

## **ADMINISTRATIVE PANEL DECISION**

Wendel-Participations SE v. Privacy Service Provided by Withheld for  
Privacy ehf / Name Redacted  
Case No. D2022-2850

### **1. The Parties**

The Complainant is Wendel-Participations SE, France, represented by Dreyfus & associés, France.

The Respondent is Privacy Service Provided by Withheld for Privacy ehf, Iceland / Name Redacted.<sup>1</sup>

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

The disputed domain name <wendelgroup.com> is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 2, 2022. On August 3, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. Also on August 3, 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 August 12, 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 amended Complaint on August 16, 2022.

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”).

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<sup>1</sup> The Respondent appears to have used the name and/or contact details of a third party when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted the Respondent’s name from this decision. However, the Panel has attached as Annex 1 to this Decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this Decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST 12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on August 17, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 6, 2022. Communications from a third party presenting itself as the representative of the disclosed registrant were received by the Center on August 31, 2022 and September 6, 2022, informing the Center that it has received the Written Notice but the registration of the disputed domain name has been made, without his client's knowledge or authorization, by a third party using its identity.

The Center appointed Marilena Comanescu as the sole panelist in this matter on September 13, 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, founded in 1704 in France, is currently one of the Europe's leading listed investment firms, offering its worldwide customers services related to portfolio management, financial planning, advisory, investment banking, private equity, real estates, brokerage and research services.

The Complainant owns trademark registrations for WENDEL in several countries, such as the following:

- the International Trademark Registration No. 1233694 for WENDEL with device, registered on November 17, 2014, covering services in Classes 35, 36; and
- the International Trademark Registration No. 796045 for WENDEL INVESTISSEMENT stylized, registered on November 27, 2002, covering services in Classes 35, 36 and 38.

The Complainant promotes its services through various domain names, such as <wendelgroup.com> and <wendelgroup.eu>, both registered on March 9, 2007.

The disputed domain name was registered on June 3, 2022, and currently resolves to an inactive website.

The Respondent is an entity whose identity was initially protected by a privacy shield. An individual with an identical name as the underlying registrant, after the reception of the Written Notice and the Complaint, sent (through representative), a timely email communication to the Center claiming identity theft.

According to Annex 1 to Complaint, before commencing the present proceedings, the disputed domain name resolved to a website providing various pay-per-click (PPC) commercial advertising links of various content.

Furthermore, evidence provided as Annex 1 to Complaint submits evidence of MX records associated with the disputed domain name, indicating that the Respondent has set up an email account using the disputed domain name.

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

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

The Complainant contends that the disputed domain name is confusingly similar to its well-known trademark WENDEL, the Respondent has no rights or legitimate interests in the disputed domain name, and the Respondent registered and is using the disputed domain name in bad faith knowing the Complainant's trademark and business. The Complainant requests the transfer of the disputed domain name to it.

## **B. Respondent**

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

## **6. Discussion and Findings**

Under paragraph 4(a) of the Policy, a complainant can only succeed in an administrative proceeding under the Policy if the following circumstances are met:

- (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 the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The Panel will further analyze the potential concurrence of the above circumstances.

### **A. Preliminary Procedural Issue. Respondent and Redaction of Respondent's Identity**

As noted above, the individual behind the Name Redaction has been confirmed by the Registrar as the listed registrant of record for the disputed domain name.

Name Redacted claims in its email communication of September 6, 2022, that it is a victim of identity theft, as detailed in section 3 above.

The Panel will refer to the disputed domain name registrant's name as Name Redacted, and to the individual or entity which registered (and used) the disputed domain name as the Respondent.

The Panel is satisfied that the Center, by sending communications to the registrant revealed by the Registrar to its listed Whols postal address, email addresses, has exercised extreme care and discharged its responsibility under paragraph 2 of the Rules to employ all reasonably available means to serve actual notice of the Complaint upon the Respondent.

Further, under paragraph 4(j) of the Policy the Panel has the power to determine to redact portions of its decision in exceptional circumstances. The practical result of the exercise of this power is that the provider, in this case the Center, will not publish on the Internet the full decision, but will redact the portion determined by the Panel to be redacted.

The evidence has made it likely in the opinion of this Panel, that a separate cybersecurity hacking event was perpetrated, and that Name Redacted is one of the victims of identity theft. Thus, although the disputed domain name holder is the proper Respondent in this proceeding, the real name and contact details of the person who wrongly effected the registration of the disputed domain name is unknown.

This Panel has formed the view that it may be unfair to Name Redacted to continue to have its name associated with the proceeding, especially where the impression may be given to Internet users that Name Redacted has some responsibility for some of the events, whereas in fact Name Redacted completely unrelated.

The Panel has therefore decided that in all the circumstances this is an exceptional case and that it is appropriate to redact the registrant's name and information from the Panel's decision.

See also *Lutosa v. Name Redacted*, WIPO Case No. [D2021-0809](#); *Accenture Global Services Limited v. Domains by Proxy, LLC / Name Redacted*, WIPO Case No. [D2013-2099](#); *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#); and *Siemens AG, Siemens Trademark GmbH & Co. KG v. NAME REDACTED*, WIPO Case No. [D2022-1632](#).

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

The Panel finds that the Complainant holds rights in the trademark WENDEL.

The disputed domain name incorporates the Complainant's trademark with the term "qroup", which can be a misspelling of the word "group". Such addition and misspelling do not prevent a finding of confusing similarity, as the Complainant's trademark is clearly recognizable within the disputed domain name.

Numerous UDRP panels have considered that the addition of other terms (whether geographical wording, descriptive, pejorative, meaningless or otherwise) to trademarks in a domain name and a domain name which consists of a common, obvious or intentional misspelling of a trademark are confusingly similar to the relevant mark for the purpose of the first element. See sections 1.8 and 1.9 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Further, it is well established in decisions under the UDRP that the generic Top-Level Domain ("gTLD") (e.g., ".com", ".info", ".one") may typically be disregarded for the purposes of consideration of confusing similarity between a trademark and a domain name. See section 1.11 of the [WIPO Overview 3.0](#).

Given the above, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark WENDEL, pursuant to the Policy, paragraph 4(a)(i).

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

The Complainant asserts that the Respondent does not hold any trademark rights, license, or authorization whatsoever to use the mark WENDEL, that the Respondent is not commonly known by the disputed domain name and that the Respondent has not used the disputed domain name in connection with a legitimate noncommercial or fair use or a *bona fide* offering of goods or services.

Under the Policy, "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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element". See section 2.1 of the [WIPO Overview 3.0](#).

The Respondent has not replied to the Complainant's contentions and has not come forward with relevant evidence to rebut the Complainant's *prima facie* case.

There is nothing in the record suggesting that the Respondent has ever been commonly known by the disputed domain name or that the Respondent made a *bona fide* offering of goods or services or a legitimate noncommercial use under the disputed domain name.

As provided in the section 6.A. above, the disputed domain name has been registered by the Respondent in the name of a third party, *i.e.* Name Redacted. In this regard, panels have categorically held that the use of a domain name for illegal activity (such as swindle, fraud, identity theft, phishing and impersonation) can never confer rights or legitimate interests in a respondent. See section 2.13 of the [WIPO Overview 3.0](#).

For these reasons, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name, pursuant to the Policy, paragraph 4(a)(ii).

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

The Complainant holds trademark rights in WENDEL since at least 2002.

The disputed domain name was registered in June 2022, and incorporates the Complainant's distinctive mark with an additional term, "qroup", which can be a typo for the word "group".

Previous UDRP panels have found that the mere registration of a domain name that is identical or confusingly similar to a third party's well-known trademark can, by itself, constitute a presumption of bad faith for the purpose of Policy. See section 3.1.4 of the [WIPO Overview 3.0](#).

For the above reasons, the Panel finds that the disputed domain name was registered in bad faith, with knowledge of the Complainant, its business and particularly targeting the Complainant's trademark.

Before commencing the present procedures, according to Annex 1 to Complaint, the disputed domain name resolved to a page providing PPC links promoting various goods and services.

Paragraph 4(b)(iv) of the Policy provides that the use of a domain name to intentionally attempt "to attract, for commercial gain, Internet users to [the respondent's] website or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of [the respondent's] website or location or of a product or service on [the respondent's] website or location" is evidence of registration and use in bad faith.

The Respondent was using without permission the Complainant's trademark in order to get traffic on its web portal and to misleadingly divert Internet users to third parties websites, and thus to obtain commercial gain from the false impression created with regard to a potential affiliation or connection with the Complainant.

Currently, the disputed domain name resolves to an inactive website. Such use can be considered a passive holding.

From the inception of the UDRP, panels have found that the non-use of a domain name (including a blank or "coming soon" or other similar inactive page) would not prevent a finding of bad faith under the doctrine of passive holding. The Panel must examine all the circumstances of the case to determine whether the Respondent is acting in bad faith. Examples of what may be relevant circumstances found to be indicative of bad faith include the degree of distinctiveness or reputation of the complainant's mark and the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good faith use. See section 3.3 of the [WIPO Overview 3.0](#).

Panels additionally view the provision of false contact information (or an additional privacy or proxy service) underlying a privacy or proxy service as an indication of bad faith. See section 3.6 of the [WIPO Overview 3.0](#).

For all the above reasons, the Panel finds that the Respondent registered and is using the disputed domain name in bad faith, pursuant to the Policy, paragraph 4(a)(iii).

## 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 <wendelgroup.com> be transferred to the Complainant.

*/Marilena Comanescu/*

**Marilena Comanescu**

Sole Panelist

Date: September 26, 2022