

ADMINISTRATIVE PANEL DECISION

QlikTech International AB v. Thomas Sturtz
Case No. D2024-4798

1. The Parties

The Complainant is QlikTech International AB, Sweden, represented by Abion AB, Sweden.

The Respondent is Thomas Sturtz, United States of America ("United States").¹

2. The Domain Name and Registrar

The disputed domain name <netqlik.com> is registered with Dynadot Inc (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on November 20, 2024. On November 21, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 22, 2024, 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 (Redacted For Privacy, Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 22, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint.

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 November 29, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 23, 2024. The Response was filed with the Center on December 19, 2024.

¹The Respondent stated in an email to the Center of November 26, 2024 that it moved out of the United States "over a year ago" and provided an address in Serbia but the Panel lists here the Respondent's country location as provided in the Registrar verification process.

The Center appointed Andrew D. S. Lothian as the sole panelist in this matter on December 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

According to the Complaint, the Complainant is a technology company specializing in data analytics and business intelligence solutions, allowing businesses to consolidate and visualize data from various sources on the Complainant's platform. The Complainant states that it has a global presence with offices in North America, Canada, Brazil, Europe, Middle East, Asia, and Africa, together with a network of international partners. The Complainant produces a customer satisfaction report which shows that 90 per cent of responding customers (a total of 1,783 reviews) have rated its services at five or four out of five stars. The Complainant also says that it was named as a Top 10 Innovative Growth Company for 2015 in Forbes' annual list of top 100 global innovative growth companies and produces a self-generated blog post dated May 15, 2015 in which it discusses this award.

The Complainant owns a variety of registered trademarks for the term QLIK including, for example, United States Registered Trademark Number 2657563 for the word mark QLIK, registered on December 10, 2002 in Class 9 (computer software for accessing and analyzing database information).

The disputed domain name was registered on November 13, 2024. According to a screenshot produced by the Complainant dated November 20, 2024, the website associated with the disputed domain name contains the Registrar's branding and features pay-per-click ("PPC") links. The links displayed, which appear to be partially in the Italian language, are "Piattaforma Welfare", "Software Cantiere", and Piattaforme Email Marketing"). These translate (Panel's machine translation) to "Welfare Platform", "Construction Site Software", and "Email Marketing Platforms".

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 only difference between the disputed domain name and the Complainant's QLIK mark is the prefix "net", which does not eliminate the confusing similarity, as the core and distinctive part, the Complainant's mark, remains unchanged and prominent. The Complainant asserts that the QLIK mark is recognizable within the disputed domain name.

The Complainant notes that the disputed domain name was registered well after the registration of the Complainant's QLIK mark and states that the Respondent is not affiliated to the Complainant, adding that the Complainant has neither licensed nor authorized the Respondent to use such mark, nor to register or use the disputed domain name incorporating such mark, nor has the Complainant endorsed or sponsored the Respondent or the Respondent's website. The Complainant states that there is no evidence that the Respondent is commonly known by the disputed domain name or owns any corresponding registered trademarks. The Complainant notes that the disputed domain name is parked and not used for any legitimate business purpose, asserting that the Respondent is not using it in connection with any bona fide offering of goods or services. The Complainant asserts that the passive holding of the disputed domain name suggests an intent to prevent the Complainant from using its mark in a corresponding domain name or an intent to profit from the Complainant's well-established trademark.

The Complainant asserts that its trademark is distinctive, and that the Respondent must have known of it before it registered the disputed domain name as it is included in its entirety therein, adding that had the Respondent conducted a simple online search of the term, it would have learned about the Complainant and its business. The Complainant asserts that it is likely that the disputed domain name was registered to take advantage of the reputation of its mark, and of its goodwill, to free-ride on its reputation. The Complainant asserts that the Respondent is passively holding a domain name incorporating a famous mark, and that this constitutes sufficient evidence of bad faith. The Complainant submits that the mere registration of a domain name that is confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith, adding that the lack of any disclaimer of affiliation means that potential consumers may be misled by the creation of a likelihood of confusion with the Complainant's mark as to source, sponsorship, or affiliation.

B. Respondent

The Respondent contends that the Complainant has not satisfied the elements required under the Policy for a transfer of the disputed domain name.

The Respondent asserts that the word "net" distinguishes the disputed domain name from the Complainant's mark, as the disputed domain name represents a combined brandable and fanciful word "netqlik", adding that said word has an entirely different meaning from the QLIK mark, and that the word "net" is a dictionary word. The Respondent also adds (but does not evidence) that the term "qlik" is a suggestive mark for the word "click" and is not unique or well-known as the Complainant's mark. The Respondent argues that the Complainant's mark is not recognizable in the disputed domain name as "it is a difficult word to identify combined with "net"".

The Respondent asserts that it is the rightful owner of the disputed domain name, which was acquired on November 13, 2024, and was freely available to register at that date, adding that the timeline between such registration and the filing of the Complaint, being no more than one week, suggests that the Complainant has used some form of monitoring software, and asserting that the Respondent's use in no way constitutes passive holding. The Respondent suggests that the Complainant should have made suitable defensive registrations if it had wanted the disputed domain name for itself.

The Respondent asserts that it is "involved with multiple businesses and multiple priorities and plans and is not required to show proof of expediency or timeliness alone in establishing and registering an official trademark and opening up a business related to the [disputed] domain name", adding that it "maintains a legitimate and viable interest in the domain name for bona fide business and is granted the right to not disclose the interest for reasons to prevent the Complainant from filing trademark classes in the interest of the Respondent". The Respondent notes that the Complainant has not been granted the right to worldwide exclusive use of the QLIK mark or for other use classes in which it has not registered said mark, and particularly has not been granted rights in respect of the word "netqlik".

The Respondent states that it spent multiple hours and days coming up with a suitable domain name for a business idea, adding that having the disputed domain name parked for one week is not indicative of bad faith. The Respondent adds that it has made no modifications to the disputed domain name such as changes to DNS or email settings in that time. The Respondent denies that it had heard of or seen the Complainant's trademark before notification of the Complaint. The Respondent argues that the Complainant's reputation and goodwill is "a false perception" based upon the existence of three lawsuits that it says have been raised against the Complainant (hyperlinks to press releases referring to such actions and one online case citation provided).

The Respondent concludes that the Complainant's attempt to gain control of the disputed domain name may suggest bad faith on its part to secure it for another product or service, or to try to increase the strength of the Complainant's trademark.

6. Discussion and Findings

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 entirety of the mark is reproduced 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.

Although the addition of other terms, here, the prefix "net" may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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 name, based upon its submissions that the Respondent is not affiliated to the Complainant, that the Complainant has neither licensed nor authorized the Respondent to use its QLIK mark, nor to register or use the disputed domain name incorporating such mark, that the Complainant has not endorsed or sponsored the Respondent or the Respondent's website, and that there is no evidence that the Respondent is commonly known by the disputed domain name or owns any corresponding registered trademarks.

The Panel therefore turns to the Respondent's case in rebuttal. The Panel notes that the Respondent asserts that it has rights and legitimate interests in the disputed domain name because the Respondent registered it for an allegedly legitimate (unspecified) business purpose, and did so independently and without knowledge of the Complainant's rights in its QLIK mark, by combining the word "net" with an allegedly fanciful rendering of the word "click" as "qlik".

Taking the latter part of the Respondent's case first, the Panel can see that the disputed domain name combines the word "net" with "qlik" and that the latter term could be either a fanciful rendering of the word "click", which the Respondent contends that it came up with independently of the Complainant's mark, or an intentional incorporation of the Complainant's trademark. The Panel notes in passing that the Respondent

has not demonstrated that such a rendering of “click” is in general usage, other than to denote the Complainant’s distinctive trademark, despite its submission to that effect. In any event, a key aspect to the question of whether the Respondent could have chosen the disputed domain name independently of, or by reference to the Complainant’s mark, is the distinctiveness, extent or reach, and notoriety of such mark, which the Panel must consider on the basis of the evidence on the present record.

There are several assertions in the Complaint regarding the Complainant and its QLIK brand in respect of which the Complainant does not provide supporting evidence. For example, it asserts that it is a global business with multiple offices worldwide but produces nothing to demonstrate this. It says that even “a simple online search” would have disclosed its interest to the Respondent but does not produce an example of such a search. The Panel can apply no weight to such conclusory allegations.

Upon review of the Complainant’s documentary evidence, it may be seen that this key plank of the Complainant’s case rests exclusively on the longstanding nature of the Complainant’s QLIK mark, a customer satisfaction survey, and a self-generated blog post discussing the fact that the Complainant allegedly received an award from “Forbes” (the Panel here assumes it means the eponymous American business magazine) in about May 2015, almost a decade ago.

There is much to criticize in the quality of the evidence that the Complainant does produce, and if the Complainant requires to establish its notoriety in future cases under the Policy, it may wish to rethink how best to demonstrate this from a reasonable selection of suitable independent sources. In particular, the customer survey that is produced on the present record only establishes that the Complainant is popular among some of its own customers (90 per cent of 1,783 reviews rating it positively, the latter number being loosely described by the Complainant as “thousands”) although it is axiomatic that the Complainant’s customers will be a self-selecting group who know who the Complainant is. The Panel is doubtful, however, that this evidence goes a sufficient distance on its own to establishing that the Complainant and/or its QLIK mark would necessarily have been known to a person in the position of the Respondent. Likewise, although the Complainant asserts that it has received a prestigious industry award, the best evidence of this would be either the award citation itself, or relevant independent media coverage of the award, and not the Complainant’s self-generated blog post discussing its alleged receipt of same. In any event, an award made almost a decade ago may not necessarily resonate with Internet users today.

In fact, had it not been for the Respondent’s own evidence concerning the three court cases involving the Complainant’s apparent subsidiary or affiliate (an entity that is in any event asserted by the Respondent to be the Complainant itself) the Panel may have found that there was insufficient evidence on the record to establish the Complainant’s notoriety to the requisite standard. However, the details of the court cases as provided on three websites to which the Response links serve to supplement and support the Complainant’s own case as to its alleged notoriety.

As far as the Panel can tell, the court cases (or announcements of the filing of such cases) indicate that, as of 2016, a publicly listed company named Qlik Technologies, Inc., then listed on the NASDAQ Global Select Market (NASDAQ:QLIK) was subject to an all-cash merger worth USD 3 billion.²

The precise subject matter of the cases themselves, concerning individual and class actions brought, or to be brought, by various aggrieved shareholders, is not particularly relevant for present purposes. The cases do not, for example, serve to support the Respondent’s contention that the Complainant’s reputation and goodwill in the QLIK mark is “a false perception” or, more importantly, that the Complainant does not own the rights that it purports to own, or that it does not have the notoriety that it purports to have. The Respondent’s material, taken together with that produced by the Complainant, does demonstrate to the Panel’s satisfaction

²The Panel also notes in this context that the original holder of the QLIK trademark described in the factual background section above was an entity named QLIKTECH, INC, and furthermore that the specimen of use of such trademark in 2012 matches the Complainant’s current branding, demonstrating the likely link between the entity Qlik Technologies, Inc. and the Complainant, a link which appears to be accepted by the Respondent in its own submissions.

that the Complainant is a very substantial concern indeed, and that its corporate trading activities, or those of its affiliate or subsidiary, have garnered notoriety in the United States, the place where the Respondent was based until recently. This suggests to the Panel on the balance of probabilities that it would be very difficult for the Respondent to have registered the disputed domain name without some awareness of the Complainant and its QLIK mark.

Turning to the other aspect of the Respondent's case, the Respondent argues that it registered the disputed domain name for a legitimate and bona fide business purpose, and that it is "not required to show proof of expediency or timeliness alone in establishing and registering an official trademark and opening up a business related to the [disputed] domain name". As far as the Panel is concerned, the Respondent is entirely free to refuse to offer any such proof. However, the Policy and related jurisprudence does require the Respondent to rebut the Complainant's prima facie case, and it is likely to be very difficult for it to do so, if not impossible, unless it shares and evidences something of its alleged intended purpose for the disputed domain name.

Paragraph 4(c)(i) of the Policy requires the Respondent, if it relies upon it, to demonstrate rights and legitimate interests by showing either its use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods and services before notice of the dispute. The phrase "demonstrable preparations" here means that a Respondent that is not able to show any current use of the disputed domain name must nevertheless demonstrate what preparations it has undertaken for such use, which will inevitably require some disclosure to the Panel of its plans. The Respondent is perfectly entitled to refuse to make any such disclosure, for reasons of commercial confidentiality or otherwise, but if it chooses that option, it cannot expect the Panel to accept a mere assurance or a conclusory allegation that its planned use of the disputed domain name could only be in connection with a bona fide offering of goods and services.

In short, the Respondent's conclusory allegation that it is engaged in "multiple businesses and multiple priorities and plans" does not establish any case in terms of paragraph 4(c)(i) of the Policy, although it does suggest that the Respondent envisages a commercial purpose for the disputed domain name, which itself would exclude the Respondent relying upon paragraph 4(c)(iii) of the Policy that relates to noncommercial use. Paragraph 4(c)(ii) of the Policy requires the Respondent to show that it has been commonly known as the disputed domain name, and the Response indicates that this is not the case, given that the Respondent's plans are currently confidential, and it asserts that it has made no previous use of the disputed domain name. There are no other facts or circumstances on the record that otherwise demonstrate the Respondent's 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.

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.

Generally speaking, a finding that a domain name has been registered and is being used in bad faith requires an inference to be drawn that the respondent in question has registered and is using the disputed domain name to take advantage of its significance as a trademark owned by (usually) the complainant. *Instagram, LLC v. Domains By Proxy, LLC / Masud Rana, D-limit Ltd*, WIPO Case No. [D2022-0250](#). Here, the Respondent professes to have been unaware of the Complainant's mark when it registered the disputed domain name. However, the Panel has found it to be established on the record before it that the Complainant is a substantial concern, and that its corporate trading activities, or those of its affiliate or

subsidiary, have garnered notoriety in the place where the Respondent was based until recently, all as discussed in the preceding section. Furthermore, the Complainant's QLIK trademark is of a very longstanding nature and is in force in the same territory. While the Respondent asserted that the term "qlik" in the disputed domain name was intended to represent a fanciful variant of "click", it produced no evidence that such variant is typically accepted as such (as opposed to being known primarily as the Complainant's distinctive trademark). Contrary to the Respondent's position, the Panel considers that prefixing such trademark with the word "net" does not distinguish the disputed domain name from the Complainant's trademark but rather tends to reinforce the impression of an association with the Complainant, given that its business offers a computer-driven platform that aggregates and analyzes data across a corporate network. In all of these circumstances, the Panel considers it to be more likely than not that the disputed domain name was registered in the knowledge of the Complainant's rights in its QLIK mark and with intent to target these.

Turning to the use of the disputed domain name, the Panel notes that the Respondent has not used the disputed domain name in any way, something that is not particularly surprising given the short period between its registration and the filing of the Complaint. This leaves the Panel with the present use of the disputed domain name to consider, namely, the display of a parking page published by the Registrar featuring PPC links, and the Complainant's assertion that the present use of the disputed domain name constitutes passive holding. The Panel considered issuing a Procedural Order to elicit further information from the Respondent as to its intended use of the disputed domain name both with regard to the second and third element assessments under the Policy. However, the Panel is mindful of the fact that it is not the Panel's job to invite a party to improve its case provided it has already received a fair opportunity to present it, and in all respects including this one, the parties must be treated with equality (see paragraph 10(b) of the Rules). In the present matter, the Panel resolved that allowing the Respondent a second opportunity to address its proposed use of the disputed domain name was unnecessary because the Respondent did not unintentionally omit the relevant information from the Response. On the contrary, the Respondent intentionally chose not to provide this to the Panel on the grounds of commercial confidentiality despite having received the opportunity to set out its case as fully as it wished in the Response. This is a line that the Respondent is entitled to take, albeit that the absence of such information is likely to have consequences for the Panel's analysis.

The PPC advertising on the website associated with the disputed domain name refers to corporate software platforms and, as such, is keyed to the Complainant's line of business, and targets the Complainant's QLIK trademark. While the Respondent may not have selected that advertising itself, panels under the Policy typically consider that a respondent cannot disclaim responsibility for content appearing on the website associated with its domain name. Neither the fact that such links are generated by a third party such as a registrar or auction platform (or their affiliate), nor the fact that the respondent itself may not have directly profited, would by itself prevent a finding of bad faith. [WIPO Overview 3.0](#), section 3.5.

Turning to the question of "passive holding", the Complainant relies upon the case of *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#). The concept of "passive holding" as described in that case means circumstances of respondent inaction following the registration of a domain name from which registration and use in bad faith may be inferred. Factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put. [WIPO Overview 3.0](#), section 3.3.

Applying these factors in turn to the present case, the Panel has found that the Complainant's trademark has a degree of distinctiveness or reputation, albeit noting that the Complainant's own evidence fell somewhat short on its own, but that this was bolstered by the Respondent's submissions, which led the Panel to the discussion of the various court cases as outlined above. The Respondent has submitted a Response, but it has failed to provide any evidence of actual or contemplated good faith use of the disputed domain name on the grounds of commercial confidentiality – in terms of the *Telstra* case, this tends to undermine the plausibility of any claimed good faith use to which the domain name may be put. As discussed in the

preceding section, while the Respondent is entitled to keep its plans to itself, this does mean that it has given the Panel nothing to go on as regards its alleged good faith.

The Respondent has not concealed its identity insofar as this was revealed by the Registrar at the point of verification, and indeed, the Respondent provided additional contact details in responding to the Complaint. Finally, in the absence of any demonstration by the Respondent that the term “qlik” exists independently of the Complainant’s trademark, and given the Panel’s previously expressed opinion on the composition of the disputed domain name that the word “net” enhances the impression of an affiliation, the Panel has reached the conclusion that there is no plausible good faith use to which the disputed domain name might be put. Notably, while the Respondent asserts that it plans such a use, it does not explain this further, and the Panel cannot accept a mere assertion of good faith on its own (for a contrasting position where a respondent put forward a fuller explanation that was accepted by the panel in a recent case of alleged passive holding, see *Talend S.A.S. v. Attila Balint Nagy*, WIPO Case No. [D2024-4696](#)).

Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Complainant’s trademark, and the composition of the disputed domain name, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

The Panel finds that the Complainant has established the third element of the Policy.

D. Reverse Domain Name Hijacking

Paragraph 15(e) of the Rules provides that, if after considering the submissions, the Panel finds that the Complaint was brought in bad faith, for example in an attempt at Reverse Domain Name Hijacking or to harass the domain-name holder, the Panel shall declare in its decision that the Complaint was brought in bad faith and constitutes an abuse of the administrative proceeding. The mere lack of success of the complaint is not, on its own, sufficient to constitute reverse domain name hijacking. [WIPO Overview 3.0](#), section 4.16.

Here, the Panel considers that the Respondent’s contention that the Complainant’s attempt to gain control of the disputed domain name may suggest bad faith on its part constitutes a request for a finding of Reverse Domain Name Hijacking. However, given that the Panel has found in the Complainant’s favor in respect of the Complaint, it need not address such request.

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 <netqlik.com> be transferred to the Complainant.

/Andrew D. S. Lothian/

Andrew D. S. Lothian

Sole Panelist

Date: January 13, 2025