

ADMINISTRATIVE PANEL DECISION

Partners Group Holding AG, Partners Group AG v. Domain Administrator,
See PrivacyGuardian.org / Mark Bullock
Case No. D2022-1688

1. The Parties

The Complainant is Partners Group Holding AG, Partners Group AG, Switzerland, represented by Nieder Kraft & Frey, Switzerland.

The Respondent is Domain Administrator, See PrivacyGuardian.org / Mark Bullock, United States of America ("USA").

2. The Domain Name and Registrar

The disputed domain name <agpartners-group.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 May 9, 2022. On May 10, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 10, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on May 11, 2022 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 May 16, 2022.

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 Respondent of the Complaint, and the proceedings commenced on May 19, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 9, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 9, 2022.

The Center appointed Clive Duncan Thorne as the sole panelist in this matter on June 16, 2022. 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 an internationally well-known private markets investment manager, founded in 1996. Together with its affiliates it is active globally in around 20 offices worldwide. It is a leading private equity investment manager ranking 26th in the 2021 PEI 300 table of the most significant managers of private equity funds and 28th in the Private Equity Real Estate (PERE) 2021 ranking of the largest private real estate firms in the world. Evidence of this is set out in Annex 4 to the Complaint.

The Complainant has traded using “Partners Group” as its trade name since 1996. This has also been registered in the Swiss commercial register as its company name. It is also using PARTNERS GROUP as its trade mark worldwide. The mark is registered worldwide in the following countries; Australia, Bonaire, Curacao, Germany, Guernsey, Japan, Liechtenstein, Monaco, New Zealand, Norway, Philippines, Republic of Korea, Russian Federation, Singapore, Sint Maarten, Switzerland, Türkiye, United Kingdom, USA and also in the European Union.

The Complainant refers to specific national registrations in the Complaint and also sets out a table containing a non-exhaustive overview of its trade registrations for PARTNERS GROUP worldwide based upon its ownership *inter alia* of the following registrations.

PARTNERS GROUP REALIZING POTENTIAL IN PRIVATE MARKETS (word and device)

International Trade Mark 1284792, and national registrations in Switzerland 678787, Guernsey GGGT8302, Philippines 4562, Mexico 1941203,1900588, 2226041, Brazil 918092590, 918092655 in classes 35,36 and 42. An extract from the International Trade Mark register is exhibited as Annex 8 to the Complaint showing date of registration as October 21, 2015.

PARTNERS GROUP PASSION FOR PRIVATE MARKETS (word and device)

International Trade Mark 1036818, Switzerland 598917, USA 4051294 in classes 35, 36 and 42. An extract from the International Trade Mark register is exhibited as Annex 7 to the Complaint showing date of registration as March 31, 2010.

In the USA, the Complainant owns the trade mark PARTNERS GROUP No. 3434801 in class 36, registered on May 27, 2008. An extract from the register is exhibited as Annex 6 to the Complaint.

The Complainant registered the domain name <partnersgroup.com> on January 24, 1996 through which it offers its services.

At Annex 18 to the Complaint the Complainant exhibits a copy of the main page of its website as of March 21, 2022 which sets out its trading activity as a global private markets firm.

The Complainant is also the owner of other domain names incorporating “partners group” including <partnersgroup.net> and <partnersgroup.ch>.

Little is known about the Respondent save that it registered the disputed domain name <agpartners-group.com> on May 7, 2021 which is after the dates of registration of the Complainant’s trade marks relied upon.

In the absence of a Response the Panel finds the above evidence adduced by the Complainant to be true.

5. Parties' Contentions

A. Complainant

The Complainant submits:

- i. That it owns relevant trade mark rights which predate the registration of the disputed domain name and that the disputed domain is confusingly similar to the Complainant's marks relied upon;
- ii. On the evidence the Respondent has no rights or legitimate interests in respect of the disputed domain name;
- iii. The evidence shows that the disputed domain name was registered and is being used in bad faith by the Respondent.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant submits that the disputed domain name <agpartners-group.com> incorporates the entirety of the Complainant's registered trade mark PARTNERS GROUP with the exception of a hyphen being added between the words "partners" and "group" which it submits is not significant. The Panel agrees with that submission.

The prefix "ag" to the disputed domain name is a lower case version of the Swiss abbreviation AG in respect of a corporate entity and which is used in the corporate names of the two entities comprising the Complainant; Partners Group Holding AG and Partners Group AG. In the Panel's view this does not prevent a finding of confusing similarity, as the dominant part of the disputed domain name reproduces the trade mark PARTNERS GROUP in its entirety.

The Complainant rightly points out that the use of the generic-Top Level Domain("gTLD") ".com" is of no significance in deciding upon confusing similarity.

The Panel therefore finds that the disputed domain name <agpartners-group> is confusingly similar to the trade mark PARTNERS GROUP in which the Complainant has rights pursuant to paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant relies upon the established doctrine set out at section 2.13.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") that the use of a domain name for illegal activities (including phishing or fraudulent activity) can never confer rights or legitimate interests upon a Respondent.

The Complainant refers to the evidence about the Respondent's website which it submits leads to the conclusion that the disputed domain name is used to conduct illegal and, in particular, fraudulent activities which shows that the Respondent does not use or has made preparations to use the disputed domain name in connection with a "*bona fide* offering of goods or services".

The Complainant exhibits at Annex 20 to the Complaint a printout of an email from a Mr. Wayne in which he refers to “his company” as “internationally well regarded” and does so by making reference to a Bloomberg website which concerns the Complainant. A copy of the relevant page is exhibited as Annex 21 to the Complaint. Reference is made to the Complainant’s own website which Mr. Wayne presents as the “general management web page” with information about his company. He then refers to the disputed domain name where his office can be verified and details about cryptocurrency investments can be found.

In the Complainant’s submission, the email shows that an active effort is made to create the impression that there is a connection between the disputed domain name and the Complainant. The Respondent is using the disputed domain name to deceive customers and to attract Internet users to the Respondent’s website. In particular, the impression is being created that the disputed domain name is part of the Complainant’s group relating to a separate division of the Complainant specialized in cryptocurrency instruments. This is an attempt to exploit the Complainant’s reputation as a respected and established entity.

The Complainant also relies upon a LinkedIn message exhibited at Annex 22 to the Complaint in which a Mr. Maximilian writes to a Mr. Soppera, apparently of the Complainant, referring to “the father of my girlfriend was defrauded by a presumably alleged employee of your company [name of the alleged employee] ([name]@agpartners-group.com)” *i.e.* using an email address linked to the disputed domain name.

The Complainant refers to evidence of an affiliation between the Respondent, its disputed domain name and the Complainant which shows a jigsaw globe on the subpage “about us” on the Respondent’s website entitled “ABOUT AG PARTNERS”. A printout is annexed as Annex 23. The jigsaw globe is in fact a prominent part of the Complainant’s logo and trade marks as can be seen from Annex 18.

The Complainant relies upon evidence supporting its contention that the Respondent is using the disputed domain name for unlawful or fraudulent activity. This includes the fact that 52% of all 25 reviews of the Respondent’s website on Trustpilot accuse the owners of the disputed domain name of fraudulent activity. Samples of the Trustpilot reviews are exhibited at Annex 24. One of the reviews appears to warn that the Complainant does not have any association with the disputed domain name.

The Complainant also refers to a warning, dated October 13, 2021, by the Austrian Financial Market Authority (FMA) stating that investors should beware of entering financial transactions with the people behind the disputed domain name. The warning is exhibited at Annex 26 to the Complaint.

The Complainant submits that the disputed domain name is an “obvious” alteration of the Complainant’s well-known mark and that the Respondent does not have rights or legitimate interests in the disputed domain name. It is well-established that a mere addition or a minor misspelling of the Complainant’s trade mark does not create a new or different mark in which the Respondent has legitimate rights.

The Complainant confirms that there is no evidence that the Respondent has been commonly known by the disputed domain name and has not acquired trade mark rights in any variation of the disputed domain name.

Having considered the above evidence adduced by the Complainant and in the absence of a Response and contrary evidence the Panel finds that there is no legitimate non-commercial or fair use of the disputed domain name by the Respondent and that on the evidence the Respondent has no rights or legitimate interests in respect of the disputed domain name within paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Complainant submits that the “very nature” of the Respondent’s registration is bad faith. The basis for this submission is that the Respondent knowingly registered the disputed domain name because it is only a slight alteration of the Complainant’s mark PARTNERS GROUP so as to capitalize on consumer recognition of the mark and to create a likelihood of confusion. This is the only credible explanation.

In addition the Respondent intended to create a connection between the Complainant and the disputed domain name. This submission is supported by the evidence referred to in section 6C above. In particular the Complainant relies upon:

- i. The sending of emails to potential investors in which an impression is created that the disputed domain name belongs to the Complainant's group relating to a separate division of the Complainant specializing in cryptocurrency investments (Annex 20 to the Complaint);
- ii. Potential investors are led to believe, contrary to the fact, that they are communicating with the Complainant's employees (Annex 22 to the Complaint);
- iii. The use of the Complainant's jigsaw globe logo on the Respondent's website (Annex 23 to the Complaint).

The Complainant also relies upon the fact that the Respondent is shielding its identity by the use of the privacy service Privacy Guardian.

The Complainant points out that the name and email address of the holder of the disputed domain name do not seem to match. It submits that the reason for this discrepancy could be that a false name and /or an anonymized email address has been provided to the registrar. This would further support a finding of bad faith.

Taking into account the above evidence and in the absence of a Response the Panel finds that the disputed domain name was registered and is being used in bad faith within paragraph 4(a)(iii) 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, <agpartners-group.com> be transferred to the Complainant.

/Clive Duncan Thorne/

Clive Duncan Thorne

Sole Panelist

Date: June 30, 2022