

ADMINISTRATIVE PANEL DECISION

Macif SGAM and Aéma Groupe v. eric vellard
Case No. D2023-2858

1. The Parties

The Complainant is Macif SGAM and Aéma Groupe, France, represented by IP Twins, France.

The Respondent is eric vellard, France.

2. The Domain Name and Registrar

The disputed domain name <gestionprivee-aema.com> is registered with Google LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 5, 2023. On July 5, 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 (Contact Privacy Inc.) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 24, 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 the same day.

On July 24, 2023, the Center sent an email communication regarding the language of the proceeding in English and French. The Complainant submitted a request to proceed in English on the same day. The Respondent did not submit any response to the Center’s communication.

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 both in English and in French, and the proceedings commenced on July 31, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 20, 2023. The Respondent did not submit any substantive response, however the Center received two informal communications from

Respondent on July 24 and July 31, 2023. Accordingly, the Center notified the Commencement of Panel Appointment Process on August 22, 2023.

The Center appointed William Lobelson as the sole panelist in this matter on August 24, 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, being MACIF SGAM and AÉMA Group, both affiliated to another, operating in France in the field of insurance services, owns numerous trademarks formed with the name AÉMA:

- French trademark aéma GROUPE (logo) No. 4690131, registered on October 09, 2020, designating services in international classes 35, 36, 38, 37, 41, 42, 43, 44 and 45;
- French trademark Aéma GROUPE No. 4661460, registered on June 29, 2020, designating services in international classes 35, 36, 38, 39, 41, 42, 43, 44 and 45;
- French trademark Aéma REIM No. 4755126, registered on April 14, 2021, designating services in international class 36;
- French trademark Aéma Finances No. 4755112, registered on April 14, 2021, designating services in international class 36;
- French trademark Aéma Bail No. 4755119, registered on April 14, 2021, designating services in international class 36.

The disputed domain name is <gestionprivee-aema.com>. It was registered on June 22, 2023. It directs to an error page. MX servers have been set up, and the disputed domain name is used as an email address to send messages to internet users, impersonating the Complainant, in order to offer insurance and financial investment services.

5. Parties' Contentions

A. Complainant

The Complainant claims that the disputed domain name is confusingly similar to its earlier trademarks, that the Respondent has no rights or legitimate interests in the disputed domain name, and that the disputed domain name has been registered and is being used in bad faith. The Complainant requests the transfer of the disputed domain name.

B. Respondent

The Respondent did not submit any substantive response, however the Center received two informal communications from the Respondent on July 24 and July 31, 2023, simply stating "hi all this email is forwarded to my lawyer that will take care of it" and "Hi, it's fine I forwarded everything to my lawyer that will contact you".

No further arguments or observations in response to the Complaint were filed within the prescribed timeframe. The Respondent's informal communication cannot thus be regarded as a response on the merits.

6. Discussion and Findings

Language of Proceedings

Paragraph 11(a) of the Rules indicates that “unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding”.

In this case, the Complaint was submitted in English and the Registrar confirmed that the language of the registration agreement was French. The Complainant requested English to be the language of proceeding.

Noting that in its informal communications the Respondent did not object to this request and communicated solely in English, the Panel accepts the Complainant's request to issue a decision in English.

Notwithstanding the default of the Respondent, it remains incumbent on the Complainant to make out its case in all respects under the Rules set out in paragraph 4(a) of the Policy. Namely, the Complainant must prove that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (paragraph 4(a)(i));
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name (paragraph 4(a)(ii)); and
- (iii) the disputed domain name has been registered and is being used in bad faith (paragraph 4(a)(iii)).

A. Identical or Confusingly Similar

The Complainant is the owner of the trademark AÉMA.

The disputed domain name <gestionprivee-amea.com> reproduces the Complainant's trademark in its entirety, adding thereto the phrase “gestion privée” (“private management”), commonly used in French language in the field of banking, financial or insurance services.

Where the relevant trademark is recognizable within the disputed 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; see section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)).

Consequently, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

To demonstrate rights or legitimate interests in a domain name, non-exclusive the Respondent defense under UDRP, paragraph 4(c) include the following:

- (i) before any notice of the dispute, the Respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods and services;
- (ii) the Respondent (as an individual, business or other organization) has been commonly known by the disputed domain name, even if the Respondent has acquired no trademark or service mark rights; or

- (iii) the Respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel notes that the Respondent has not filed any response on the merits and thus did not deny the Complainant's assertions, nor brought any information or evidence for demonstrating any rights or legitimate interests.

The Complainant has made a *prima facie* case showing that the Respondent does not have any rights or legitimate interests in the disputed domain name, particularly by asserting that the Respondent is not affiliated with it in any way and that it never authorized the Respondent to use its trademark as part of the disputed domain name.

The Complainant further contends that the Respondent does not make any *bona fide* use - neither commercial nor non-commercial, of the disputed domain name.

In addition, the disputed domain name is used in connection with a fraudulent email scheme that impersonates the Complainant and one of its Senior Officers. UDRP panels have categorically held that use of a domain name for illegal activity can never confer rights or legitimate interests.

The Panel finds that the Complainant has met the requirement under the Policy of showing that the Respondent does not have any rights or legitimate interests in the disputed domain name.

Accordingly, the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

It transpires from the Complainant's assertions and the evidence filed in support thereof that:

The Complainant has substantiated the fact that its trademark AÉMA, which has been registered and used in France for years, predates the registration of the disputed domain name.

The Respondent's use of the disputed domain name to impersonate the Complainant is a clear indication that the Respondent knew about the Complainant and sought to take a financial advantage through such fraudulent activities.

For this Panel, the above is a clear indication that the Respondent necessarily had the Complainant's trademark in mind when it registered the disputed domain name.

Further, the information provided to the Panel in support of the Complainant's contentions shows that the Respondent is making use of the disputed domain name as a fraudulent email address, and tried to offer to internet users some insurance and financial investments services, pretending to be the Complainant's Risk & Finance Deputy General Director.

This is a fraudulent impersonation of the Complainant that clearly demonstrates a use in bad faith of the disputed domain name.

The disputed domain name currently directing to an error page does not alter the finding that the disputed domain name was registered and used in bad faith.

Accordingly, the Complainant has satisfied 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 name <gestionprivee-aema.com> be transferred to the Complainant.

/William Lobelson/

William Lobelson

Sole Panelist

Date: September 7, 2023