

## **ADMINISTRATIVE PANEL DECISION**

**GENERALI FRANCE v. Jean David Provost and Jean David**  
Case No. D2024-3485

### **1. The Parties**

The Complainant is GENERALI FRANCE, France, represented by Cabinet Lavoix, France.

The Respondent is Jean David Provost, France and Jean David, France.

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

The disputed domain name <generaligestion.com> is registered with NameSilo, LLC (the “First Registrar”).

The disputed domain name <generaligestion.net> is registered with NameCheap, Inc. (the “Second Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 27, 2024. On August 27, 2024, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On August 27, 2024, the Registrars transmitted by email to the Center their verification responses confirming that the Respondents are listed as the registrants 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 Respondents of the Complaint, and the proceedings commenced on September 3, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 23, 2024. The Respondents did not submit any response. Accordingly, the Center notified the Respondents’ default on September 27, 2024.

The Center appointed Nathalie Dreyfus as the sole panelist in this matter on October 3, 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 the company Generali France. The Generali Group was established in 1831 in Italy and operates in over 50 countries. It offers a wide range of product, services and solutions in insurance, finance and asset management.

Generali Group is present in France through the Complainant Generali France, a French company governed by the French Insurance Code.

The Complainant owns several trademarks around the world, namely:

- French Trademark GENERALI FRANCE GROUPE GENERALI and device number 3351701, registered on April 8, 2005, and duly renewed, covering services in class 36 ; and
- French Trademark GENERALI ASSURANCE PRIVEE, number 4303950, registered on October 3, 2016, covering services in classes 35 and 36.

Hereinafter, the "GENERALI trademarks".

Furthermore, the Complainant is the owner of the following domain name :

- <generali.fr> registered on July 30, 1996.

The Complainant noticed the registration of the following domain names, (hereinafter, the "disputed domain names") :

- <generaligestion.com> registered on April 20, 2023 and resolves to an inaccessible website.
- <generaligestion.net> registered on April 4, 2024 and resolves to an inaccessible website.

The disputed domain names were used to send fraudulent emails impersonating the Complainant's employees in order to deceive the recipients.

Since the Respondents did not participate in the proceeding, nothing is known other than the Registrars-disclosed details identified.

#### **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.

Notably, the Complainant contends that the disputed domain names are confusingly similar to the Complainant's trademarks, as they reproduce the distinctive verbal element "Generali" of the trademarks GENERALI FRANCE and GENERALI ASSURANCE PRIVEE, as well as the element "Generali" of the active domain name <generali.fr>. The Complainant also asserts that the term "gestion", meaning "management" in English, is associated to the Complainant's activity.

The Complainant also alleges that the Respondents are not a licensee of the Complainant and has not been authorized to use the Complainant's trademarks. The Complainant contends that the Respondents have no rights or legitimate interests since the disputed domain names have been used in connection with an email phishing scheme, proving that the disputed domain names were registered for fraudulent activities and for commercial gain.

The Complainant finally contends that the disputed domain names have been registered and used in bad faith since the fraudulent emails reproduce the Complainant's name and logo. The Complainant therefore alleges that it is not plausible that the Respondents were unaware of the Complainant's prior rights.

## **B. Respondents**

The Respondents did not reply to the Complainant's contentions

## **6. Discussion and Findings**

Paragraph 15(a) of the Rules directs the Panel as to the principles that the Panel is to use in determining the dispute: "A Panel shall decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules, and any rules and principles of law that it deems applicable".

The Policy provides, at paragraph 4(a), that each of three elements must be made in order for a complaint to prevail:

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

### **Consolidation: Multiple Respondents**

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the disputed domain names 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 names registrants pursuant to paragraph 10(e) of the Rules.

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 disputed domain names both include the trademark GENERALI and the term "gestion." Additionally, the Respondents share a very similar name, the same email address and are both based in France.

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 names 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 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 that the trademark is recognizable within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the Generali trademarks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel finds that the inclusion of the term “gestion” does not prevent a finding of confusing similarity between the disputed domain names and the Generali trademarks under the Policy. [WIPO Overview 3.0](#), section 1.8.

Finally, the generic Top-Level-Domains (“gTLDs”) “.com” and “.net” are not to be taken into consideration when examining the identity or similarity between the Complainant’s trademarks and the disputed domain names ([WIPO Overview 3.0](#), section 1.11).

Accordingly, 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.

Indeed, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain names as it does not own any rights to the GENERALI trademarks, and the Complainant has never authorized or permitted the Respondent to use the GENERALI trademarks or use them to register any domain name consisting of the GENERALI trademarks.

The disputed domain names have been used in connection with email phishing scheme by impersonating three different employees of the Complainant in order to deceive the recipients into believing that the phishing emails were legitimate. Consequently, the disputed domain names are not used in any type of legitimate business or services. Therefore, Panel finds that the Respondent’s current use of the disputed domain names to conduct fraudulent phishing activity does not constitute a bona fide offering of goods and services (*Apex Learning Inc. v. Privacy Service Provided by Withheld for Privacy ehf / Family Man*, WIPO Case No. [D2022-1159](#))

The Respondent had the opportunity to provide its arguments in support of its rights or legitimate interests in the disputed domain names. However, by failing to file a response, the Respondent has missed this opportunity, and the Panel is entitled to draw such inferences from the Respondent’s failure as it considers appropriate in accordance with paragraph 14 of the Rules.

Accordingly, 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 was most likely aware of the Complainant's trademark rights at the time of registration. Indeed, the Respondent uses one of the Complainant's logos, the Complainant's name, and the Complainant's current address in the phishing emails in order to deceive the recipients. Such awareness is indicative of bad faith registration as per established UDRP precedents.

Moreover, the disputed domain names include the GENERALI trademarks. The addition of the term "gestion" may even enhance the perception that the disputed domain names are sponsored or endorsed by the Complainant, as it refers to the Complainant's activity.

The Panel also holds that the use of a domain name for illegal activity, here phishing, 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 names constitutes bad faith under the Policy.

Furthermore, as demonstrated above, the use of the disputed domain names appears to be primarily for the purpose of intentionally attempting to attract Internet users for commercial gain, by creating a likelihood of confusion with the Complainant's GENERALI trademarks.

Accordingly, 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 <generaligestion.com> and <generaligestion.net> be transferred to the Complainant.

*/Nathalie Dreyfus/*

**Nathalie Dreyfus**

Sole Panelist

Date: October 17, 2024