registering an identical domain name, which it is hard to imagine could be coincidental, and also difficult to envisage being used in a legitimate manner. Additionally, the Complainant points out that the disputed domain name has been used to redirect Internet users to the Complainant's primary website, thereby demonstrating that the Respondent was aware of and specifically targeting the Complainant's IPSEN trademark. Further, the disputed domain name was previously used to redirect Internet users to the Complainant's own website, at <ipSen.com>, a practice which, according to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 3.14, can be considered evidence of bad faith. At present, the disputed domain name is passively held, which is also well established as a bad faith practice. The Complainant says also that where the disputed domain name consists solely of its proprietary trademark, there is no plausible good-faith reason or logic for the Respondent to have registered it. Rather, it is indicative of an intention to hold the disputed domain name "for some future active use in a way which would be competitive with or otherwise detrimental to Complainant."

The disputed domain has active mail exchange ("MX") records, the Complainant points out, which could potentially be used for phishing purposes, something that previous UDRP panels have considered as indicative of bad faith. That actual phishing communications have been sent need not be established, the fact that they potentially can be is sufficient to support an argument of bad faith, the Complainant says. In conclusion, the Complainant contends that based on the facts advanced above, it is clear that the Respondent knew of and targeted the Complainant's trademark, and the Respondent should be found to have registered and used the disputed domain name in bad faith.

B. Respondent

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

6. Discussion and Findings

Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is French. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that translation of the Complaint would unfairly disadvantage and burden the Complainant and delay the proceedings and adjudication of this matter. Such delays pose a continuing risk to the Complainant and unsuspecting consumers, particularly given the presence of MX records which also creates a risk that the disputed domain name could be used as part of a phishing or impersonation scheme.

Further, the Complainant argues that the disputed domain name redirects to its own English-language website at <ipsen.com>. The Complainant says that it sent cease-and-desist letters to the Respondent who had the opportunity to address the language question but did not respond in any way.

Finally, the Complainant argues that considering the Respondent's decision to register the disputed domain name incorporating what the Complainant refers to as its famous IPSEN mark and brand, it would unduly burden the Complainant to have to arrange for translation, where it already has endured considerable expenses in pursuing the present matter.

The Panel has to exercise its relevant discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs. [WIPO Overview 3.0](#), section 4.5.1. Here, additionally to the contentions reasonably advanced by the Complainant, the Respondent is further identified as based in Germany and not in France.

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

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 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 IPSEN mark is reproduced within the disputed domain name. 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.

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 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 has registered a domain name that is identical to the Complainant's well established and distinctive IPSEN trademark. The Respondent registered the disputed domain name long after it was first registered and used in commerce by the Complainant. Furthermore, the disputed domain name previously redirected to the Complainant's official website at "www.ipсен.com". The Respondent has not made any use of the disputed domain name nor prepared for any use that could be in good faith, and in any case, it is difficult to imagine that such a use would ever be possible/plausible given that the disputed domain name is identical to the Complainant's trademark.

Making no use of a disputed domain name as is presently the case is also consistent with a finding of bad faith as has consistently been held by previous UDRP panels under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the established reputation of the Complainant's trademark, the composition of the disputed domain name, and the failure of the Respondent to submit a response, and finds that in the circumstances of this case, the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

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

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 <ipсен.team> be transferred to the Complainant.

/William A. Van Caenegem/

William A. Van Caenegem

Sole Panelist

Date: December 3, 2024