

ADMINISTRATIVE PANEL DECISION

Banque et Caisse d'Epargne de l'Etat, Luxembourg v. aktham bani shamsah
Case No. D2024-4215

1. The Parties

Complainant is Banque et Caisse d'Epargne de l'Etat, Luxembourg, Luxembourg, represented by Office Freylinger S.A., Luxembourg.

Respondent is aktham bani shamsah, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <snets.store> (the "Domain Name") is registered with NameCheap, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on October 14, 2024. On October 14, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On October 14, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the 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 to Complainant providing the registrant and contact information disclosed by the Registrar and inviting the Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on October 22, 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 Respondent of the Complaint, and the proceedings commenced on October 23, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 12, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on November 13, 2024.

The Center appointed Robert A. Badgley as the sole panelist in this matter on November 22, 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 Luxembourg-based banking, insurance, and financial services firm. Complainant operates a website at the domain name <snet.lu>, at which site Complainant promotes its financial services and features its mobile app.

Complainant holds a European Union trademark registration for the mark S-NET, Reg. No. 009109110644, registered on July 1, 2012, in connection with, among other things, “banking business; insurance; financial affairs; monetary affairs; real estate affairs; consultancy and information relating to banking, financial, monetary and insurance affairs”. Complainant also holds United Kingdom Reg. No. UK009109110644 for S-NET, registered on July 1, 2012, and Benelux Reg. No. 936196 for S-NET, registered on August 1, 1999.

Complainant alleges:

“The trademark ‘S-NET’ is generally known by the public in Luxembourg and refers to the banking app of the Banque et Caisse d'Epargne de l'Etat, Luxembourg used in relation to its financial and banking services.”

Complainant provides no evidence of the renown of its S-NET mark.

The Domain Name was registered on September 18, 2024. The Domain Name resolves to an error page. There is no evidence in the record that the Domain Name has been put to any particular use.

5. Parties' Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

Complainant asserts:

“The Banque et Caisse d'Epargne de l'Etat has a history of 160 years (since 1856), and has therefore acquired throughout the years a standing experience and reputation in the international financial markets. More information regarding the history and tradition of the SPUERKEESS, can be found on the following website: <https://www.spuerkeess.lu/en/about-us/discover-bcee-aa-plus-rating-safest-bank-award-foundation-1856/> (Annex 8).”

“Therefore, we can clearly state that that the Complainant's “S-NET” trademark is well-known by the public worldwide, being ranked among the 10 safest banks in the world in 2019.”

“Thus, as the entity of the Complainant is publicly known at an international level, the fact that the Respondent registered a domain which is identical and highly similar to the Complainant's trademarks cannot be pure chance, but constitutes registrations in bad faith.”

“Bad faith can be found where Respondent ‘knew or should have known’ of Complainant's trademark rights and, nevertheless registered domain names in which it had no rights or legitimate interest (*Research In Motion Limited v. Privacy Locked LLC/Nat Collicot*, WIPO Case No. [D2009-0320](#)).”

[...]

“Indeed, the fact that the Respondent is using the sign ‘snets.store’ which is almost identical to the Complainant’s trademark registrations ‘S-NET’, at least to the dominant verbal element of the device trademarks invoked above and leads to strongly believe that he will use it for phishing purposes.”

“In *Archer-Daniels-Midland Company v. Chamiris Mantrana*, WIPO Case No. [D2013-0257](#), citing the case *Halifax plc v. Sontaja Sunducl*, WIPO Case No. [D2004-0237](#), it was stated that ‘the potential for ‘phishing’ and obtaining information by deception, is not just evidence of bad faith, but possibly suggestive of criminal activity’.”

“This potential phishing activities confirm thus that the disputed domain name was registered and is supposed to be used in bad faith. Therefore, it is more than likely that Respondent’s primary motive in registering and using the disputed domain name was to capitalize on – by phishing.”

“Furthermore, it is likely that Respondent registered the domain name to prevent Complainant from using its trademark in the disputed domain name or to try to sell it.”

B. Respondent

Respondent did not reply to Complainant’s contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to the Domain Name:

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

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 that Complainant has rights in the mark S-NET through registration demonstrated in the record. The Panel also finds that the Domain Name is confusingly similar to the S-NET mark. Notwithstanding the additional letter “s” and the removal of the hyphen within the Domain Name, the S-NET mark remains recognizable within the Domain Name.

Complainant has established Policy paragraph 4(a)(i).

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

- (i) before any notice to you [Respondent] of the dispute, your use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a bona fide offering of goods or services; or
- (ii) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Domain Name, even if you have acquired no trademark or service mark rights; or

(iii) you [Respondent] are making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel need not address this element, given its finding below in the “Bad Faith” section.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that the following circumstances, “in particular but without limitation”, are evidence of the registration and use of the Domain Name in “bad faith”:

- (i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or
- (ii) that Respondent has registered the Domain Name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that Respondent has engaged in a pattern of such conduct; or
- (iii) that Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or
- (iv) that by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent’s website or other online location, by creating a likelihood of confusion with Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of Respondent’s website or location or of a product or service on Respondent’s website or location.

The Panel concludes, on the record provided here, that Complainant has failed to carry its burden of proving that Respondent registered and used the Domain Name in bad faith. Complainant has not provided a sufficient evidentiary basis for the Panel to conclude that Respondent more likely than not had Complainant’s S-NET trademark in mind when registering the Domain Name.

Complainant provided no evidence of the fame of its S-NET mark. Instead, Complainant merely asserted that Respondent knew, or should have known, of Complainant’s mark. That standard is not the prevailing standard under the UDRP. Rather, the prevailing view is that a complainant must prove that the respondent more likely than not had the complainant’s trademark in mind when registering the disputed domain name.

Given the fact that there is no record evidence that Complainant’s S-NET mark enjoys widespread renown, and the fact that other parties are using that mark (the Panel consulted a search engine) in unrelated businesses, the fact that the term S-NET can hardly be considered as a coined word, the lack of any evidence that Respondent used the Domain Name in such a manner as to suggest awareness of Complainant’s mark, and the fact that the characters in the Domain Name are not identical to those in the S-NET mark (especially the additional “s”), the Panel cannot find here that Respondent more likely than not had Complainant’s S-NET mark in mind when registering the Domain Name.

Complainant also asserts that it suspects that Respondent is motivated by a potential phishing scam. If true, that would be a clear basis of bad faith. But Complainant furnishes no evidence that Respondent was motivated by a phishing enterprise. The two “phishing” cases cited by Complainant, *Archer-Daniels-Midland* and *Halifax*, are easily distinguishable from the instant case because, in those cases, the respondent actually set up a website that mirrored the complainant’s site. Here, by contrast, Respondent has set up no website in the brief time during which it has owned the Domain Name. Accordingly, the “phishing” argument fails as pure speculation.

Complainant also asserts that Respondent registered the Domain Name to prevent Complainant from reflecting its mark in a domain name. Complainant provides no evidence that Respondent has engaged in a pattern of preclusive registrations, and hence this argument also fails.

In sum, notwithstanding the plethora of emphatic adverbs (e.g. “clearly”) throughout its Complaint, Complainant simply has not provided a sufficient basis for the Panel to conclude, on a balance of probabilities, that Respondent registered and used the Domain Name in bad faith.

Complainant has not established Policy paragraph 4(a)(iii).

7. Decision

For the foregoing reasons, the Complaint is denied.

/Robert A. Badgley/

Robert A. Badgley

Sole Panelist

Date: December 5, 2024