

ADMINISTRATIVE PANEL DECISION

Egis v. FRANK UMAN, abbey global
Case No. D2023-0937

1. The Parties

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

The Respondent is FRANK UMAN, abbey global, Nigeria.

2. The Domain Name and Registrar

The disputed domain name <egis-gruop.com> is registered with NameSilo, LLC (the “Registrar”)

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 2, 2023. On March 2, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 (Redacted for Privacy, PrivacyGuardian.org LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 9, 2023, 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 amended Complaint on March 13, 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 March 21, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 10, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 12, 2023.

The Center appointed Zoltán Takács as the sole panelist in this matter on May 4, 2023. 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 French consulting, construction, engineering and operating firm that focuses on creating sustainable transport, infrastructure, and buildings.

The Complainant has 16,200 employees and since its foundation in 1970 has established a global network in over 100 countries of the world.

The Complainant is among others owner of the International Trademark Registration (“IR”) No. 686345 for the word mark EGIS, registered since December 24, 1997, for services of classes 35 through 37 and 42 of the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks.

The Complainant is also owner of the domain name <egis-group.com>, which was registered on March 8, 2001 and links to its corporate website.

The disputed domain name was registered on November 18, 2022, and appears to have been used as a parking page. The disputed domain name has active Mail Exchange (“MX”) records and at the date of this decision is “parked free of charge with NameSilo.com”.

5. Parties’ Contentions

A. Complainant

The Complainant contends that the disputed domain, which comprises of its EGIS trademark and the term “gruop” (misspell of the term “group” by reversing the letters “o” and “u”) is confusingly similar to its trademark.

The Complainant alleges that the Respondent has no rights or legitimate interests in respect of the disputed domain name and is unable to rely on any of the circumstances set out in paragraphs 4(c)(i), (ii), or (iii) of the Policy.

The Complainant contends that the Respondent’s configuration of the disputed domain name’s MX records allows sending fraudulent emails to the Complainant’s customers, partners and competitors, which is indicative of bad faith.

The Complainant requests that the disputed domain name be transferred from the Respondent to the Complainant.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules requires that the Panel’s decision be made “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”.

A complainant must evidence each of the three elements required by paragraph 4(a) of the Policy in order to succeed on the complaint, namely that;

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

A. Identical or Confusingly Similar

Under paragraph 4(a)(i) of the Policy, there are two requirements which the Complainant must establish, first that it has rights in a trademark or service mark, and second that the disputed domain name is identical or confusingly similar to the trademark or service mark.

It has been a consensus view among UDRP panels that if the complainant owns a nationally or regionally registered trademark, then it generally satisfies the threshold requirement of having trademark rights.

The Complainant produced evidence of having registered rights in the EGIS trademark, and for the purpose of this proceeding the Panel establishes that the IR No. 686345 satisfies the requirement of having trademark rights for the purpose of the Policy.

Having determined the presence of the Complainant's trademark rights, the Panel next assesses whether the disputed domain name is identical or confusingly similar to the Complainant's trademark.

According to section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") the standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the complainant's trademark and the domain name. This test 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 domain name.

According to section 1.8 of the [WIPO Overview 3.0](#), where the relevant trademark is recognizable within the domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element.

According to section 1.11.1 of the [WIPO Overview 3.0](#), the applicable Top-Level Domain ("TLD") in a domain name (in this case ".com") is viewed as a standard registration requirement and as such is generally disregarded under the first element confusingly similar test.

The disputed domain name fully incorporates the Complainant's EGIS trademark, which is clearly recognizable in the disputed domain name. The only difference between the Complainant's trademark and the disputed domain name is the addition of the term "gruop" (a misspell for "group" by reversing letters "o" and "u") and a dash mark between the two word elements in the disputed domain name, which in view of the Panel does not prevent a finding of confusing similarity.

The Panel finds that the disputed domain name is therefore confusingly similar to the Complainant's trademark and that the first ground of the Policy is established.

B. Rights or Legitimate Interests

Under paragraph 4(c) of the Policy, a respondent may demonstrate its rights or legitimate interests in a domain name by showing any of the following circumstances, in particular but without limitation:

- (i) before any notice of the dispute, its use of, or demonstrable preparation to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods and services;

- (ii) it has been commonly known by the domain name;
- (iii) it is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert customers or to tarnish the trademark or service mark at issue.

According to section 2.1 of the [WIPO Overview 3.0](#), while 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 often impossible 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 the relevant evidence demonstrating its rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

In the present case, the Complainant has submitted sufficient and uncontested evidence that it holds well-established prior rights in the EGIS trademark.

The Complainant has never authorized the Respondent to use its trademark, in a domain name, or otherwise.

There is no evidence that the Respondent is commonly known by the disputed domain name.

The evidence or record, in particular the configuration of MX records indicates that the Respondent is neither using the disputed domain name in connection with a *bona fide* offering of goods and services nor is making a legitimate or fair use of the disputed domain name.

Furthermore, the inherently misleading nature of the disputed domain name, incorporating the Complainant’s trademark and a misspelling of the term “group” creates a likelihood of confusion with the Complainant and cannot constitute fair use as it attempts to impersonate the Complainant.

The Respondent failed to respond, and by doing so failed to offer the Panel any type of evidence set forth in paragraph 4(c) of the Policy, or otherwise counter to the Complainant’s *prima facie* case and the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name in accordance with paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy lists a number of factors which, if found by the panel to be present, shall be evidence of registration and use of a domain name in bad faith. This non-exclusive list includes:

- (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's EGIS trademark, which the Respondent reproduced in the disputed domain name is inherently distinctive and predates the registration of the disputed domain name by years.

The term "group" (misspelled) added to the Complainant's EGIS trademark is a widely-used term in business and not only applies to the Complainant's organizational structure but to the composition of the Complainant's employees email addresses as well ([...]@egis-group.com).

Given the Complainant's widespread and long-standing use of its EGIS trademark and the Respondent's construction of the disputed domain name which is almost identical to the Complainant's domain name <egis-group.com>, the Panel finds it unlikely that the Respondent was unaware of the Complainant and its trademark when it registered the disputed domain name. In the Panel's opinion, it is unlikely that the Respondent registered the disputed domain name for any reason other than to target the Complainant's trademark by confusing Internet users expecting the disputed domain name to resolve to a website owned by, operated by, or affiliated with the Complainant. If it had, it is reasonable to expect from a good faith respondent to provide explanation and evidence to the contrary, which the Respondent ignored. This is a bad faith conduct as such, and in accordance with paragraph 4(b)(iv) of the Policy evidence of registration and use of the disputed domain name in bad faith.

Furthermore, in these circumstances, the Respondent's configuration of MX records associated with the disputed domain name, enabling sending potential fraudulent emails creates a real and ongoing threat to the Complainant and is in view of the Panel further indicative of the Respondent's bad faith.

The fact that at the time of rendering of this decision the disputed domain name does not resolve to an active website does not alter the Panel's findings (see section 3.3 of the [WIPO Overview 3.0](#)).

For the reasons set out above, the Panel finds that the Respondent has registered and is using the disputed domain name in bad faith and that paragraph 4(a)(iii) of the Policy is satisfied.

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 <egis-gruop.com> be transferred to the Complainant.

/Zoltán Takács/

Zoltán Takács

Sole Panelist

Date: May 16, 2023