

## ADMINISTRATIVE PANEL DECISION

ageas SA/NV v. Name Redacted  
Case No. D2023-4823

### 1. The Parties

The Complainant is ageas SA/NV, Belgium, represented by Gevers Legal NV, Belgium.

The Respondent is Name Redacted.<sup>1</sup>

### 2. The Domain Name and Registrar

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

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 21, 2023. On November 21, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 21, 2023, 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 (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 22, 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 November 27, 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”).

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<sup>1</sup> The Respondent appears to have used the name 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Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case.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 November 28, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 18, 2023. A third-party sent an email communication to the Center on December 11, 2023, claiming that they had received the written notice and were not the registrant of the disputed domain name. The Center acknowledged receipt of their email and notified the Parties of their contentions on December 18, 2023.

The Center appointed Pablo A. Palazzi as the sole panelist in this matter on January 9, 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 is a Belgian multinational insurance company operating in 14 countries and is Belgium's largest insurer. As indicated in Annex 6 of the Complaint, the Complainant was incorporated on November 16, 1993. It is the owner of the following registered trademarks, all in relation to the following services: insurance, except health insurance; financial matters; monetary affairs; real estate affairs.

The figurative mark is shown below.

- Benelux registration N° 873934 for the trademark AGEAS registered on March 31, 2011.
- Benelux registration N° 878947 for the trademark AGEAS (figurative) registered on April 1, 2011.
- European Union ("EU") registration N° 009143686 for the trademark AGEAS registered on April 1, 2011.
- EU registration N° 009368853 for the trademark AGEAS (figurative) registered on August 31, 2012.
- UK registration N° UK00909143686 for the trademark AGEAS registered on April 1, 2011.
- UK registration N° UK00909368853 for the trademark AGEAS (figurative) registered on August 31, 2012.

The Complainant also carries on business under the trade name "ageas" and is commonly known by that name. The Complainant's corporate website may be found at "www.ageas.com".

The disputed domain name was registered on September 4, 2023. The disputed domain name website initially featured the Complainant's figurative registered trademark, photographs of the Complainant's executives, and allegedly offered financial services and more specifically home insurance services, but currently is inactive.

#### **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 its trademarks;
- the Respondent has no rights or legitimate interests in respect of the disputed domain name;
- the Respondent has registered and is using the disputed domain name in bad faith.

##### **B. Respondent**

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

## 6. Discussion and Findings

Paragraph 4(a) of the Policy lists three elements, which a complainant must satisfy in order to succeed. The Complainant must satisfy 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.

### 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 entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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.

Panels have held that the use of a domain name for illegal activity, here, claimed as applicable to this case: impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

In this case, the use of a domain name for reasons of impersonation can never confer rights or legitimate interests in a domain name. See [WIPO Overview 3.0](#), paragraph 2.13. Furthermore, the composition of the disputed domain names, comprising the Complainants' trademarks in their entirety, carries a high risk of implied affiliation. [WIPO Overview 3.0](#), section 2.5.1.

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 disputed domain name was registered on September 4, 2023, while all of the Complainant's AGEAS trademarks cited in the Complaint predate this registration date. Indeed, the oldest AGEAS trademark of the Complainant dates from more than 10 years before the date on which the disputed domain name was registered.
- the disputed domain name offers insurance services while impersonating the Complainant;
- the disputed domain name is using the exact address of the Complainant on the website and displaying the photos and names of the Complainant's executive management without the Complainant's authorization;
- the disputed domain name was most likely registered by a third party without the involvement of the person mentioned in the Whois (i.e., involves potential identity theft);
- the Respondent has defaulted; and
- at the time of this decision, the disputed domain name is not in use anymore.

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 such as impersonation/passing off of the Complainant, as found here, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4

As regards the current passive holding of the disputed domain name, panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Complainant's trademark, the composition of the disputed domain name, the Respondent's fraudulent registration of the disputed domain name using another person's identity, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of 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 <ageas.homes> be transferred to the Complainant.

*/Pablo A. Palazzi/*

**Pablo A. Palazzi**

Sole Panelist

Date: January 17, 2024