

ADMINISTRATIVE PANEL DECISION

Caisse Nationale de Reassurance Mutuelle Agricole Groupama v.
Registration Private, Domains By Proxy, LLC / kande kebe
Case No. D2022-1892

1. The Parties

The Complainant is Caisse Nationale de Reassurance Mutuelle Agricole Groupama, France, represented by Iteanu, Avocats, France.

The Respondent is Registration Private, Domains By Proxy, LLC, United States of America / kande kebe, France.

2. The Domain Name and Registrar

The disputed domain name <groupamagan.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 25, 2022. On May 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 31, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on June 11, 2022, 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 amendment to the Complaint on June 16, 2022.

The Center verified that the Complaint together with the amendment to 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 June 23, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 13, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 4, 2022.

On July 21, 2022, the Complainant submitted a supplemental filing to the Center.

The Center appointed Alexandre Nappey as the sole panelist in this matter on August 8, 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 financial and insurance group, trading as "GROUPAMA ASSURANCES MUTUELLES".

The Complainant's group traces its origins to 1840 and has grown from its roots in the French agricultural community to become one of the world's leading mutual property and casualty insurers and one of Europe's largest financial services groups.

The Complainant provides financial and insurance services under the trademark GROUPAMA. GAN is also a trademark owned by the Complainant. It is a brand of the Complainant's group, and the name of one of the companies in the Complainant's group, which activity is historically geared towards providing insurance services to the entrepreneurs, SMEs and professionals, and in general to all the "enterprising" persons in their private lives as well as professional.

The Complainant owns the following registered trademarks protecting the mark GROUPAMA:

- GROUPAMA (word mark), European Union Trademark No. 001210863, filed on June 10, 1999, and registered on June 27, 2000, in classes 35, 36, 37, 39, 42,
- GROUPAMA (semi-figurative), European Union Trademark No. 003543139, filed on October 15, 2003, and registered on June 25, 2005, in classes 35, 36, 37, 38, 39, 41, 42, 45,
- GROUPAMA (semi-figurative), International Trademark Registration No. 800577, registered on October 15, 2002, in classes 35, 36, 37, 38, 39, 42.

GROUPAMA is also the owner of trademarks protecting the mark GAN, among which:

- GAN (semi-figurative), European Union Trademark No. 000186478, filed on April 1, 1996 and registered on December 7, 2001, in class 36.

The Complainant is also the owner of numerous domain names reproducing the trademarks GROUPAMA or GAN such as:

- <groupama.com>, registered since 1997;
- <groupama.fr>, registered since 1997;
- <gan.fr>, registered since 2007;
- <groupama-gan-recrute.com>, registered since 2006.

The disputed domain name <groupamagan.com> has been registered on December 15, 2021.

As evidenced in the Complaint, the disputed domain name is redirected to the Complainant's website available at "www.groupama-gan-recrute.com".

5. Parties' Contentions

A. Complainant

First the Complainant claims that the disputed domain name is confusingly similar to the trademarks in which the Complainant has rights, since the disputed domain name is composed with the trademark GROUPAMA joined with the trademark GAN.

The two words composing the two trademarks have no meaning in any language and are highly distinctive. The fact that they are combined in a domain name does not create a term with a specific meaning, and both the trademarks can be perfectly distinguished in the disputed domain name.

Then the complainant states that it never authorized the Respondent to use its trademarks to register a domain name in its own name. The Respondent is not using the disputed domain name for a website of its own describing its own business, but rather to automatically redirect Internet users to the home page of the website of the Complainant "www.groupama-gan-recrute.com".

According to the Complainant, by making an automatic redirection of the disputed domain name to an official Website of the complainant, the Respondent is attempting to convince the Internet users that GROUPAMA is operating the disputed domain name, which is untrue. Such erroneous appearance created by the Respondent cannot possibly be part of any legitimate activity. In fact, this misleading unauthorized redirection is intended to falsely create an appearance to convince the persons communicating with the Respondent through email with addresses using the disputed domain name such as that such email proceeds from an employee or representative of the Complainant.

At last the Complainant claims that the terms "groupama" and "gan" have no particular meaning, and are corresponding to trademarks which are registered in the name of the Complainant. Registration of a domain name combining the two trademarks of the Complainant cannot have possibly happened by chance and shows that the Respondent was perfectly aware of the existence of both the trademarks at the time of registration.

Moreover, the disputed domain name is set up to allow the Respondent to receive and write emails, and by such use of the disputed domain name the Respondent is seeking confusion and error on the part of Internet users, deceiving them by creating the appearance that he is an employee or representative of the Complainant.

The Respondent is intending to intentionally use the disputed domain name for illegal activities, by capitalizing on the reputation of the Complainant's name and trademarks GROUPAMA and GAN, creating a confusion with the complainant's affiliation allowing the Respondent to pretend to be an employee or representative of the Complainant for gaining the trust of its victims. That behaviour ascertains bad faith.

B. Respondent

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

6. Discussion and Findings

Notwithstanding the lack of formal response from the Respondent, it remains up to the Complainant to make out its case in accordance with paragraph 4(a) of the Policy, and to demonstrate that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and

- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

However, under paragraph 14(b) of the Rules, where a party does not comply with any provision of the Rules, the panel “shall draw such inferences therefrom as it considers appropriate”.

Having regarded to the Parties’ contentions, the Policy, Rules, Supplemental Rules and applicable substantive law, the Panel’s findings on each of the above-mentioned elements are the following:

A. Procedural issue: Complainant’s unsolicited supplemental filings

Paragraph 10 of the UDRP Rules vests the Panel with the authority to determine the admissibility, relevance, materiality and weight of the evidence, and also to conduct the proceedings with due expedition.

According to prior UDRP panel decisions, the party submitting or requesting to submit an unsolicited supplemental filing should clearly show its relevance to the case and why it was unable to provide the information contained therein in its complaint or response (*e.g.*, owing to some “exceptional” circumstance) (see section 4.6 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”)).

In its amendment to the Complaint submitted on June 16, 2022, the Complainant underlines that the Respondent’s address declared to the Registrar is an address in Paris, France which is an additional element establishing the bad faith in registration and use of the disputed domain name, given the very strong notoriety of the GROUPAMA and GAN marks in France, where the Complainant was originally created and first developed its activity.

In a supplemental filing dated July 21, 2022, the Complainant states that it expects the Center failed to deliver the Complaint and annexes by mail to the Respondent as the address provided for the registration of the disputed domain name by the Respondent does not exist, which is further evidence of bad faith.

The Panel does not consider their to be exceptional circumstances meriting consideration of the supplemental filing, but in any event notes that such filing would not alter the outcome of this proceeding.

B. Identical or Confusingly Similar

The Complainant has shown that it has rights in the GROUPAMA and GAN trademarks. Both trademarks have been incorporated into the disputed domain name without any variation or separation, and are clearly recognizable therein.

According to [WIPO Overview 3.0](#), section 1.7, where the domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing.

The Panel therefore finds that the Complainant has established the first element of paragraph 4(a) of the Policy.

C. Rights or Legitimate Interests

The Complainant must show that the Respondent has no rights or legitimate interests in the disputed domain name.

Panels have recognized that this could result in the often impossible task of proving a negative, requiring information that is often primarily within the knowledge of the respondent.

Therefore, to satisfy this requirement, the Complainant must make out a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name.

Paragraph 4(c) of the UDRP provides an open list of circumstances which demonstrates rights or legitimate interests of a respondent in a domain name. The Complainant alleges that none of such circumstances exist here. The Panel finds that the Complainant presented a *prima facie* showing that the Respondent lacks rights or legitimate interests in the disputed domain name for the following reasons: first, the Respondent did not use the disputed domain name in connection with a *bona fide* offering of goods; second, the Respondent has not been commonly known by the disputed domain name; and third, the Respondent has set up a mail server under the disputed domain name that may be used for phishing scheme.

The Panel finds that the Complainant established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name in accordance with paragraph 4(a)(ii) of the UDRP, which the Respondent has not rebutted.

D. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy sets out examples of circumstances that will be considered by a panel to be evidence of bad faith registration and use of a domain name.

It provides that:

“For the purposes of Paragraph 4(a)(iii), the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith: (i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or (ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or (iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or (iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location.”

The Complainant has submitted evidence that the trademarks GROUPAMA and GAN are well known, at least in France, where the Respondent is supposedly established. Previous panels have also recognized goodwill in the Complainant’s trademark GROUPAMA, see for instance *Groupama, SA, Groupama Banque, SA v. Bessan Régis*, WIPO Case No. [D2015-2028](#).

Since GROUPAMA at least is a well-known trademark and there is no evidenced relationship between the Parties, it may be inferred that the Respondent was aware of the Complainant’s trademark at the time it registered the disputed domain name. Moreover, the addition of the Complainant’s trademark GAN further supports such an inference.

The Complainant contends the Respondent’s website is pointing to one of the Complainant’s websites “[www.groupama-gan-recrute.com](#)”. Panels have found the redirection of a domain name to a complainant’s (or competitor’s) website to support a finding that a respondent has registered a domain name to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the complainant’s mark. See [WIPO Overview 3.0](#), section 3.1.4. Moreover, the disputed domain name has been configured by the Respondent with MX records making it capable of email communication, settings which depending on other circumstances may be characteristic of phishing schemes. Since the disputed domain name reproduces identically the well-known GROUPAMA trademark combined to another mark owned by the Complainant, *i.e.* GAN, a third party receiving an email from the disputed domain name could reasonably

assume that it was sent from the Complainant. This combination of facts has been held by prior UDRP panels as being indicative of bad faith. See *Confédération Nationale du Crédit Mutuel-CNCM v. Domain Administrator, Registrant of creditmutuel.link / Konijn Leo*, WIPO Case No. [D2022-2241](#).

In these circumstances, the Panel holds that the disputed domain name was registered and is being used in bad faith.

The Panel finds that the above constitutes registration and use in bad faith pursuant to the third requirement of paragraph 4(a) 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 name <groupamagan.com> be transferred to the Complainant.

/Alexandre Nappey/

Alexandre Nappey

Sole Panelist

Date: August 20, 2022