

## **ADMINISTRATIVE PANEL DECISION**

GIE AG2R v. Groisard Vanessa and Maryline Brau  
Case No. D2023-5350

### **1. The Parties**

The Complainant is GIE AG2R, France, represented by Scan Avocats AARPI, France.

The Respondents are Groisard Vanessa, France, and Maryline Brau, France.

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

The disputed domain names <ag2rgestion.com>, <ag2rgestion.info>, and <ag2rgestions.com> are registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 23, 2023. On December 26, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On December 26, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names 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 December 26, 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 January 3, 2024, and added a third disputed domain name. On January 5, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the third disputed domain name which differed from the Respondent in the Complaint. The Center sent an email communication to the Complainant on January 5, 2024, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting the Complainant to either file separate complaints for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity. The Complainant filed an amended Complaint on January 9, 2024.

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 Respondents of the Complaint, and the proceedings commenced on January 12, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 1, 2024. The Respondents did not submit a formal response but the Respondent Groisard Vanessa sent an informal email communication to the Center on January 8, 2024.

The Center appointed Vincent Denoyelle as the sole panelist in this matter on February 14, 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**

Given that no Response was filed, the following facts are based on the submissions in the Complaint and the Annexes to the Complaint.

The Complainant is a French multinational insurance and pension company headquartered in Paris.

The Complainant is the owner of several registered trade marks for AG2R and AG2R LA MONDIALE including the following:

- French Trade Mark AG2R number 4914383 filed on November 18, 2022 and;
- French Trade Mark AG2R LA MONDIALE number 3629124 filed on February 12, 2009.

The Complainant is also the owner of several domain names reflecting its trade marks including <ag2r.fr> registered in 2000.

The disputed domain names <ag2rgestion.com> and <ag2rgestion.info> were registered on December 4, 2023, and the disputed domain name <ag2rgestions.com> was registered on December 25, 2023.

At the time of this Decision, all disputed domain names trigger an error message. Previously, the disputed domain names all directed to a very similar Registrar parking page with pay-per-click ("PPC") links referring to the Complainant or its business sector. The disputed domain name <ag2rgestion.com> was also used to send fraudulent emails impersonating the Complainant.

There is no information known on the Respondents apart from the details as they appear on the respective Whois records.

#### **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 names. As discussed below, the Complainant treats the Respondents in the singular (i.e., "Respondent") under the belief they are the same entity or mere alter egos of each other, and that the disputed domain names are under common control.

Notably, the Complainant contends that the disputed domain names are confusingly similar to the AG2R trade mark in which the Complainant has rights as the disputed domain names incorporate the entire AG2R trade mark with the mere addition of the terms "gestion" or "gestions".

The Complainant asserts that it has never given any authorization or permission to the Respondent to register or to use its trade marks AG2R or AG2R LA MONDIALE. The Complainant contends that the Respondent does not own any trade mark rights corresponding to any of the disputed domain names. The

Complainant adds that the Respondent is not in any way related to the Complainant and the Respondent does not carry out any activity for or has any business with the Complainant. Finally, the Complainant points to the fraudulent use of the disputed domain names as evidence of the absence of rights or legitimate interests on the part of the Respondent. The Complainant concludes that the Respondent has no rights or legitimate interests in any of the disputed domain names.

The Complainant contends that the Respondent has registered and used the disputed domain names with full knowledge of the Complainant's trade marks which are well known according to the Complainant. The Complainant then points to the deceptive use of the disputed domain names to conclude that they were registered and used to create a likelihood of confusion with the Complainant and its trade mark in an effort to defraud unsuspecting victims.

## **B. Respondents**

The Respondents did not reply to the Complainant's contentions but the Respondent Groisard Vanessa sent an informal email communication to the Center on January 8, 2024, merely stating, "j attend Vos instructions" [translated: "I await your instructions"].

## **6. Discussion and Findings**

### **Consolidation: Multiple Respondents**

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are the same entity or mere alter egos of each other, or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The disputed domain name registrants did not comment on the Complainant's request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 4.11.2.

As regards common control, the Panel notes that:

- The naming pattern in all three disputed domain names is highly similar in that it includes the entire AG2R trade mark of the Complainant followed by the terms "gestion" or "gestions";
- All three disputed domain names were registered in December 2023 and use the same hosting provider;
- All three disputed domain names have been registered through the same Registrar and have pointed to highly similar parking pages;
- All three disputed domain names are registered using incorrect registration details.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below as "the Respondent") in a single proceeding.

## **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 trade mark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of a trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the trade mark AG2R is reproduced within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the AG2R trade mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here "gestion" or "gestions", may bear on assessment of the second and third elements, the Panel finds that such additions do not prevent a finding of confusing similarity between the disputed domain names and the trade 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 names. 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 names such as those enumerated in the Policy or otherwise.

The Complainant has stated that it has not licensed or otherwise authorized the Respondent to make any use of its trade mark AG2R. There is no indication that the Respondent is commonly known by any of the disputed domain names. Further, the Complainant has provided clear evidence that at least one of the disputed domain names was used to send fraudulent emails (phishing emails) impersonating the Complainant. Panels have held that the use of a domain name for illegal activity here, phishing and impersonation, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Finally, in light of the present circumstances, the Panel finds that the past use of the disputed domain names to point to PPC links redirecting Internet users to third-party websites (some of which relate to the Complainant or its business sector) cannot constitute rights or legitimate interests in the disputed domain names for the purpose of the Policy.

Thus, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain names.

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 names reproduce the exact AG2R trade mark of the Complainant and this cannot be a coincidence given the overall circumstances of the present case including: (i) the reputation of the Complainant's AG2R trade mark, (ii) the choice of the terms "gestion" or "gestions" added to the AG2R trade mark in the disputed domain names which targets the Complainant and its business sector, (iii) the fact that all results generated by an Internet search for the terms "ag2r gestion" refer to the Complainant, and (iv) the fact that all disputed domain names were registered using incorrect registration data.

Thus, the Panel finds that the disputed domain names were registered in bad faith.

As for the use of the disputed domain names in bad faith, given the circumstances described in the Complaint and the evidence provided by the Complainant, the Panel considers that the disputed domain names are used in bad faith.

The disputed domain names appear to be passively held at the time of the Decision or at least the Panel was not able to access the associated website. Passive use itself would not cure the Respondent's bad faith given the overall circumstances here, specifically the previous use of the disputed domain names and the Respondent's default to file a Response. [WIPO Overview 3.0](#), section 3.3.

In any event, the past use of at least one of the disputed domain names to send phishing emails impersonating the Complainant is very persuasive and clear evidence of the Respondent's bad faith use of the disputed domain names and typically the type of use the Policy is designed to tackle. [WIPO Overview 3.0](#), section 3.4.

The fact that the Respondent chose not to object to the Complainant's assertions can only reinforce the Panel's view that the disputed domain names are used in bad faith.

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 names <ag2rgestion.com>, <ag2rgestion.info>, and <ag2rgestions.com> be transferred to the Complainant.

*/Vincent Denoyelle/*

**Vincent Denoyelle**

Sole Panelist

Date: February 29, 2024