

## **ADMINISTRATIVE PANEL DECISION**

### **GENERALI FRANCE v. Nama Nouri**

### **Case No. D2024-3487**

#### **1. The Parties**

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

The Respondent is Nama Nouri, France.

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

The disputed domain name <patrimoinegeneral.com> is registered with NameSilo, LLC (the “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 Registrar a request for registrar verification in connection with the disputed domain name. On August 27, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant 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 Respondent of the Complaint, and the proceedings commenced on September 6, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 26, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 27, 2024.

The Center appointed Nathalie Dreyfus as the sole panelist in this matter on September 30, 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 GENERALI GROUP + device number 3351701, dated April 8, 2005, and duly renewed, covering services in class 36; and
- French Trademark GENERALI ASSURANCE PRIVEE + device, number 4303950, dated October 3, 2016, covering services in classes 35 and 36.

Furthermore, the Complainant is the owner of a domain name, namely:

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

The disputed domain name was registered on May 31, 2024, and resolves to a parking page offering pay-per-click links in connection with the Complainant's field of activity.

Since the Respondent did not participate in the proceeding, nothing is known other than the Registrar-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 name.

Notably, the Complainant contends that the disputed domain name is confusingly similar to the Complainant's trademarks, as it reproduces the distinctive verbal element "Generali" of his trademarks GENERALI FRANCE and GENERALI ASSURANCE PRIVEE and also the element "Generali" of the active domain name <generali.fr>. The Complainant also asserts that the term "patrimoine", meaning "assets" in English and associated to the Complainant's activity, and the generic Top-Level Domain ("gTLD") ".com" do not exclude the likelihood of confusion between the Complainant's trademarks and the disputed domain name which reproduces it.

The Complainant also alleges that the Respondent is not a licensee of the Complainant and has not been authorized to use the Complainant's trademarks. The complainant contends the Respondent has no rights or legitimate interest since the disputed domain name resolves to a parking webpage offering pay-per-click links to services associated with the business of the Complainant, namely insurance and financial services provided by competitors.

The Complainant contends that the disputed domain name has been registered in bad faith and that, given the well-known and distinctive nature of the verbal element GENERALI, it is not plausible that the Respondent was unaware of the Complainant and its trademarks. Consequently, the Respondent has intentionally targeted the Complainant's trademark and the Complainant when it registered the disputed domain name.

Finally, the Complainant contends that the disputed domain name has been used in bad faith to intentionally attract Internet users to a website for commercial gain, in an effort to trade on the Complainant's goodwill.

## **B. Respondent**

The Respondent 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 name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- 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 dominant feature of the Complainant's trademarks GENERALI is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms in this case "patrimoine", does not prevent a finding of confusing similarity between the disputed domain name and the mark under the Policy. [WIPO Overview 3.0](#), section 1.8.

Finally, the gTLD ".com" is not to be taken into consideration when examining the identity or confusing similarity between the Complainant's trademarks and the disputed domain name. See *Accor v. Noldc Inc*, WIPO Case No. [D2005-0016](#).

On this basis, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademarks.

### **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.

Indeed, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name as it didn't come forward with any evidence showing that it has trademark rights in the term "patrimoinegeneral", and there is no evidence showing that the Respondent is commonly known by the disputed domain name.

Furthermore, the disputed domain name redirects to a parking page that displays pay-per-click links, including those leading to the Complainant's competitors. As a result, the Respondent is not using the disputed domain name in connection with a bona fide offering of goods or services, nor is he making a legitimate noncommercial or fair use of the disputed domain name.

The Respondent had the opportunity to provide its arguments in support of its rights or legitimate interests in the disputed domain name. However, by failing to file a formal 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.

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, given the composition of the disputed domain name, and the longstanding use of the Complainant's trademark, the Panel concludes that the Respondent was likely aware of the Complainant's trademark rights at the time of registration. Such awareness is indicative of bad faith registration as per established UDRP precedents.

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

Moreover, the Respondent's failure to file a response further supports the finding of bad faith.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes 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 <patrimoinegenerali.com> be transferred to the Complainant.

*/Nathalie Dreyfus/*

**Nathalie Dreyfus**

Sole Panelist

Date: Octobre 14, 2024