

## **ADMINISTRATIVE PANEL DECISION**

Equans and Pierre Guerin v. Thomas Thao  
Case No. D2024-1103

### **1. The Parties**

The Complainants are Equans, France and Pierre Guerin, France, represented by Matthieu Ristord.

The Respondent is Thomas Thao, United States of America (“U.S.”).

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

The disputed domain names <pierregeurin-equans.com> and <pierregerin-equans.com> are registered with Porkbun LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 13, 2024. On March 18, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. Also on March 18, 2024, 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 (Private by Design LLC) and contact information in the Complaint.

The Center sent an email communication to the Complainants on March 20, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amended Complaint on March 26, 2024.

The Center verified that the Complaint together with 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, and the proceedings commenced on March 28, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 17, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 18, 2024.

The Center appointed Mihaela Maravela, Christiane Féral-Schuhl and Purvi Patel Albers as panelists in this matter on May 6, 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**

According to information in the Complaint, the Complainant Equans is a member of the Equans group, which is a French multinational multi-technical expertise group of companies, for the industrial energy and digital transition, and is specialized in the design and manufacture of stainless-steel equipment and process lines. It develops high-performance, innovative solutions within the field of electrical and climate engineering, IT and telecommunications and provides digital solutions to its clients. The Complainant Equans employs 34,500 people and generated a turnover of EUR 7.1 billion in 2022. The Complainant Equans has registered several trademarks consisting of or including EQUANS, such as the European Union Trademark No. 018584856 for EQUANS (word), with registration date of April 26, 2022, for goods and services in classes 6, 11, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45. The Complainant Equans has registered various domain names comprising EQUANS, including <equans.fr>, <equansgroup.com>, or <equans-group.com>.

The Complainant Pierre Guerin is a French company, founded in 1949, being part of the process industry division of the Equans group of companies and specialized in the design and manufacture of stainless-steel equipment and process lines. It employs more than 600 people and generated a turnover of EUR 93,7 million in 2021. The Complainant Pierre Guerin has registered several trademarks consisting of or including PIERRE GUERIN, such as the European Union Trademark No. 002980746 for PIERRE GUERIN (word), with registration date of April 13, 2004, for goods and services in classes 6, 37 and 42. Also, the Complainant Pierre Guerin uses various domain names comprising PIERRE GUERIN, including <pierreguerin.com>.

The disputed domain names were registered on June 5, 2023, and do not resolve to active websites. According to evidence with the Complaint the disputed domain name <pierregeurin-equans.com> was used for the creation of false email addresses in the name of two employees of the Complainant Pierre Guerin, which were later used to interfere in a conversation between a partner and a subsidiary of the Complainant.

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

##### **A. Complainants**

The Complainants contend that they have satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

Notably, the Complainants contend that they hold rights in EQUANS and PIERRE GUERIN, as described in the factual section above. Also, the Complainants submit that the disputed domain names are confusingly similar to their trademarks. The disputed domain name <pierreguerin-equans.com> incorporates in their entirety both the EQUANS and PIERRE GUERIN trademarks. The disputed domain name <pierregeurin-equans.com> wholly incorporates the trademark EQUANS, which by itself is sufficient for the Complainants to establish the similarity between the mentioned disputed domain name and their trademarks. The term "pierregeurin" used in the relevant disputed domain name, only differs from the PIERRE GUERIN trademark by the inverted sequence of two letters ("ue" vs "eu"), which is a misspelling, consisting of the inversion of two letters in the center of the term "guerin", that is not sufficient to dispel confusing similarity. Moreover, the Complainants contend that the use of both the Complainants' trademarks into the disputed domain names strengthens the likelihood of confusion with the Complainants' trademarks.

As regards the second element, the Complainants argue that the Respondent has no rights or legitimate interests in the disputed domain names. The Respondent has not been authorized by the Complainants to

make any use of the EQUANS or PIERRE GUERIN trademarks and does not hold trademark rights in the terms “equans” or “pierre guerin”. The disputed domain names are not currently used for active websites and there is no indication that the Respondent ever intended to use them for other purposes than cybersquatting or for purposes of committing cyberattacks or hacking.

With respect to the third element, the Complainants submit that the trademarks EQUANS and PIERRE GUERIN are strongly distinctive and have no particular meaning, except the designation of the Complainants, and both terms have a strong interconnected presence online. The Respondent should have known (and most likely knew) that its registration of the disputed domain names is identical or confusingly similar to the Complainants’ trademarks. Moreover, the use of the term “geurin” in the disputed domain name <pierregeurin-equans.com>, which only differs from the term “guerin”, by interchanging the letters “u” and “e”, demonstrates a clear willingness to create a likelihood of confusion between the mentioned disputed domain name and the Complainant’s trademarks, in the form of what is commonly known as “typosquatting”.

In addition, as regards the use, the Complainants argue that the registration of the disputed domain names was made for the sole purpose of being used for misleading Internet users by creating email addresses likely to confuse users about the real holder of such email addresses and send phishing emails. As such, the disputed domain name <pierregeurin-equans.com> was used for the creation of false email addresses in the name of two employees of Pierre Guerin company, which were later used to interfere in a conversation between an Equans’ partner and an Equans’ subsidiary. Regarding the disputed domain name <pierreguerin-equans.com>, the Complainants submit that it was registered and used in bad faith under the passive holding doctrine, considering the degree of distinctiveness or reputation of the Complainants’ mark, the failure of the Respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and the implausibility of any good faith use to which the disputed domain name may be put. Also, the Respondent has provided false contact details, which is consistent with the intention to use the disputed domain names fraudulently.

## **B. Respondent**

The Respondent did not reply to the Complainants’ contentions.

## **6. Discussion and Findings**

### **6.1. Preliminary Issue**

No communication has been received from the Respondent in this case. However, given that the Complaint was sent to the relevant addresses disclosed by the Registrar, the Panel considers that this satisfies the requirement in paragraph 2(a) of the Rules to “employ reasonably available means calculated to achieve actual notice”. Accordingly, the Panel considers it can proceed to determine the Complaint based on the statements and documents submitted by the Complainants as per paragraph 15(a) of the Rules.

The applicable standard of proof in UDRP cases is the “balance of probabilities” or “preponderance of the evidence”, and the Panel can draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#) ).

Paragraph 4(a) of the Policy directs that the Complainants must prove each of the following elements:

- (i) that the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainants have rights; and
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain names; and
- (iii) that the disputed domain names were registered and are being used in bad faith.

## **6.2. Procedural Issue: Consolidation of Multiple Complainants**

The Complaint was filed by two Complainants, who allege that they are part of the same group of companies, Pierre Guerin being a subsidiary of Equans, and given the close legal relationship between the Complainants, consolidation would be efficient and equitable.

According to section 4.11.1 of the [WIPO Overview 3.0](#), “In assessing whether a complaint filed by multiple complainants may be brought against a single respondent, panels look at whether (i) the complainants have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected the complainants in a similar fashion, and (ii) it would be equitable and procedurally efficient to permit the consolidation”. It is well accepted that a single complaint may be brought under the Policy by multiple complainants where the multiple complainants have a common grievance against the respondent and one example of a common grievance entitling consolidation of complainants is where the complainants share an interest in trademarks allegedly affected by the respondent’s registration of the disputed domain name.

In this case, as the Complainants are affiliates, the Panel is of the view that a common legal interest is present. Also, the Complainants are represented by a single representative and the same remedy is sought by all Complainants. Moreover, the disputed domain names include combined trademarks of the Complainants or typosquatted versions thereof. The Respondent has not objected to the Complainants’ consolidation request. Under the circumstances of the case, the Panel accepts that consolidation is procedurally efficient, fair, and equitable to all Parties, and will accept all two Complainants as a party to the proceedings and will refer to them as the Complainant hereinafter.

### **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 names. [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 trademarks EQUANS and PIERRE GUERIN of the Complainant are recognizable within the disputed domain names. The disputed domain name <pierreguerin-equans.com> incorporates the trademarks EQUANS and PIERRE GUERIN of the Complainant in their entirety. The disputed domain name <pierregeurin-equans.com> incorporates the trademark EQUANS of the Complainant and a misspelled version of the trademark PIERRE GUERIN of the Complainant. The disputed domain names also include a hyphen, which does not in the view of the Panel prevent the Complainant’s trademarks from being recognizable within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. Also, the misspelling in the disputed domain name <pierregeurin-equans.com>, also referred to as typosquatting, does not prevent a finding of confusing similarity (see [WIPO Overview 3.0](#), section 1.9).

In addition, the Panel finds that the addition of the generic Top-Level Domain (“gTLD”) “.com” to the disputed domain names is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.

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.

According to the unrebutted evidence provided by the Complainant, at the date of filing the Complaint, the disputed domain names do not resolve to active websites. There is no evidence that the Respondent is using the disputed domain names in connection with a bona fide offering of goods or services, nor does the Respondent appear to engage in any legitimate noncommercial or fair use of those disputed domain names within the meaning of paragraphs 4(c)(i) and (iii) of the Policy. Also, there is no evidence that the Respondent is commonly known by the disputed domain names within the meaning of paragraph 4(c)(ii) of the Policy.

Moreover, according to the unrebutted evidence with the Complaint, the disputed domain name <pierregeurin-equans.com> was used for the creation of false email addresses in the name of two employees of the Complainant Pierre Guerin, which were later used to interfere in a conversation between a partner and a subsidiary of the Complainant. Panels have held that the use of a domain name for illegal activity as phishing and impersonation (as in the present case), 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.

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.

According to the unrebutted assertions of the Complainant, its trademarks were widely used in commerce well before the registration of the disputed domain names. The disputed domain names are confusingly similar to the Complainant’s trademarks and include a combination of the Complainant’s trademarks. Moreover, the disputed domain name <pierregeurin-equans.com> contains a typosquatted version of the Complainant’s trademark PIERRE GUERIN. As per the unrebutted assertions of the Complainant, and evidence with the Complaint, the email sent from the disputed domain name <pierregeurin-equans.com> uses the names of employees of the Complainant. Under these circumstances, it is most likely that the Respondent was aware of the Complainant’s trademarks at the registration date of the disputed domain names. The Respondent provided no explanations for why it registered the disputed domain names. Under these circumstances, it is reasonable to infer that the Respondent has registered the disputed domain names with knowledge of the Complainant’s trademarks, and to target those trademarks.

As regards the use of the disputed domain names, given that the Respondent has registered the disputed domain names confusingly similar to both of the trademarks of the Complainant, an intention of the Respondent to attract Internet users by creating a likelihood of confusion with the Complainant and its business can be inferred. Moreover, as the Complainant argues, noting that the Respondent is using one of the disputed domain names, <pierregeurin-equans.com>, for phishing emails. The evidence put forward by the Complainant in this respect has not been rebutted by the Respondent. The use of a domain name to send deceptive emails, e.g., to obtain sensitive or confidential personal information from prospective job applicants, or to solicit payment of fraudulent invoices by the Complainant's actual or prospective customers and employees constitutes bad faith on the side of the Respondent (section 3.4 of the [WIPO Overview 3.0](#)).

As regards the disputed domain name <pierregeurin-equans.com> 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 indicated 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 of the Complainant's trademark, and the composition of the disputed domain name, and finds that in the circumstances of this case the passive holding of the disputed domain name <pierregeurin-equans.com> does not prevent a finding of bad faith under the Policy.

In the Panel's view, these circumstances represent evidence of registration and use in bad faith of the disputed domain names. The Respondent failed to bring evidence to the contrary.

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 <pierregeurin-equans.com> and <pierregeurin-equans.com> be transferred to the Complainant PIERRE GUERIN.

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Presiding Panelist

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Date: May 20, 2024