

## **ADMINISTRATIVE PANEL DECISION**

**Airbus SAS v. Whois Privacy Protection Foundation / Fabien Filopis, Armand Pertier, and Julien Pertin**  
**Case No. D2022-0585**

### **1. The Parties**

The Complainant is Airbus SAS, France, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondents are Whois Privacy Protection Foundation, Netherlands / Fabien Filopis, United Kingdom, Armand Pertier, United Kingdom, and Julien Pertin, United Kingdom.

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

The disputed domain names <airbus-gmbh-service-clients.com>, <inscription-airbus-gmbh.com>, and <service-client-airbus-gmbh.com> are registered with Hosting Concepts B.V. d/b/a Registrar.eu. (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on February 18, 2022. On February 21, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On February 22, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on March 2, 2022, providing the registrant and contact information for multiple underlying registrants disclosed by the Registrars, and inviting the Complainant to either amend the Complaint adding the Registrar-disclosed registrants as the formal Respondents and provide relevant arguments or evidence demonstrating that all the named Respondents are, in fact, the same entity and/or that all domain names are under common control and indicate which domain names will no longer be included in the current Complaint. The Complaint filed an amended Complaint on March 4, 2022, including comments on the consolidation.

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 Respondents of the Complaint, and the proceedings commenced on March 9, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 29, 2022. The Respondents did not submit any response. Accordingly, the Center notified the Respondents' default on April 4, 2022.

The Center appointed Luca Barbero as the sole panelist in this matter on April 21, 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.

On May 5, 2022, the Center notified to the Parties the extension of the due date for Decision to May 12, 2022.

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

The Complainant is one of the largest aerospace companies in Europe. It operates through approximately 180 locations worldwide and has more than 130.000 employees.

The Complainant has provided evidence of ownership of several trademark registrations consisting of, or comprising, AIRBUS, including the following:

- United Kingdom trademark registration No. UK00801112012 for AIRBUS (word mark), filed on June 24, 2011 and registered on February 26, 2013, in classes 3, 6, 7, 8, 9, 12, 13, 14, 16, 17, 18, 21, 24, 25, 28, 35, 36, 37, 38, 39, 40, 41, 42, 43, and 45;
- International trademark registration No. 1112012 for AIRBUS (word mark), registered on June 24, 2011, in classes 3, 6, 7, 8, 9, 12, 13, 14, 16, 17, 18, 21, 24, 25, 28, 35, 36, 37, 38, 39, 40, 41, 42, 43, and 45;
- International trademark registration No. 1247403 for AIRBUS (word mark), registered on June 18, 2014, in classes 3, 4, 6, 7, 8, 9, 11, 12, 13, 14, 16, 17, 18, 19, 21, 24, 25, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, and 45;
- Germany trademark registration No. 302010054700 for AIRBUS (word mark), filed on September 16, 2010, and registered on June 24, 2011, in classes 3, 6, 7, 8, 9, 12, 13, 14, 16, 17, 18, 21, 24, 28, 35, 36, 37, 38, 39, 40, 41, 42, 43, and 45.

The Complainant also owns the domain name <airbus.com>, which was registered on May 23, 1995, and is used by the Complainant to promote its products and services under the trademark AIRBUS.

The disputed domain names <airbus-gmbh-service-clients.com>, registered on November 2, 2021, <inscription-airbus-gmbh.com>, registered on October 11, 2021, and <service-client-airbus-gmbh.com> registered on November 29, 2021, do not resolve to active websites.

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

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

The Complainant contends that disputed domain names are confusingly similar to the trademark AIRBUS in which the Complainant has rights, as they reproduce the trademark in its entirety with the mere addition of hyphens, the terms "GmbH", "service", "client", "clients", "inscription" and the generic Top-Level Domain ("gTLD") ".com".

The Complainant highlights that the term "GmbH" is a German abbreviation for "Gesellschaft mit beschränkter Haftung" (meaning "company with limited liability"), a very common German company legal

form, and as such a generic term. Further, the Complainant points out that the term “GmbH” forms part of the name of Airbus Bank GmbH, a finance-focused subsidiary of Airbus S.E., the parent company of all the AIRBUS affiliates, including the Complainant.

With reference to rights or legitimate interests in respect of the disputed domain names, the Complainant states that the Respondents are not sponsored by or affiliated with the Complainant in any way, nor were they granted permission by the Complainant to use the trademark AIRBUS in any manner, including for the registration of domain names.

The Complainant further contends that the Respondents are not commonly known by the disputed domain names and that, at the time of registering the disputed domain names, they used a WhoIs privacy service, which equates to a lack of legitimate interest.

Moreover, the Complainant asserts that, as also reported by the Association for the Defence of Consumers of France (Association des Consommateurs de France, “ADC France”), the disputed domain names have been linked to a phishing scam, in which the Respondents attempted to impersonate the Complainant’s affiliated company Airbus Bank GmbH, and concludes that the disputed domain names were thus not used in connection with a *bona fide* offering of goods or services.

The Complainant underlines that the disputed domain name <inscription-airbus-gmbh.com> was used to send emails which had the appearance of coming from the Complainant’s employees and were aimed at “phish” personal and sensitive information. More specifically, the Complainant indicates that an email sent from an email address based on the disputed domain name <inscription-airbus-gmbh.com> prominently displayed the Complainant’s trademark AIRBUS and featured the address “Prannerstrasse 8, 80333 Munich” of Airbus Bank GmbH, requesting identity documents and proof of address from unsuspecting users.

The Complainant further submits that the Respondents were using the disputed domain names to redirect Internet users to blank pages, thus demonstrating further lack of rights or legitimate interest in the disputed domain names.

With reference to the circumstances evidencing bad faith, the Complainant indicates that, considering the prior registration and use of the trademark AIRBUS by the Complainant, the well-known character of the trademark and the confusing similarity of the disputed domain names with the trademark AIRBUS, the Respondents were aware of the Complainant’s trademark at the time of registering the disputed domain names and acted in opportunistic bad faith.

The Complainant emphasizes that the Respondents’ use of the disputed domain name <inscription-airbus-gmbh.com> in connection with the sending of fraudulent email communications, which had the appearance of coming from the Complainant, to third parties with the purpose of tricking Internet users into revealing sensitive and financial information, certainly demonstrates the Respondent’s bad faith registration and use of the disputed domain names.

With reference to the redirection of the disputed domain names to inactive websites, the Complainant states that passively holding domain names can constitute a factor in finding bad faith registration and use pursuant to the Policy.

As additional circumstances evidencing the Respondents’ bad faith, the Complainant highlights that the Respondents i) registered three domain names incorporating its well-known trademark AIRBUS, thus engaging in a pattern of cybersquatting; ii) had initially employed a privacy service to hide their identity in the public WhoIs records; and iii) failed to respond to the Complainant’s cease-and-desist letter.

## **B. Respondents**

The Respondents did not reply to the Complainant’s contentions.

## 6. Discussion and Findings

### 6.1. Consolidation of multiple Respondents.

Paragraph 10(e) of the Rules provides that a panel shall decide a request by a party to consolidate multiple domain name disputes in accordance with the Policy and the Rules.

As stated in section 4.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), "Where a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario. Panels have considered a range of factors, typically present in some combination, as useful to determining whether such consolidation is appropriate, such as similarities in or relevant aspects of (i) the registrants' identity(ies) including pseudonyms, (ii) the registrants' contact information including email address(es), postal address(es), or phone number(s), including any pattern of irregularities, (iii) relevant IP addresses, name servers, or webhost(s), (iv) the content or layout of websites corresponding to the disputed domain names, (v) the nature of the marks at issue (e.g., where a registrant targets a specific sector), (vi) any naming patterns in the disputed domain names (e.g., <mark-country> or <mark-goods>), (vii) the relevant language/scripts of the disputed domain names particularly where they are the same as the mark(s) at issue, (viii) any changes by the respondent relating to any of the above items following communications regarding the disputed domain name(s), (ix) any evidence of respondent affiliation with respect to the ability to control the disputed domain name(s), (x) any (prior) pattern of similar respondent behavior, or (xi) other arguments made by the complainant and/or disclosures by the respondent(s)".

The Complainant asserted that the disputed domain names, although registered in the name of different named registrants, are under common control since the disputed domain names:

- i) were all registered within a two-month period, between October and November 2021, through the same Registrar, Hosting Concepts B.V. d/b/a Registrar.eu;
- ii) were registered using the same Whois privacy protection service;
- iii) use email addresses based on "outlook.com" as registrant email addresses;
- iv) used the same nameservers at the time of registration;
- v) incorporate the trademark AIRBUS and the term "GmbH", merely adding terms and hyphens;
- vi) resolved to blank pages that lack content;
- vii) were linked by ADC France to a phishing scam.

The Panel finds that the elements highlighted by the Complainant and referenced above demonstrate that the disputed domain names are, on balance of probabilities, under common control. Indeed, the disputed domain names all incorporate the Complainants' trademark with the mere addition of descriptive terms and have all been pointed to blank pages.

In view of the above and of the commonalities in the registration information of the disputed domain names, this Panel concludes that the consolidation of the multiple domain names is appropriate in this case and is consistent with the Policy and Rules as well as with prior relevant UDRP decisions in this area (see, amongst others, *Speedo Holdings B.V. v. Programmer, Miss Kathy Beckerson, John Smitt, Matthew Simmons*, WIPO Case No. [D2010-0281](#)).

Therefore, the Panel will now proceed to a decision on the merits of the case.

## 6.2. Substantive Issues

According to paragraph 15(a) of the Rules: “A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable.” Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following:

- (i) that the disputed domain names registered by the Respondents are identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) that the Respondents have no rights or legitimate interests in respect of the disputed domain names; and
- (iii) that the disputed domain names were registered and are being used in bad faith.

### A. Identical or Confusingly Similar

The Complainant has provided evidence of ownership of trademark registrations for AIRBUS in several countries of the world, as mentioned under Section 4 above.

As highlighted in section 1.7 of the [WIPO Overview 3.0](#), the first element functions primarily as a standing requirement, and the threshold test for confusing similarity typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name. Moreover, as indicated in section 1.8 of the [WIPO Overview 3.0](#), where a trademark is recognizable within a domain name, the addition of descriptive terms does not prevent a finding of confusing similarity under the first element. Furthermore, as stated in section 1.11 of the [WIPO Overview 3.0](#), the applicable TLD in a domain name (such as the gTLD “.com”) is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.

The Panel finds that the disputed domain names are confusingly similar to the trademark AIRBUS as they reproduce the trademark in its entirety with the sole addition of hyphens, the terms “GmbH”, “service”, “clients”, “inscription” and “client” and the gTLD “.com”, which do not prevent a finding of confusing similarity.

Therefore, the Panel finds that the Complainant has proven that the disputed domain names are confusingly similar to a trademark in which the Complainant has established rights according to paragraph 4(a)(i) of the Policy.

### B. Rights or Legitimate Interests

The Complainant must show that the Respondents have no rights or legitimate interests in respect of the disputed domain names. The Respondents may establish a right or legitimate interest in the disputed domain names by demonstrating in accordance with paragraph 4(c) of the Policy any of the following:

“(i) before any notice to you 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 (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 are making a legitimate non-commercial 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.”

In the case at hand, by not submitting a Response, the Respondents have failed to invoke any circumstance that could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights or legitimate interests in the disputed domain names.

Moreover, it has been repeatedly stated that when a respondent does not avail himself of its right to respond to a complaint, it can be assumed in appropriate circumstances that the respondent has no rights or legitimate interests in the disputed domain name (*Nordstrom, Inc. and NIHC, Inc. v. Inkyu Kim*, WIPO Case No. [D2003-0269](#)).

The Panel notes that there is no relation, disclosed to the Panel or otherwise apparent from the record, between the Respondents and the Complainant. The Respondents are not licensees of the Complainant, nor have the Respondents otherwise obtained an authorization to use the Complainant's trademarks.

Furthermore, there is no indication before the Panel that the Respondents are commonly known by the disputed domain names, have made preparations to use the disputed domain names in connection with a *bona fide* offering of goods or services, or that they intend to make a legitimate, noncommercial, or fair use of the disputed domain names.

The Panel notes that the disputed domain names are currently not pointed to active websites. In view of the Respondents' default, the Panel shares the view held in *Teachers Insurance and Annuity Association of America v. Wreaks Communications Group*, WIPO Case No. [D2006-0483](#), where the Panel found that "Absent some contrary evidence from Respondent, passive holding of a Domain Name does not constitute legitimate non-commercial or fair use".

Moreover, as mentioned above, the disputed domain name <inscription-airbus-gmbh.com> has been used for the creation of an email address used for the sending of phishing emails claiming to come from the Complainant's German affiliated company and reproducing the Complainant's trademarks and all three disputed domain names have been identified by ADC France as linked by to a phishing scam (as shown in Annex 8 to the Complaint).

The Panel finds that the Respondents' use of the disputed domain names does not amount to a *bona fide* offering of goods or services or a legitimate noncommercial or fair use without intent for commercial gain to misleadingly divert consumers or to tarnish the Complainant's trademark.

See, along these lines, section 2.13.1 of the [WIPO Overview 3.0](#): "Panels have categorically held that the use of a domain name for illegal activity (e.g., the 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."

Therefore, the Panel finds that the Complainant has proven that the Respondents have no rights to or legitimate interests in the disputed domain names according to paragraph 4(a)(ii) of the Policy.

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

Paragraph 4(a)(iii) of the Policy requires that the Complainant prove that the disputed domain names were registered and are being used by the Respondents in bad faith.

As to bad faith at the time of the registration, the Panel notes that, in light of the prior registration and use of the Complainant's trademark AIRBUS in several countries - including the United Kingdom where the Respondents are based according to the WhoIs records - the Respondents were or could have been aware of the Complainant's trademark at the time of registration. Moreover, in view of the notoriety of the Complainant's trademark, the Panel finds that the Respondents acted in bad faith at the time of registration, since the disputed domain names are so obviously connected with the Complainant that their selection by the Respondents, which have no connection with the Complainant, suggests the disputed domain names were registered with a deliberate intent to create an impression of an association with the Complainant.

As indicated above, the disputed domain names have not been pointed to active websites. As also established in a number of prior cases the concept of “bad faith use” in paragraph 4(b) of the Policy includes not only positive action but also passive holding. See the landmark case *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#).

Furthermore, the Complainant has provided evidence that at least one of the disputed domain names (<inscription-airbus-gmbh.com>) was used to send emails to third parties, pretending to be the Complainant’s German affiliated company, with the purpose of tricking Internet users into revealing sensitive and financial information. Moreover, as mentioned above, the three disputed domain names have been identified by ADC France as linked by to a phishing scam. As stated in Section 3.4 of the [WIPO Overview 3.0](#), “Panels have held that the use of a domain name for purposes other than to host a website may constitute bad faith. Such purposes include sending email, phishing, identity theft, or malware distribution. (...) Many such cases involve the respondent’s use of the domain name to send deceptive emails, e.g., to obtain sensitive or confidential personal information from prospective job applicants, or to solicit payment of fraudulent invoices by the complainant’s actual or prospective customers”.

The Panel also finds that, in view of the circumstances of the case, the Respondents’ failure to respond to the Complainant’s cease-and-desist letters and to file a Response and the Respondents’ use of a privacy service to shield their contact details in the public WhoIs records are additional evidence of the Respondents’ bad faith.

Therefore, the Panel finds that the Complainant has also proven that the Respondents registered and have been using the disputed domain names in bad faith according to paragraph 4(a)(iii) 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 <airbus-gmbh-service-clients.com>, <inscription-airbus-gmbh.com> and <service-client-airbus-gmbh.com> be transferred to the Complainant.

*/Luca Barbero/*

**Luca Barbero**

Sole Panelist

Date: May 13, 2022