

## **ADMINISTRATIVE PANEL DECISION**

IPSOS v. beats

Case No. D2022-1055

### **1. The Parties**

The Complainant is IPSOS, France, represented by Novagraaf France, France.

The Respondent is beats, Republic of Korea.

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

The disputed domain name <ipsosmori.com> is registered with Megazone Corp., dba HOSTING.KR (the “Registrar”).

### **3. Procedural History**

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on March 25, 2022. On March 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 30, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

On April 8, 2022, the Center notified the Parties in both English and Korean that the language of the registration agreement for the disputed domain name is Korean. On April 11, 2022, and on April 14, 2022, the Complainant requested for English to be the language of the proceeding. On April 14, 2022, the Respondent requested for Korean to be the language of the proceeding.

The Center verified that the 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 April 20, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 10, 2022. The Respondent did not submit any substantive response. On May 12, 2022, the Center informed the Parties of the Commencement of Panel Appointment Process.

The Center appointed Kathryn Lee as the sole panelist in this matter on June 1, 2022. 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 market research company founded in 1975 with headquarters in France. It has offices in more than 90 countries, including in Australia, China, the Republic of Korea, the United Kingdom (the "UK"), and the United States of America, and has more than 16,000 employees worldwide. The Complainant has an annual turnover of more than EUR 1.83 billion and is one of the largest companies worldwide in the field of market research.

The Complainant owns a number of trademark registrations for IPSOS, including the following:

- International Registration Number 550024, registered on February 2, 1990 in classes 16, 35, and 38;
- International Registration Number 833772, registered on April 12, 2003 in classes 35, 38, 41, and 42; and
- European Union Trade Mark Number 005583621, registered on January 10, 2008 in classes 35, 41, and 42.

The Complainant also owns the domain name <ipsos.com> created on May 27, 1998, and the domain name <ipsos-mori.com> created on September 26, 2005.

The Complainant's UK subsidiary Ipsos MORI was created in 2005 through the merger of the Complainant's then subsidiary Ipsos UK and a UK market search company called "MORI", short for Market and Opinion Research International. Ipsos MORI owns several trademark registrations for IPSOS MORI, including the following:

- European Union Trade Mark Number 009170663, registered on December 6, 2010 in classes 9, 16, 35, 41, and 42; and
- UK Trademark Number UK00909170663, registered on December 6, 2010 in classes 9, 16, 35, 41, and 42.

The disputed domain name was registered on December 17, 2009 and resolves to a domain parking site with pay-per-click links.

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

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

The Complainant contends that the disputed domain name is confusingly similar to the IPSOS and IPSOS MORI trademarks in which the Complainant and its subsidiary Ipsos MORI have rights.

The Complainant also contends that the Respondent has no rights or legitimate interests in the disputed domain name and confirms that it has not authorized or licensed rights to the Respondent in any respect.

Finally, the Complainant contends that the disputed domain name was registered and is used in bad faith. The Complainant asserts that it is well known as a leader in the field of market research with a global presence, including in the Republic of Korea, and that it is unlikely for the Respondent to have been unaware of the Complainant when registering the disputed domain name. The Complainant also asserts that the disputed domain name points to a parking page with pay-per-click links related to market research, and that this demonstrates the Respondent's intent to take unfair advantage of the reputation of the trademarks of the

Complainant and its subsidiary. Further, the Complainant states that the disputed domain name is offered for sale for USD 900 and that this shows that the Respondent intends to sell the disputed domain name to the Complainant for a profit.

## **B. Respondent**

The Respondent did not reply to the Complainant's contentions. However, the Respondent submitted an email communication on April 14, 2022, consisting of a single sentence requesting Korean to be the language of the proceeding, without further explanation.

## **6. Discussion and Findings**

### **A. Language**

Paragraph 11(a) of the Rules provides that the language of the proceeding shall be the language of the registration agreement, unless otherwise agreed to by the parties, subject to the authority of the panel to determine otherwise. In this case, the language of the Registration Agreement is Korean, and both Parties have had an opportunity to argue their positions on this point. The Center issued a notice in Korean and English stating that it would accept the Complaint filed in English, and that the Response would be accepted in either Korean or English. The Respondent subsequently chose not to submit a substantive response.

Given the fact that the Complainant is based in France and the Respondent is based in the Republic of Korea, English would appear to be the fairest neutral language for rendering this decision. Besides, both parties were given the opportunity to submit arguments in the language of their preference, and the language in which to render the decision is reserved for the Panel. The Panel would have considered a Response in Korean, but no response was submitted. Accordingly, the Panel determines that proceeding in English is fair and procedurally efficient given the circumstances of this case.

### **B. Identical or Confusingly Similar**

The Complainant has demonstrated with supporting evidence that it has rights to the trademark IPSOS in a number of jurisdictions around the world, registered well before the registration of the disputed domain name. The beginning portion of the disputed domain name contains the IPSOS trademark in its entirety and IPSOS is readily recognizable within the disputed domain name, and therefore, the disputed domain name is confusingly similar to the Complainant's IPSOS trademark. See [WIPO Overview 3.0](#), section 1.7. The Complainant has also demonstrated with supporting evidence that its subsidiary Ipsos MORI has trademark rights to IPSOS MORI to which the disputed domain name is identical.

For the reasons mentioned above, the Panel finds that the first element has been established.

### **C. Rights or Legitimate Interests**

On the basis of the present record, the Panel finds that the Complainant has made the required allegations to support a *prima facie* showing that the Respondent has no rights or legitimate interests in the disputed domain name. Once such a *prima facie* basis has been established, the Respondent carries the burden of demonstrating its rights or legitimate interests in the disputed domain name. However, the Respondent in this case has chosen to file no substantive response to these assertions by the Complainant, and there is no evidence or allegation in the records that would warrant a finding in favor of the Respondent on this point.

Besides, a respondent's use of a domain name is not considered "fair" if it falsely suggests affiliation with the trademark owner. See [WIPO Overview 3.0](#), section 2.5.1. Here, the disputed domain name contains the Complainant's trademark IPSOS and corresponds exactly to the IPSOS MORI trademark of the Complainant's subsidiary, and therefore, carries a high risk of implied affiliation with the Complainant and its subsidiary. Further, the Respondent's use of the disputed domain name for a parking page with pay-per-

click links related to the Complainant's business fields does not represent a *bona fide* offering of goods or services given that the disputed domain name is identical or confusingly similar to the trademarks of the Complainant and the Complainant's subsidiary and such use trades on the reputation and goodwill associated with their trademarks. See [WIPO Overview 3.0](#), section 2.9.

For the reasons provided above, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name, and that the second element has been established.

#### **D. Registered and Used in Bad Faith**

The Panel finds that there is sufficient evidence to find bad faith in this case.

First, it should be considered quite a coincidence for the Respondent to have registered the exact two terms that compose the IPSOS MORI trademark of the Complainant's subsidiary in the same order, since this trademark was created by combining two company names, and does not have any particular meaning. Rather, especially with no response to claim otherwise, it is more probable that the Respondent learned of the availability of the disputed domain name, and registered it with the intention of benefiting from the fame of the IPSOS and IPSOS MORI trademarks. Indeed, by linking the disputed domain name with a parking page displaying pay-per-click links, the Respondent created a likelihood of confusion and benefited commercially from the confusion of Internet users that visited the site by mistake as per paragraph 4(b)(iv) of the Policy. Indeed, there does not seem to be any plausible non-infringing explanation for the registration of the disputed domain name.

For the reasons given above, the Panel finds that the third and final element has been sufficiently 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 <ipsosmori.com> be transferred to the Complainant.

*/Kathryn Lee/*

**Kathryn Lee**

Sole Panelist

Date: June 15, 2022