

## **ADMINISTRATIVE PANEL DECISION**

Société de Négoce et de Participation v. Humberto Smitham  
Case No. D2024-4364

### **1. The Parties**

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

The Respondent is Humberto Smitham, United States of America (“United States”).

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

The disputed domain name <sonepar-ecm.com> (the “Domain Name”) is registered with Tucows Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 23, 2024. On October 23, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On October 23, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on October 24, 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 25, 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 30, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 19, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 21, 2024.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on November 28, 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 to ensure compliance with the Rules, paragraph 7.

#### **4. Factual Background**

The Complainant operates in B-to-B distribution of electrical products, solutions and related services, and it has a network of 100 brands spanning 40 countries, including the United States where the Respondent is located. The Complainant sold around EUR 23 billion in 2020.

The Complainant owns a number of trademark registrations for SONEPAR, for example, United States trademark no. 4109133, registered on March 6, 2012. The Complainant operates through its website that resolves from the domain name <sonepar.com> registered in 1997.

The Domain Name was registered on July 5, 2024. The Domain Name had resolved to a parking page displaying commercial links related to Complainant's field of activity. At the time of drafting the Decision, the Domain Name resolved to a web page with pay-per-click ("PPC") links and the text informing that the "domain is pending renewal or has expired".

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant provides evidence of trademark registrations and argues that its trademark enjoys a worldwide reputation. Moreover, the Complainant argues that the Domain Name reproduces entirely the Complainant's trademark combined with the letters "ecm" intersected by a hyphen. The addition does not dispel likelihood of confusion. On the contrary, it increases the risk of confusion. The addition refers to the acronym "ECM" meaning "Electronic Content Management".

The Complainant argues that the Respondent is neither affiliated with the Complainant nor has been authorized by the Complainant to seek registration of any domain name incorporating the Complainant's trademark. The Respondent cannot claim prior rights or legitimate interest in the Domain Name as the Complainant's trademarks precede the registration of the Domain Name. The Complainant asserts that the Respondent has never been known by the Domain Name, and the Respondent has not acquired trademark rights on the corresponding name. The Respondent's use of the Domain Name is not a good faith use that may lead to a legitimate interest in the Domain Name. Finally, the Complainant argues that it is not possible to conceive a plausible circumstance in which the Respondent could legitimately use the Domain Name.

The Complainant believes the Respondent has intentionally registered the Domain Name in bad faith. The Complainant argues, inter alia, that due to the Complainant's fame and the nature of the Domain Name, it is implausible that the Respondent was unaware of the Complainant when it registered the Domain Name. The Respondent's use of the Domain Name to direct Internet users to a page displaying PPC links is further evidence of bad faith. Moreover, the Respondent has not replied to the Complainant's cease-and-desist letters.

##### **B. Respondent**

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

## **6. Discussion and Findings**

### **A. Identical or Confusingly Similar**

The test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the Domain Name. Where a domain name incorporates the entirety of a trademark, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing. See [WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition \("WIPO Overview 3.0"\)](#), section 1.7.

The Complainant has established that it has trademark rights in SONEPAR. The Domain Name incorporates the Complainant's trademark with the addition of "-ecm". The addition does not prevent a finding of confusing similarity. See [WIPO Overview 3.0](#), section 1.8. For the purpose of assessing the confusing similarity under paragraph 4(a)(i) of the Policy, the Panel may ignore the generic Top-Level Domain ("gTLD") ".com". See [WIPO Overview 3.0](#), section 1.11.1.

Based on the available record, 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. While 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 often-impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. See [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a case that the Respondent lacks rights or legitimate interests in the Domain Name. The Respondent has not rebutted the Complainant's showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Domain Name. There is no evidence that the Respondent has registered the Domain Name as a trademark or acquired trademark rights. There is no evidence of the Respondent's use of, or demonstrable preparations to use, the Domain Name in connection with a bona fide offering of goods or services.

The Panel finds that 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.

The prior rights of the Complainant, the composition of the Domain Name, and the lack of an explanation as to why the Respondent registered the Domain Name, are all indications that the Respondent knew of the Complainant when the Respondent registered the Domain Name. The Respondent's use of the Domain Name, as well as the fact that the Respondent has not replied to the Complainant's contentions, is further evidence of bad faith.

For the reasons set out above, the Panel concludes that the Domain Name was registered and is being used in bad faith, within the meaning of paragraph 4(a)(iii) of the Policy. 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 the Domain Name <sonepar-ecm.com> transferred to the Complainant.

*/Mathias Lilleengen/*

**Mathias Lilleengen**

Sole Panelist

Date: December 4, 2024