

PANEL DECISION

Banca Monte dei Paschi di Siena S.p.A. v. Domain Manager, Evolution Media e.U.

Case No. DEU2024-0004

1. The Parties

The Complainant is Banca Monte dei Paschi di Siena S.p.A., Italy, represented by Rapisardi Intellectual Property, Italy.

The Respondent is Domain Manager, Evolution Media e.U., Austria, represented by Legalloyd Advocaten & Legal Tech, Netherlands (Kingdom of the).

2. The Domain Name, Registry and Registrar

The Registry of the disputed domain name <mps.eu> is the European Registry for Internet Domains ("EURid" or the "Registry"). The Registrar of the disputed domain name is CRegISP Ltd.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on February 19, 2024. On February 20, 2024, the Center transmitted by email to the Registry a request for registrar verification in connection with the disputed domain name. On February 22, 2024, the Registry transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details. The Center notified the Complainant of the Complaint deficiency on February 23, 2024, regarding the Mutual Jurisdiction clause. The Complainant filed an amendment to Complaint on the same day.

The Center verified that the Complaint together with the amendment to the Complaint satisfied the formal requirements of the .eu Alternative Dispute Resolution Rules (the "ADR Rules") and the World Intellectual Property Organization Supplemental Rules for .eu Alternative Dispute Resolution Rules (the "Supplemental Rules").

In accordance with the ADR Rules, Paragraph B(2), the Center formally notified the Respondent of the Complaint, and the proceedings commenced on February 26, 2024. In accordance with the ADR Rules, Paragraph B(3)(a), the due date for Response was March 17, 2024. The Response was filed with the Center on March 17, 2024.

The Center verified that the Response satisfied the formal requirements of the ADR Rules and the Supplemental Rules.

The Center appointed Steven A. Maier as the sole panelist in this matter on March 21, 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 ADR Rules, Paragraph B(5).

4. Factual Background

The Complainant is a banking institution based in Siena, Italy. It claims to be the world's oldest bank, tracing its history to 1472 and having been founded in its present form in 1624. It offers commercial and retail banking services.

The Complainant is the owner of various trademark registrations that comprise or include the mark MPS. Such registrations include International trademark registration number 824744 for the word mark MPS, registered on April 14, 2004, in International Class 36 and designating over 40 countries, including Austria (being the domicile of the Respondent).

The Complainant operates a website at "www.mps.it" and offers online banking services. It provides evidence of numerous other domain name registrations commencing with or including the term "mps".

The disputed domain name was registered on July 11, 2019.

The disputed domain name appears to have resolved to various "parking" pages, stating that the disputed domain name is for sale.

The Registration Agreement for the disputed domain name is in Dutch. On December 28, 2023, the Complainant filed a Request to Change the Language of the ADR Proceeding in English with the Center. On February 6, 2024, the Panel ordered that the language of the ADR proceeding shall be English. See *Banca Monte dei Paschi di Siena S.p.A. v. Domain Manager, Evolution Media e.U.*, WIPO Case No. [DEUL2023-0009](#).

5. Parties' Contentions

A. Complainant

The Complainant states that it is the fourth largest commercial and retail bank in Italy, with 2,000 branches, 26,000 employees and 5.1 million customers worldwide.

The Complainant submits that the disputed domain name is identical to its MPS trademark.

The Complainant contends that the disputed domain name was registered by the Respondent without rights or legitimate interests in respect of the disputed domain name. It contends that it has never authorized the Respondent to use its MPS trademark and that the Respondent appears to have no independent trademark rights in respect of the disputed domain name.

The Complainant submits that the disputed domain name was registered or has been used in bad faith. It states that the MPS trademark is a fanciful name which the Complainant has used since 1472 and that it is inconceivable that the Respondent was unaware of that trademark. It states that the Respondent would also have been aware of the Complainant's interest in the disputed domain name, since most major banks now offer online services. The Complainant submits that the Respondent has never used the disputed domain name other than to offer it for sale, and it is evident therefore that the Respondent registered the disputed

domain name for the purpose of selling it to the Complainant or a competitor for a much higher sum than the costs of registration.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

The Respondent acknowledges that the disputed domain name is identical to the Complainant's trademark MPS.

The Respondent submits that it is wholly owned by a Mr. Jank, who has been in the business of domain name trading since 2005. It states that the Respondent legitimately registered the disputed domain name in 2009 in furtherance of that business.

The Respondent contends that offering domain names for sale can represent a bona fide offering of goods for the purposes of the Uniform Domain Name Dispute-Resolution Policy ("UDRP")¹ and the ADR Rules. It cites authority for the proposition that offering domain names for sale may constitute a legitimate interest, providing there is no intention to target and profit from a complainant's trademark (*Match.com, LP v. Bill Zag and NWLAWS.ORG*, WIPO Case No. [D2004-0230](#), and *Limble Solutions, Inc. v. Domain Admin, Alter.com, Inc.*, WIPO Case No. [D2022-4900](#)).

The Respondent also cites section 2.1 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), which states:

"... generally speaking, panels have accepted that aggregating and holding domain names (usually for resale) consisting of acronyms, dictionary words, or common phrases can be bona fide and is not per se illegitimate under the UDRP."

The Respondent submits that the term "mps" can be an acronym for hundreds of different things and does not uniquely identify the Complainant. It states that it had no knowledge of the Complainant's trademark when it registered the disputed domain name and no reason to be aware of it. The Respondent exhibits a Google search for the term "mps" which appears to yield approximately 420 million results, and which the Respondent submits does not include the Complainant within the first 100 results. The Respondent also exhibits a search of the WIPO Global Brands Database, which suggests that there are 1,756 registered trademarks comprising or including the term "MPS". The Respondent also questions the global recognition of the Complainant's trademark, and in particular any reputation it may have in Austria.

The Respondent submits that its decision to register the disputed domain name was driven by the intrinsic value of the acronym "mps", being capable of many meanings and use in a variety of commercial contexts. The Respondent provides evidence that Mr. Jank has offered numerous other three-letter domain names for sale (through an entity named Dream Bigger Ventures GmbH), with prices ranging from EUR 100 to EUR 6,000. The Respondent submits that it has offered the disputed domain name for general sale on Dan.com and Sedo.com and has never directly approached the Complainant with regard to the disputed domain name.

6. Discussion and Findings

In order to succeed in the Complaint, the Complainant is required, under Paragraph B(1)(b)(10) of the ADR Rules, to establish that the disputed domain name:

¹ While the UDRP is not the applicable dispute resolution policy in this proceeding, the Panel considers the body of jurisprudence developed under the UDRP to be of assistance in determining the present Complaint.

- (a) is identical or confusingly similar to a name in respect of which a right is recognized or established by national law of a Member State and/or European Union law; and either:
- (b) has been registered by the Respondent without rights or legitimate interests in respect of the disputed domain name; or
- (c) has been registered or is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has established that it has relevant registered trademark rights in the mark MPS. The disputed domain name is identical to that trademark, and the Panel therefore finds that the disputed domain name is identical to a name in respect of which a right or rights are recognized or established by national law of a Member State and/or European Union law.

B. Rights or Legitimate Interests

The Panel accepts the Respondent's submission that the registration of a domain name for the purpose of sale may, in certain circumstances, give rise to legitimate interests in that domain name on the part of the registrant. The Panel finds further that the disputed domain name potentially falls within the category of domain names that can be so registered. It is comprised of the three letters "m", "p" and "s", which the Panel accepts could be used to refer to a very large number of commercial ventures other than the Complainant.

The Panel has seen no evidence that the Respondent was aware of the Complainant's trademark at the time it registered the disputed domain name, or that it registered the disputed domain name in order specifically to target the Complainant's trademark. Nor does the Panel find anything in either the nature of the Complainant's trademark, or the evidence of its use and reputation, upon which to infer that the Respondent was likely to have had such knowledge or intention.

As set out in section 2.10.2 of [WIPO Overview 3.0](#):

"For a respondent to have rights or legitimate interests in a domain name comprising an acronym, the respondent's evidence supporting its explanation for its registration (and any use) of the domain name should indicate a credible and legitimate intent which does not capitalize on the reputation and goodwill inherent in the complainant's mark."

The Panel accepts the Respondent's evidence that it (and/or its associated entities) are in the business of domain name trading, have offered a significant number of other three-letter domain names for sale, and registered the disputed domain name in furtherance of that business. The Panel finds no evidence, or reason to infer, that the Respondent registered or has used the disputed domain name to capitalize on the reputation and goodwill inherent in the Complainant's trademark.

The Panel therefore finds that the Complainant has failed to demonstrate that the disputed domain name was registered by the Respondent without rights or legitimate interests in respect of the disputed domain name.

C. Registered or Used in Bad Faith

The Panel's conclusions as to the registration or use of the disputed domain name in bad faith are informed by the same considerations as set out above. The Panel having found that the Respondent registered and has used the disputed domain name for the purpose of a legitimate business in trading in domain names, and that there is no evidence, or basis upon which to infer, that the Respondent targeted the Complainant's trademark, the Panel finds that the disputed domain name was neither registered, nor has been used, in bad faith.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Steven A. Maier/

Steven A. Maier

Sole Panelist

Date: April 4, 2024