

ADMINISTRATIVE PANEL DECISION

Generali France v. User User
Case No. D2024-3503

1. The Parties

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

The Respondent is User User, United States of America.

2. The Domain Name and Registrar

The disputed domain name <generali-gestion.net> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 27, 2024. On August 28, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 30, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details

The Center verified that 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 September 4, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 24, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 25, 2024.

The Center appointed Nayiri Boghossian as the sole panelist in this matter on October 2, 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 was founded in 1831 and offers insurance services. The Complainant owns the following trademark registrations:

- French Trademark Registration No. 3351701, registered on April 8, 2005, for GENERALI FRANCE + device; and,
- French Trademark Registration No. 4303950, registered on October 3, 2016, for GENERALI ASSURANCE PRIVEE + device.

The disputed domain name was registered on May 15, 2024, and the evidence reflects that it has been used for sending an email impersonating an employee of the Complainant. The disputed domain name itself does not resolve to an active website.

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 name.

Notably, the Complainant contends that the disputed domain name is confusingly similar to a trademark or service mark in which the Complainant has rights. The disputed domain name reproduces the distinctive verbal element GENERALI of the Complainant's trademark GENERALI FRANCE + device and GENERALI ASSURANCE PRIVEE + device. The term GENERALI is the dominant and distinctive element in both the disputed domain name and the Complainant's trademark. In the Complainant's trademark, the geographical term "France" describes the place of business and the terms "ASSURANCE PRIVEE" describes the Complainant's activity. The figurative elements of the trademark are secondary. The term "Gestion" in the disputed domain name refers to the Complainant's activity. The element ".net" does not detract from the distinctiveness of the Complainant's trademark.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not licensed nor authorized by the Complainant to use its trademark. The Respondent is using the disputed domain name in connection with phishing. There is no bona fide offering of goods or services. The Respondent is not making a legitimate noncommercial or fair use of the disputed domain name.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. The Respondent must have had knowledge of the Complainant's trademark as the phishing email shows the Complainant's name GENERALI, the registration number of a sister company of the Complainant GENERALI IARD and the address of another sister company of the Complainant. There is fraudulent practice. The Respondent used privacy services.

B. Respondent

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

6. Discussion and Findings

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 of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[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 Panel finds the mark GENERALI is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. The Panel notes that the two trademarks of the Complainant cited above include a design element. Design elements are largely disregarded for the purposes of the First Element where they do not overtake the textual elements in prominence, such as here. [WIPO Overview 3.0](#), section 1.10. While the disputed domain name omits the elements FRANE and ASSURANCE PRIVEE from the Complainant's trademarks, the GENERALI element remains recognizable and given the Respondent's impersonation of the Complainant through the disputed domain name, it is clear that the Respondent itself associates the GENERALI element as a source identifier for the Complainant, which affirms the confusing similarity for purposes of the Policy. [WIPO Overview 3.0](#), sections 1.7 and 1.15.

Although the addition of other terms here, "gestion", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name 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.

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 name. 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 name such as those enumerated in the Policy or otherwise.

The disputed domain name is used in connection with an email address and an email was sent impersonating an employee of the Complainant. This reflects an intention to impersonate the Complainant with the aim of phishing. Panels have held that the use of a domain name for illegal activity here, claimed phishing and impersonation/passing off, 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.

In the present case, the Panel notes that the Respondent is using the disputed domain name in connection with an email address that is part of a fraudulent scheme. An email is sent that replicates the name of the Complainant and sets out the terms and conditions of a customer's account with the Complainant.

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 here, claimed, phishing, impersonation/passing off, 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 name constitutes bad faith under the Policy.

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 name <generali-gestion.net> be transferred to the Complainant.

/Nayiri Boghossian/

Nayiri Boghossian

Sole Panelist

Date: October 7, 2024