

## ADMINISTRATIVE PANEL DECISION

Colegio Oficial de Agentes de La Propiedad Inmobiliaria de Barcelona v.  
Antonio Gavin Velazco / Associacio Experts Immobiliaris  
Case No. D2015-0643

### 1. The Parties

The Complainant is Colegio Oficial de Agentes de La Propiedad Inmobiliaria de Barcelona of Barcelona, Spain, represented by Sugrañes, S.L., Spain (hereinafter, the "Complainant").

The Respondent is Antonio Gavin Velazco / Associacio Experts Immobiliaris of Barcelona, Spain, self-represented (hereinafter, the "Respondent").

### 2. The Domain Name and Registrar

The disputed domain name <api.info> (hereinafter, the "Domain Name") is registered with OVH (hereinafter, the "Registrar").

### 3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on April 10, 2015. On April 10, 2015, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On April 10, 2015, 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.

According to information received from the Registrar, the language of the registration agreement for the Domain Name is Spanish. Accordingly, the Complainant was requested to provide at least one of the following: 1) satisfactory evidence of an agreement between the Complainant and the Respondent to the effect that the proceedings should be in English; or 2) submit the Complaint translated into Spanish; or 3) submit a request for English to be the language of the administrative proceedings. Such request shall include arguments and supporting material (to the extent not already provided in the Complaint) as to why the proceedings should be conducted in English. The Complainant submitted a request that English be the language of the proceedings, to which the Respondent did not reply.

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



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(the "Supplemental Rules").

In accordance with the Rules, paragraphs 2(a) and 4(a), the Center formally notified the Respondent of the Complaint in English and Spanish, and the proceedings commenced on April 28, 2015. In accordance with the Rules, paragraph 5(a), the due date for Response was May 18, 2015. The Response was filed in English and Spanish with the Center on May 27, 2015, after having been granted an extension to file a Response.

The Center appointed Albert Agustinoy Guilayn (the "Panel") as the sole panelist in this matter on June 11, 2015. 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.

On June 18, 2015, the Complainant submitted a supplemental filing with the Center. The Respondent replied to the supplemental filing of the Complainant on June 22, 2015, and submitted another supplemental filing on July 2, 2015.

#### **4. Factual Background**

##### **A. The Complainant**

The Complainant is a public and regulated body that integrates and represents the real estate agents and affiliate associations of such type of professionals from the region of Barcelona, Spain. This type of bodies are regulated in Spain under the *Real Decreto No. 1294/2007, de 28 de septiembre, por el que se aprueban los Estatutos Generales de los Colegios Oficiales de Agentes de la Propiedad Inmobiliaria y de su Consejo General*<sup>1</sup> (hereinafter, the "*Real Decreto No. 1294/2007*"). This regulation sets forth specific requirements for joining this type of bodies and, therefore, be able to be identified as a Spanish official real estate agent ("*agente de la propiedad inmobiliaria*" or through the acronym "API").

Pursuant to the information provided in the Complaint, the Complainant was incorporated more than 60 years ago and has become a point of reference in the Barcelona area for obtaining information on real estate matters by official agents. In this respect, the Complainant has provided significant evidence of its numerous Spanish trademark registrations for API. For the purposes of this proceeding, the following trademark registrations may be mentioned:

- Spanish trademark API No. 2240146, registered with effects since June 10, 1999 under class 16 of the International Nomenclator;
- Spanish trademark API No. 2240147, registered with effects since June 10, 1999 under class 35 of the International Nomenclator;
- Spanish trademark API No. 2240148, registered with effects since June 10, 1999 under class 36 of the International Nomenclator;
- Spanish trademark API No. 2240149, registered with effects since June 10, 1999 under class 42 of the International Nomenclator;
- Spanish trademark API No. 2778591, registered with effects since June 20, 2007 under class 36 of the International Nomenclator;

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<sup>1</sup> Unofficial Translation from the Expert in English "Royal Decree No. 1294/2007, dated September 28, approving the general rules governing official bars of real estate agents".



- Spanish trademark API – AGENT PROPIETAT IMMOBILIARIA No. 2778357, registered with effects since June 19, 2007 under classes 9, 16, 35, 36, 37, 38, 41 and 45 of the International Nomenclator;

- Spanish trademark API – COL·LEGI D'AGENTS DE LA PROPIETAT IMMOBILIÀRIA, No. 2778364, registered with effects since June 19, 2007 under classes 9, 16, 35, 36, 37, 38, 41 and 45 of the International Nomenclator.

It is relevant to highlight that the use of the name "*agente de la propiedad inmobiliaria*" or the corresponding acronym API is regulated in Spain. Indeed, pursuant to Article 2 of the *Real Decreto* No. 1294/2007, only the members of the corresponding official bar who count with an active status shall be entitled to use in the context of their professional activities the name "*agente de la propiedad inmobiliaria*"<sup>2</sup>. The Complainant has provided sufficient evidence of the spread and recurrent use of the referred name and its acronym "api" by its members in the development of their professional activities.

## B. The Respondent

The Respondent appears to be a Spanish association composed by entities and individuals who operate real estate intermediation activities. However, the Respondent has described itself, its activities and the role of its members in quite a confusing manner (as summarized in this Section) so the Panel still has doubts on the internal structure of the Respondent as well as its relationship with its members.

According to the information provided in the Response, the Respondent counts with more than 840 members from different regions in Spain and has apparently existed for more than 25 years. This latter statement appears to contradict the information contained on the website connected to the Domain Name – namely at "<http://www.api.info/quienes-somos-gestores-inmobiliarios.asp>" – , where the Respondent defines itself as a "young association". As a matter of fact the Complainant has provided evidence from the *Registro de Asociaciones* – managed by the *Ministerio del Interior* – indicating that the Respondent was actually registered as a Spanish association on December 5, 2011.

Unlike the Complainant – which is a public and regulated body in Spain – the Respondent is a private association that groups persons involved in the real estate market. Similarly, and unlike the Complainant, whose members must fulfill conditions set forth by law in order to join, the Respondent offers an open membership regime, so that any individual or company involved in general real estate intermediation in Spain is entitled to become a member of the Respondent. In this respect, the members of the Respondent are referred by it as professional real estate agents ("*agentes profesionales inmobiliarios*") and not as real estate property agents ("*agentes de la propiedad inmobiliaria*") since that name is reserved by law in Spain to members of bodies like the Complainant.

One member of the Respondent, an association named "*Asociación de Agentes Profesionales Inmobiliarios*", is the owner of the Spanish trademark "AGENTES PROFESIONALES INMOBILIARIOS – API" No. 3038667, registered with effects since July 12, 2012 under class 36 of the International Nomenclator for the operation of insurance, financial operations and property business activities. Currently this trademark (which is based on a graphical combination between the said name and a logo) is in force, regardless of having been challenged before the Spanish Courts by the Complainant.

## C. The Domain Name

The Domain Name was originally registered on November 20, 2003, but was acquired by the Respondent on July 14, 2014.

Since the Respondent took control on the Domain Name it has been connected with a website that hosts a

<sup>2</sup> The actual Spanish wording of that provision sets forth as follows: "*Los colegiados en situación ejerciente podrán utilizar en su actividad profesional la denominación de agente de la propiedad inmobiliaria.*"



large number of real estate opportunities in Spain for purchase and for rent. In addition, that website does also provide information on the Respondent and the services it provides to its members.

In addition, pursuant to a simple search on the Internet, the Panel has been able to find out that the Domain Name is currently publicly being offered for sale through the website "www.sedo.com" (being such an offer available at the following URL:

<https://sedo.com/search/details.php4?language=us&domain=api.info&partnerid=55490&origin=partner>).

#### **D. Previous communications between the Parties before the filing of the Complaint**

Both the Complainant and the Respondent have confirmed that on 2014 they negotiated a potential merger between both entities. Nonetheless, the discussions for completing that transaction were finally unsuccessful and the parties abandoned the project.

In addition, on March 31, 2015, the Complainant sent a cease-and-desist letter to the Respondent, expressly informing it about the existence of its API trademarks and on the breach that the registration and use of the Domain Name supposed in its opinion. In this respect, the Complainant required the Respondent to transfer the Domain Name in its favor to settle the dispute. The Respondent did not respond to that letter.

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

#### **A. Complainant**

The Complainant states:

- That it is a public entity with numerous trademarks based on the name API, which it has used for years for the operation of its activities in the area of Barcelona;
- That the Domain Name is identical to many of its trademark registrations based on the name API, since the word that composes the said domain name is exactly the same as the one included in all its previously registered trademarks and domain names;
- That as a consequence of the similarity existing between the Domain Name and its API trademarks there exists a risk of confusion between the Respondent (as registrant of the Domain Name) and the Complainant. According to the Complainant, such a risk of confusion was actually acknowledged by the Respondent in a public communication from the latter made through the website connected with the Domain Name. In that communication the following text was included: "we are also aware that we promote other groups that resemble our NAME (However this issue will be developed at another time)"<sup>3</sup>;
- That the Respondent does not hold any type of right or legitimate interest in respect of the Domain Name, as the latter includes the same dominant name component (the acronym "API") that any average Internet user will consider related to the Complainant, given its extensive use of the API trademarks for the operation of its activities. In addition to this, the Complainant indicates that the Respondent does not hold any trademark based on the name "api". On the contrary, pursuant to the Complainant, at least four trademark applications filed by the Respondent (or related third parties) based on the name "api" have been rejected by the Spanish Patent and Trademark Office due to the opposition from the Complainant;
- That the Respondent registered and is using the Domain Name in bad faith as the services promoted through the website of the Respondent are exactly the same as those that are promoted through the websites of the Complainant who has lawful rights in the name "API". Hence, according to the Complainant,

<sup>3</sup> Translation provided by the Complainant of the original Spanish text: "Somos conscientes de que también potenciamos a otros colectivos que utilizan una marca que se asemeja a nuestro NOMBRE (Pero este tema lo desarrollaremos en otro momento)".



consumers and Internet users will likely think that the services promoted through the Domain Name belong to the Complainant, creating a likelihood of confusion as to the source, sponsorship, affiliation or endorsement of the website of the Respondent with the Complainant; and

- That, pursuant to all the above, the Domain Name should be transferred to the Complainant.

## B. Respondent

The Respondent states in the Response to the Complaint:

- That its proper name is not "*Associació Experts Immobiliaris*", but "*Associació Professional d'Experts Immobiliaris de Catalunya*". According to the Respondent, it belongs to another entity named "*Federación de Asociaciones de Profesionales de Inmobiliarios*" (sic), which is composed by the Respondent and other three entities – "*Asociación de Agentes Profesionales Inmobiliarios – API*", "*Asociación de Peritos Judiciales Inmobiliarios*", and "*Asociación de Agentes Gestores Inmobiliarios*". The entity holding the Domain Name – allegedly named "*Asociación de Agentes Profesionales Inmobiliarios – API*" – covers the entire Spanish territory and it currently possesses 1,002 email accounts using the Domain Name termination "*api.info*". Pursuant to the Respondent, those email accounts have been granted to its members;
- That the acronym "*api*" was registered by the Complainant as a trademark for the same activities than those carried out by the Respondent. As a matter of fact, the Respondent considers that the said acronym can only be considered with some difficulty as a genuine brand, given its lack of distinctive nature. On the contrary, according to the Respondent, the letters "*api*" in themselves cannot constitute a brand except if they are accompanied by other letters or signs that differentiate them from other API brands. In other words, the Respondent considers that the acronym "*api*" is simply a common and generic name that, as time has gone by, has come to serve for identification of the collective of real estate agents. In this respect, the Respondent considers that the Complainant does not hold any monopoly right on the name "*api*". Actually, the Respondent indicates that such a name does also have other meanings such as, for example "*Application Programming Interface*";
- That the Complainant does not hold the most widespread or important domain names based on the name "*api*" but rather possesses only a domain name (<*api.cat*>) that is preferentially for local use. Taking this into account, the Respondent considers that the real intention of the Complainant is to unfairly obtain access to the Domain Name that is much wider than the one that it is currently using;
- That, pursuant to the Spanish applicable legislation, its members are not real estate agents (so-called "*agentes de la propiedad inmobiliaria*" in Spanish) but rather real estate professional agents ("*agentes profesionales inmobiliarios*"). In this respect, the Respondent highlights that currently in Spain becoming a member of an official bar of real estate agents ("*colegio oficial de agentes de la propiedad inmobiliaria*") requires the fulfillment of conditions that 99% of its members do not fulfill. According to the Respondent, the reason why it was incorporated as a Spanish association was precisely to allow real-estate professionals who could not fulfill the conditions set forth by the applicable regulations to identify themselves as members of an association of so-called "real estate professional agents" ("*agentes profesionales inmobiliarios*"). In this respect, the Respondent indicates that it has become an association with a long history, having existed for more than 25 years as an entity grouping real estate intermediation professionals. As a consequence of this, the Respondent considers that there exists no risk of confusion between the Complainant and itself;
- That one of its members, so-called "*Asociación de Agentes Profesionales Inmobiliarios – API*", is the owner of a Spanish trademark based on the name AGENTES PROFESIONALES INMOBILIARIOS – API since July 12, 2012. This trademark is currently in force, regardless of the opposition and actions filed against it by the Complainant. The Respondent alleges also that it is the owner of the Spanish trademark ASOCIACIÓN DE AGENTES PROFESIONALES INMOBILIARIOS - API No. 3525235, regardless of having been challenged by the Complainant;



- That the so-called "*Associació Professional d'Experts Immobiliaris de Catalunya*", the actual registrant of the Domain Name, is an integral part of the "*Asociación de Agentes Profesionales Inmobiliarios – API*". In this respect, the Respondent indicates that this fact allows considering that the latter holds a legitimate right in the Domain Name. In addition, the Respondent indicates that it obtained the Domain Name from a third party that had registered it back in 2003 (having paid an amount of EUR 5,029.25). Since that moment the Respondent alleges that it has used the Domain Name in order to inform on its activities as well as to provide email services (through personalized mail addresses connected to the Domain Name) to its members;

- That, apart from the above-mentioned uses, the Respondent has used the Domain Name in connection with radio and television advertisements. The Respondent indicates in this respect that, regardless of the efforts from the Complainant to block the broadcasting of those advertisements, they were approved by Autocontrol – self-regulatory body in Spain for advertising issues – and could be normally broadcasted as – according to the Respondent – were considered not to cause any type of confusion with the Complainant and its activities;

- That it has made a legitimate and fair or noncommercial use of the Domain Name, with no intention to divert mistaken consumers. On the contrary, the Respondent states that any user of the website connected to the Domain Name is immediately and obviously aware of the Respondent owning and operating it – avoiding any potential confusion with the Complainant –. The Respondent insists in this point, by indicating that when both parties were negotiating their merger, the Complainant did accept identifying the Respondent as "api" and that such a reference was actually included in the draft agreement that both parties prepared in the context of the corresponding negotiations;

- That it does not compete against the Complaint, since the latter is an entity subject to public law while the Respondent is a private association of professionals in the real estate sector. Another element that, pursuant to the Respondent, clearly differentiates each party is that their corresponding members are subject to different requirements (much tougher in the case of the Complainant) and legal regime; and

- That pursuant to all the above, the Complaint should be rejected.

## **6. Discussion and Findings**

In accordance with paragraph 4(a) of the Policy, the Complainant must prove to the Panel the following three circumstances in order to obtain the transfer of the Domain Name:

- (i) that the Domain Name is identical or confusingly similar to trademarks in which the Complainant has rights; and
- (ii) that the Respondent does not have any rights or legitimate interests in respect of the Domain Name; and
- (iii) that the Domain Name has been registered and is being used by the Respondent in bad faith.

### **A. Preliminary Matter: Language of the proceedings**

In accordance with paragraph 11 of the Rules, the language of the proceeding is the language of the registration agreement, unless both parties agree otherwise, or the panel determines otherwise.

According to information the Center received from the concerned registrar, the language of the registration agreement for the Domain Name is Spanish. The Panel notes that the Complainant submitted a request that English be the language of the proceedings, to which the Respondent did not reply and therefore, did not object to the Complainant's request. The Response was then filed in English and Spanish.

After considering the circumstances of the present case, the Panel considers that the Respondent's silence

  
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towards the Complainant's request for English to be the language of the proceedings might be interpreted as an indirect agreement that the language of the proceedings be English. Therefore, the Panel decides that the language of the proceeding is English.

### **B. Unsolicited supplemental filings**

As already mentioned in Section 3 of this Decision, the Center received unsolicited supplemental filings from the Complainant on June 18, 2015 and from the Respondent on June 22, 2015 and July 2, 2015.

In accordance with paragraph 10(d) of the Rules, panels have discretion whether to accept an unsolicited supplemental filing from either party, bearing in mind the need for procedural efficiency, and the obligation to treat each party with equality and ensure that each party has a fair opportunity to present its case. (See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Second Edition ("WIPO Overview 2.0"), paragraph 4.2).

In this case, this Panel has decided not to accept the parties' supplemental filings since they do not provide new evidence and do not change the substance of this case. In any event, even if these had been accepted, they would not have changed the outcome of this Decision.

### **C. Identical or Confusingly Similar**

According to the Policy, the first element that must be proven by the Complainant is that the Domain Name is identical or confusingly similar to the Complainant's trademarks.

The comparison must be made between the Complainant's API trademarks and the Domain Name. Such a comparison shows just a difference: the Domain Name includes the ".info" suffix. Such a difference is due to the technical specificities of the Domain Name System (DNS). Therefore, it should not be taken into account in order to evaluate the identity or similarity between the Domain Name and the Complainant's trademarks (in this regard, see, for example, *New York Life Insurance Company v. Arunesh C. Puthiyoth*, WIPO Case No. D2000-0812 or *A & F Trademark, Inc., Abercrombie & Fitch Stores, Inc., Abercrombie & Fitch Trading Co., Inc. v. Party Night, Inc.*, WIPO Case No. D2003-0172).

Consequently, the Panel finds that the Domain Name is identical to the Complainant's trademarks.

### **D. Rights or Legitimate Interests**

Paragraph 4(a)(ii) of the Policy requires the Complainant to prove that the Respondent has no rights or legitimate interests in respect of the Domain Name. In this regard, paragraph 4(c) of the Policy sets forth a number of circumstances where the Respondent may have rights or legitimate interests. Those circumstances are:

- To have used the Domain Name or to have made demonstrable preparations for its use before any notice of the dispute in connection with a *bona fide* offering of goods and/or services; or
- To have been commonly known by the Domain Name, even when no trademark or service mark rights had been acquired; or
- To make a legitimate non-commercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

In this case, the Respondent relies on two main elements for considering that it holds a proper legitimate interest on the Domain Name:

- On the one hand, the Respondent indicates that the name "api" – which would allegedly serve as an acronym for the Spanish name "*agentes profesionales inmobiliarios*" – identifies it as well as its members in



the context of their real-estate intermediation professional activities. In this respect, the Respondent considers that the name "api" does not necessarily and exclusively refer to the Complainant, but should be understood as a generic denomination that could be also applied to the Respondent itself as well as to its members.

- On the other hand, the Respondent highlights that, without prejudice of the above, it does also directly and indirectly hold rights on Spanish registered trademarks that are based on the name "api".

On the first allegation, the Panel takes into account from the particular regulatory status of the name "api" in Spain. As indicated in the Factual Background, according to the *Real Decreto No. 1294/2007* only the members of official bars of real estate agents are legally entitled to be identified as "*agentes de la propiedad inmobiliaria*", an official name that is usually used in Spain as the corresponding acronym – i.e. API –.

In light of the above, the first conclusion that can be reached on this point is that the denomination "api" in Spain corresponds to a legally protected name that is directly connected with it. Therefore, the allegation from the Respondent that "api" should also be deemed as corresponding to the name "*agentes profesionales inmobiliarios*" is questionable. Note in this respect that both complete names would be referred to very similar activities (real estate intermediation), for which one of these names (the one used by the Complainant) was an express legal protection.

Considering the acronym "api" – which, as indicated above, is generally perceived in Spain to "*agentes de propiedad inmobiliaria*" – as freely usable in Spain by any type of real estate intermediation professionals (even by those not fulfilling the legal requirements to do so) would be, in the opinion of the Panel, contrary to the spirit and intention of the Spanish regulations. Indeed, those regulations do set forth a specific legal restriction for the use of that name precisely in order to ensure that only individuals fulfilling a number of legal conditions can be identified as such in the market.

Taking this into account, the Panel disagrees with the Respondent on the value of the name "api" in connection with real estate intermediation activities under Spanish law. Under the Panel's opinion, this is not an abstract name that can be used without restrictions for the operation of the said activities, but it is a name which use is not just restricted by law but it has an obvious connection with the professional activities reserved to professionals who are members of bodies like the Complainant (implying an obvious risk of confusion on the Spanish consumers).

Having analyzed the above, the Panel must address the second main allegation from the Respondent on the potential holding of a legitimate interest in the Domain Name. This second allegation is based on the fact that the Respondent holds rights in two Spanish trademarks based on the name "API".

In this respect, the Respondent firstly makes reference to the Spanish trademark "ASOCIACIÓN DE AGENTES PROFESIONALES INMOBILIARIOS - API" No. 3525235. After having consulted the online database of the Spanish Patent and Trademark Office, the Panel has been able to determine that this trademark was finally rejected by the Spanish authorities due to the opposition filed by the Complainant. Hence, what the Respondent states on this trademark is false and, hence, cannot be deemed as a valid ground to consider it as a right or legitimate interest in the Domain Name.

The Respondent does also make reference to the Spanish trademark AGENTES PROFESIONALES INMOBILIARIOS – API No. 3038667, which is actually owned by an association named "*Asociación de Agentes Profesionales Inmobiliarios*" (which would apparently be a member of the Respondent).

In connection with this trademark, the Panel considers that two issues must be highlighted:

- The Respondent has not provided fully convincing documents on that trademark having been properly licensed in its favor (or even on its owner being a proper member of the Respondent). Given this absence of evidence, the Panel is not fully convinced on the Respondent having been properly licensed by *Asociación de Agentes Profesionales Inmobiliarios* to use that trademark for the registration and use of the Domain



Name. As a matter of fact, as far as the Panel has been able to review, the corresponding trademarked logo is not displayed on the website connected with the Domain Name.

- Regardless of the doubts that the Panel has on the rights of the Respondent to use the AGENTES PROFESIONALES INMOBILIARIOS – API trademark, it is also dubious that this trademark – as it is registered with the Spanish Patent and Trademark Office – could be considered as granting a legitimate right in the Domain Name. Certainly, in the opinion of the Panel, if that trademark (which is graphical) is compared with the Domain Name it has quite a limited connection with the latter. In this respect, the name “api” as included in that trademark has a secondary role compared to corresponding graphical logo and the text “agentes profesionales inmobiliarios”. Therefore, the Panel considers that the link between that trademark and the Domain Name is not strong enough to consider the trademark as a “right or legitimate interest” in the sense of the Policy. This conclusion is also based on the fact that – as previously mentioned – the name “api” when used in connection with real estate intermediation services in Spain has an obvious connection with the official name which can only be used by members of bodies like the Complainant.

Bearing in mind the above, the Panel considers that the Respondent has failed to prove that it holds a right or legitimate interest in the Domain Name.

#### **E. Registered and Used in Bad Faith**

The last of the elements set forth by paragraph 4(a) of the Policy is that the Complainant proves that the Respondent has registered and uses the Domain Name in bad faith.

In this regard, the need to prove the existence of registration and use in bad faith of the Domain Name are cumulative conditions under the Policy (as established since the beginning of the application of the Policy, for example in *World Wrestling Federation Entertainment, Inc. v. Michael Bosman*, WIPO Case No. D1999-0001, or *Robert Ellenbogen v. Mike Pearson*, WIPO Case No. D2000-0001).

##### **i. Registration of the Domain Name in Bad Faith**

In order to find that paragraph 4(a)(iii) is satisfied, the Panel must consider the fact that, in its opinion and pursuant to the Policy, the Respondent does not hold a legitimate right or interest on the Domain Name. This conclusion is based partly in the fact that the name “api” is legally connected in Spain with entities like the Complainant, incorporated more than 60 years ago in the context of real estate intermediation activities. As a consequence of this, the Respondent should have been aware of the risk of confusion existing on its own nature and connections with bodies like the Complainant when it registered the Domain Name.

This conclusion is reinforced precisely due to the fact that the acronym “api” cannot reasonably be considered a generic and abstract term in Spain and under Spanish law when being used in the context of real estate intermediation or by professionals involved in that sector (as it is the case of the Respondent).

Consequently, the Panel considers that the Respondent registered the Domain Name in bad faith.

##### **ii. Use of the Domain Name in Bad Faith**

As previously indicated, the Domain Name has been used for the offering of real estate intermediation services, a field where the Complainant and its members are involved. Taking into account the evident similarity between the Domain Name, the Complainant’s trademarks and the legally protected name in Spain, and the lack of existence of a legitimate interest or right in the Domain Name by the Respondent, the Panel finds that the Domain Name is being used in bad faith.

Such an approach was followed in precedent decisions dealing with similar scenarios (see, for example, *TPI Holdings, Inc. v. JB Designs*, WIPO Case No. D2000-0216; *Jupiters Limited v. Aaron Hall*, WIPO Case No. D2000-0574; *Brown & Williamson Tobacco Corp., et al. v. Dennis Wilkins*, WIPO Case No. D2001-0865; *Gaggia S.p.A v. Yokngshen Klingi*, WIPO Case No. D2003-0982; or *Mediacorp Radio*

*Singapore PTE. Ltd. v. HL Lim aka Hwee Lee Lim*, WIPO Case No. D2004-0291).

Bad faith in this case is reinforced by the fact that the Domain Name is being publicly offered for sale through a website specialized in this type of transactions.

Consequently, the Panel considers that the condition set out by paragraph 4(a)(iii) of the Policy has been met by the Complainant.

## 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 Domain Name <api.info> be transferred to the Complainant.



**Albert Agustinoy Guilayn**

Sole Panelist

Date: July 15, 2015



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