

ADMINISTRATIVE PANEL DECISION

Talend S.A.S. v. adfadfga gqregewfqw, dafadadsfd adfdaffa
Case No. D2023-3813

1. The Parties

The Complainant is Talend S.A.S., France, represented by BrandIT GmbH, Switzerland.

The Respondents are adfadfga gqregewfqw, United Kingdom (the “UK”), and dafadadsfd adfdaffa, Singapore.

2. The Domain Names and Registrar

The disputed domain names <talend-boost.com>, <talendcareen.com>, and <talendsenna.com> are registered with Gname.com Pte. Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 13, 2023. On September 13, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On September 14, 2023, 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 (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 15, 2023 with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting the Complainant to either file separate complaint(s) for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity. The Complainant filed an amended Complaint on September 20, 2023.

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 September 26, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 16, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 17, 2023.

The Center appointed Taras Kyslyy as the sole panelist in this matter on October 25, 2023. 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 a software company that specializes in business intelligence and data visualization which has created the Talend platform, which is a data integration platform that helps organizations to connect, transform, and manage data across various systems and applications. The Complainant has a global presence with offices in North America, Europe, and the Asia Pacific region, and maintains a network of international partners.

The Complainant owns numerous registrations for TALEND trademark, including for instance Singaporean trademark registration No. 40201615713P registered on March 25, 2016, and the UK trademark registration No. UK00914226989 registered on September 23, 2015.

The disputed domain name <talend-boost.com> was registered on August 24, 2023. The disputed domain name <talendcareen.com> was registered on August 28, 2023. The disputed domain name <talendsenna.com> was registered on July 16, 2023. The disputed domain names resolved to a webpage prominently featuring the Complainant's trademark and suggesting users to enter username and password to log in or register an account. At the time of the present decision the disputed domain names do not resolve to any active websites.

The Complainant sent cease and desist letters to the Registrar of the disputed domain names, however no response followed.

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 identical or confusingly similar to the Complainant's trademark. The disputed domain names incorporate entirely the Complainant's trademark. The Complainant's trademark is clearly recognizable within the disputed domain names.

The Complainant also contends the Respondents have no rights or legitimate interests in respect of the disputed domain names. The disputed domain names were registered by the Respondents well after the registration of the Complainant's trademarks. The Complainant has not licensed or authorized the Respondents to use its trademarks. The Respondents are not affiliated to the Complainant. The Complainant did not authorize the Respondents to register or use the disputed domain names incorporating its respective trademarks nor have the Complainant endorsed or sponsored the Respondents or the Respondents' websites. There is no evidence that the Respondents are commonly known by the disputed domain names or own any registered trademarks including the terms "talendsenna.com", "talend-boost.com" and "talendcareen.com". When entering the term "talend" in the Google search engine, the returned results point to the Complainant and its online activity. Although there is currently no active infringement or content associated with the disputed domain names, the passive holding of the disputed domain name could still create confusion among the Internet users seeking the Complainant's services.

Finally, the Complainant contends the disputed domain names were registered and are being used in bad faith. The registration of the Complainant's trademarks predates the registration of the disputed domain names and the Respondents have never been authorized by the Complainant to use the TALEND

trademarks nor to register the disputed domain names. Nonetheless, the Respondents have chosen to use the distinctive Complainant's trademark in the disputed domain names in its entirety. It is very likely that the Respondents registered the disputed domain names using the Complainant's trademark intentionally in order to take advantage of the reputation of the trademark and the Complainant's goodwill free riding on the Complainant's reputation. The deliberate redaction of WhoIs data for privacy purposes signals an intent to obfuscate the identity and evade recognition. The contact details submitted by the Respondents are blatantly fictitious, thereby affirming the Respondents' use of the disputed domain names in bad faith. The fact that the disputed domain names incorporate in its entirety the trademark TALEND without displaying a disclaimer of affiliation with the Complainant's official website, may mislead the potential consumers by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation and making the general public believe that the paid services advertised on the websites are actually official and authorized by the Complainant. Before filing the Complaint, the disputed domain names hosted a webpage infringing the Complainant's rights.

B. Respondent

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

6. Discussion and Findings

6.1 Preliminary Issue: Consolidation of Multiple Respondents

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

The disputed domain name registrants did not comment on the Complainant's request.

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 resolved to identical webpages and were registered within a short period of time using same Registrar. Also, the IP addresses of the disputed domain names <talendsenna.com> and <talend-boost.com> coincide.

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 name registrants (referred to below as "the Respondent") in a single proceeding.

6.2 Substantive Issues

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 3.0](#), section 1.7.

Based on the available record, the Panel finds 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 entirety of the Complainant's trademark is reproduced within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the Complainant's trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other terms "boost", "careen", and "senna" may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain names and the Complainant's trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, 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.

While 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 often impossible 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. 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 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.

Panels have held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. In the present case the disputed domain names resolved to a same website where the Complainant's trademark was prominently displayed together with a copyright notice "Copyright © Talend All Rights Reserved". Therefore, the disputed domain names were used to collect usernames and passwords of the Internet users, who thought that they were logging in to the Complainant's website services. The Panel considers such activity as illegal.

The available evidence does not confirm that the Respondent is commonly known by the disputed domain name, which could demonstrate its rights or legitimate interests (see, e.g., *World Natural Bodybuilding Federation, Inc. v. Daniel Jones, TheDotCafe*, WIPO Case No. [D2008-0642](#)).

The Complainant did not license or otherwise agree for use of its prior registered trademarks by the Respondent, thus no actual or contemplated *bona fide* or legitimate use of the disputed domain names could be reasonably claimed (see, e.g., *Sportswear Company S.P.A. v. Tang Hong*, WIPO Case No. [D2014-1875](#)).

Based on the available record, 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.

According to section 3.2.2 of the [WIPO Overview 3.0](#) noting the near instantaneous and global reach of the Internet and search engines, and particularly in circumstances where the complainant's mark is widely known (including in its sector) or highly specific and a respondent cannot credibly claim to have been unaware of the mark (particularly in the case of domainers), panels have been prepared to infer that the respondent knew, or have found that the respondent should have known, that its registration would be identical or confusingly similar to a complainant's mark. Further factors including the nature of the domain name, the chosen Top-Level Domain, any use of the domain name, or any respondent pattern, may obviate a respondent's claim not to have been aware of the complainant's mark. The Panel finds that the use of the disputed domain names incorporating the entirety of the Complainant's distinctive trademark for placement of websites prominently featuring the Complainant's trademark confirms the Respondent knew and targeted the Complainant and its trademark when registering the disputed domain names, which is bad faith.

Panels have held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) 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 to collect usernames and passwords of the Internet users believing they access the Complainant's website constitutes bad faith under the Policy.

The disputed domain names currently do not resolve to any website. According to section 3.3 of the [WIPO Overview 3.0](#) from the inception of the UDRP, panelists have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. In this regard the Panel takes into account (i) the degree of distinctiveness and reputation of the Complainant's trademark, (ii) the failure of the Respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the failure of the Respondent to address the Complainant's cease and desist letters, (iv) the previous use of the disputed domain names in connection with impersonation websites, and (v) the implausibility of any good faith use to which the disputed domain names may be put.

Based on the available record, the Panel finds the third element of the Policy has been established.

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, <talend-boost.com>, <talendcareer.com>, and <talendsenna.com>, be transferred to the Complainant.

/Taras Kyslyy/

Taras Kyslyy

Sole Panelist

Date: November 6, 2023