

ADMINISTRATIVE PANEL DECISION

Generali France v. Jean ralux, jean genelu, jean a
Case No. D2023-5279

1. The Parties

The Complainant is Generali France, France, represented by Lavoix., France.

The Respondents are Jean ralux, jean genelu, and jean a, all from France.

2. The Domain Names and Registrars

The disputed domain name <epargne-generalil-lu.com> is registered with Hostinger Operations, UAB.

The disputed domain names <generalil-lu.com> and <generalil-lu.com> are registered with PDR Ltd. d/b/a PublicDomainRegistry.com.

(Collectively hereinafter referred to as the “disputed domain names” and the “Registrars” unless otherwise indicated).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 19, 2023. On December 20, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On December 21, 2023, the Registrars transmitted by email to the Center their verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Domain Admin, PrivacyProtect, LLC) and contact information in the Complaint.

The Center sent an email communication to the Complainant on December 22, 2023 with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrars, requesting the Complainant to either file separate complaint(s) for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity. The Complainant filed an amended Complaint on December 29, 2023.

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 January 18, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 7, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on February 16, 2024.

The Center appointed William Lobelson as the sole panelist in this matter on February 27, 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 GENERALI FRANCE, a French based insurance company, that is subsidiary of the multinational insurance group GENERALI. It owns trademark rights in the name GENERALI:

- French Trademark GENERALI FRANCE No. 3351701 of September 9, 2005 for insurance and financial services in Class 36
- French Trademark GENERALI ASSURANCE PRIVEE No. 4303950 of January 27, 2017 for insurance and financial services in Class 35 and 36

The disputed domain names are:

- <generalil-lu.com> registered on September 19, 2023
- <generalilul.com> registered on September 28, 2024
- <epergne-generalil-lu.com> registered on October 2, 2024

None resolve to any active web page.

Mail Exchanges ("MX") servers have been set up, and the disputed domain names were used as email addresses to send messages to Internet users, impersonating the Complainant (using its mark and corporate logo, as well as the name of one of its employees), in order to offer financial investment services.

The Complainant has reported the alleged fraud to the Registrar and requested that the disputed domain names be shut and taken down. It then engaged the present procedure.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

Notably, the Complainant contends that the disputed domain names are confusingly similar to its earlier trademarks, that the Respondent has no rights or legitimate interests in the disputed domain names, and that the disputed domain names have been registered and are being used in bad faith, in particular for fraudulent email and phishing attacks. The Complainant requests the transfer of the disputed domain names.

B. Respondent

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

6. Discussion and Findings

Notwithstanding the default of the Respondent, it remains incumbent on the Complainant to make out its case in all respects under the Rules set out in paragraph 4(a) of the Policy. Namely, the Complainant must prove that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (paragraph 4(a)(i));
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name (paragraph 4(a)(ii)); and
- (iii) the disputed domain name has been registered and is being used in bad faith (paragraph 4(a)(iii)).

Consolidation: Multiple Respondents

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are the same entity or mere alter egos of each other, or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The disputed domain name registrants did not comment on the Complainant's request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 4.11.2.

As regards common control, the Panel notes that the three disputed domain names:

- used the same privacy service and the same Domain Name Servers
- were registered within thirteen-day period
- are built according to a common pattern, associating the Complainant's mark with the two-letter code of Luxembourg ("LU")
- reflect the same Registrant's phone number
- use the same email service provider
- have been used for fraudulent email phishing attacks, impersonating the same Complainant's employee, using almost identical content, the same contact details, same attached contract

As regards fairness and equity, the Panel finds that consolidation of the disputes is not unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below as "the Respondent") in a single proceeding.

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 mark is reproduced within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms (here: "lu", which corresponds to the two-letter code of Luxembourg and "epargne", French for "savings"] may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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.

- (i) before any notice of the dispute, the Respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a bona fide offering of goods and services;
- (ii) the Respondent (as an individual, business or other organization) has been commonly known by the disputed domain name, even if the Respondent has acquired no trademark or service mark rights; or
- (iii) the Respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

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 names, particularly by asserting that the Respondent is not affiliated with it in any way and that it never authorized the Respondent to use its trademark as part of the disputed domain names.

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 names such as those enumerated in the Policy or otherwise.

The Complainant further contends that the Respondent does not make any bona fide use - neither commercial nor noncommercial, of the disputed domain names.

In addition, the disputed domain names are used in connection with a fraudulent email scheme that impersonates the Complainant.

Panels have held that the use of a domain name for illegal activity such as sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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, 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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have held that the use of a domain name for illegal activity (sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain names constitute bad faith under the Policy.

In the present case, the Panel notes that the Respondent has used of the disputed domain names to impersonate the Complainant, which is a clear indication that the Respondent knew about the Complainant and sought to take a financial advantage through such fraudulent activities.

For this Panel, the above is a clear indication that the Respondent necessarily had the Complainant's trademark in mind when it registered the disputed domain names.

Further, the information provided to the Panel in support of the Complainant's contentions shows that the Respondent is making use of the disputed domain names as a fraudulent email addresses, for funds extortion and phishing purposes.

This is a fraudulent impersonation of the Complainant that clearly demonstrates a use in bad faith of the disputed domain names.

The Panel finds that the Complainant has established the third element of the Policy.

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 names <epargne-general-lu.com>, <general-lu.com>, and <generalilu.com> be transferred to the Complainant.

/William Lobelson/

William Lobelson

Sole Panelist

Date: March 11, 2024