

ADMINISTRATIVE PANEL DECISION

Teknologian tutkimuskeskus VTT Oy, Olefy Technologies Oy v. Timo Sokka,
Olefy Technologies
Case No. D2022-4492

1. The Parties

The Complainants are Teknologian tutkimuskeskus VTT Oy (“VTT”) and Olefy Technologies Oy, Finland, represented by Eversheds Attorneys Ltd., Finland.

The Respondent is Timo Sokka, Olefy Technologies, Finland, self-represented.

2. The Domain Names and Registrar

The disputed domain names <olefy.tech> and <olefytech.com> are registered with Hostinger, UAB Hostinger, UAB (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 24, 2022. On November 24, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On November 25, 2022, 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 (Private Registrant(s) / GDPR Masked) and contact information in the Complaint. The Center sent an email communication to the Complainants on November 25, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amended Complaint on November 30, 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 December 1, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 21, 2022. The Response was filed with the Center on December 21, 2022.

The Center appointed Andrew D. S. Lothian as the sole panelist in this matter on January 9, 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 Complainants are affiliated private limited liability companies with their principal place of business in Finland. On August 16, 2022, the first Complainant, VTT, issued a press release announcing that in October 2022 it would be spinning out a new limited company to be named "Olefy Technologies", which would implement a patent-pending technology to extract over 70% virgin grade plastics and chemical raw materials components from plastic waste. Said new company was established by VTT's employee, Mr. Matti Nieminen, by the incorporation of the second Complainant, Olefy Technologies Oy, also on August 16, 2022, under business ID 3305240-5. VTT asserts that the plan for the spin out had been under way since the beginning of 2022.

VTT has a science-based incubator named "VTT LaunchPad" which started operation in 2019. It delivers VTT's spinoff strategy by spinning off companies built on VTT's technologies. VTT brings its researchers and intellectual property together with business minds and investors.

To commercialize its plastics conversion technologies, VTT registered various trademarks in respect of the word OLEFY. For example, the Complainant is the owner of European Union Registered Trademark no. 018192017 for the word mark OLEFY, registered on May 22, 2020 in Classes 7, 11, 39, 40, and 42.

The Respondent was approached on November 30, 2021 by a headhunter commissioned by VTT who stated that VTT were looking for a CEO or "Entrepreneur in residence" for a spinoff company based on VTT's patents, to be the first in the VTT Incubator LaunchPad. The selected person was to be offered a partnership and share in the established company. The Respondent had two interviews with the manager of VTT LaunchPad and a Mr. Jussi Manninen (Senior Vice President, VTT) on December 7, 2021 and January 24, 2022. The Respondent was given a pre-assignment task to make a framework plan for the commercialization of the Olefy spinout project to be delivered by January 11, 2022. The Respondent duly delivered this plan, entitled "OLEFY® Spin-off plan / Conceptualization, commercialization and business start-up".

On February 4, 2022, VTT entered into a non-disclosure agreement with the Respondent, the preamble of which narrated that VTT and the Respondent were interested in prospective cooperation regarding VTT's confidential information, expertise and experience in Olefy technology. In terms of said agreement, the Respondent was to receive related confidential information, including intellectual property rights and business development projects, from VTT. Said agreement provided that any confidential information disclosed to the Respondent would remain VTT's property and that, except as set forth in said agreement, no other rights or licenses thereto were granted by VTT to the Respondent.

On June 29, 2022, the manager of VTT LaunchPad informed the Respondent by email that the Complainant had no special arrangements with any domain name registrar, that the Respondent should select a registrar with whom it wanted a long-term relationship, and that the Complainant's budget did not cover such domain name registrations. The Respondent proceeded to register the disputed domain names and social media handles, and built the website, paying personally for those services.

The Respondent was briefly a board member of the second Complainant, appointed on August 16, 2022, but was relieved of that position on October 4, 2022.

According to Whois records, the disputed domain name <olefytech.com> was registered on July 1, 2022, and the disputed domain name <olefy.tech> was registered on August 12, 2022. When typed into a browser, the disputed domain name <olefy.tech> redirects to the website at the disputed domain name

<olefytech.com>. Said website has the appearance of being a corporate website for the second Complainant, uses its parallel business name Oley Technologies Ltd. and refers to the first Complainant's registered mark, using the term "Oleyf®". The site lists Mr. Nieminen as Head of Technology and the Respondent as Head of Business for said company, with an email address for each of them listed using the disputed domain name <olefytech.com>. It also provides a link to VTT's press release of August 16, 2022.

5. Parties' Contentions

A. Complainants

In summary, the Complainants contend as follows:

Identical or confusingly similar

The disputed domain names are identical, or at least confusingly similar, to the OLEFY trademark. Both of the disputed domain names reproduce the distinctive verbal element OLEFY of said trademark and append a descriptive suffix at the end. <olefy.tech> contains the OLEFY trademark without modification and is identical to it. <olefytech.com> differs from said mark only by the inclusion of term "tech", which is the least eye-catching element because it refers merely to the abbreviation of the word "technology" while mimicking the second Complainant's name. Said term adds nothing distinctive to the disputed domain name and the emphasis remains on the OLEFY verbal element. Both of the disputed domain names are confusingly similar to the second Complainant's registered trade name and were intended to be an abbreviation thereof.

Rights or legitimate interests

The mere registration of the disputed domain names does not establish any rights or legitimate interests therein. The Respondent has not been authorized to register the Complainant's rights, whether VTT's OLEFY trademark or the second Complainant's business name in its own name. The Respondent is not commonly known as the disputed domain names and uses these in a manner that causes confusion to the Complainants. The Respondent has no trademark which entitles it to use the OLEFY mark.

The OLEFY mark is an invented word with no dictionary meaning. It was invented when the related technology was invented and trademarks were then registered for the purpose of commercialization. The unauthorized and misleading use of said mark in the disputed domain names and on the related website does not give the Respondent any independent rights, and the Respondent's confusing use of the disputed domain names could not be considered to be a *bona fide* offering of goods and services.

The Whois data for the disputed domain names matches the Respondent's personal data, including contact details for his personal, different company. The Respondent's use of the indication "Oleyf Technologies" without the company suffix "Oy" and the use of different contact details show that it has given misleading contact information to the Registrar. The Respondent's lack of authorization by the Complainants to register the disputed domain names is sufficient to constitute a *prima facie* showing by the Complainants of an absence of rights and legitimate interests in the disputed domain names on the Respondent's part.

The Respondent had actual knowledge of the first Complainant's OLEFY trademark and its spinout plan and proposed tradename when it registered the disputed domain names. The Respondent's registration of the disputed domain names into its own name could only be to frustrate the Complainants' plans by preventing them from registering them in their own name, to extort money from the Complainants or to lock them into a relationship with the Respondent, or to cause damage to the Complainants.

Registered and used in bad faith

The Respondent fraudulently registered the disputed domain names into its own name and control, and aims to use VTT's history, technology and OLEFY trademark to take unfair advantage in its own business and

purposes while preventing the Complainants from registering domain names reflecting said mark and the second Complainant's tradename. There is nothing to support the Respondent having come up with the name "Olefy" or "Olefy Tech" on its own. All evidence suggests that, before registering the disputed domain names, the Respondent knew of VTT's OLEFY trademark and related spinout plans. This is supported by the fact that the disputed domain names reflect said mark and the second Complainant's registered tradename. The Respondent is using the disputed domain names in the same field of business as the Complainants and reproduces VTT's trademark on the related website.

By using the disputed domain names, the Respondent intentionally, for commercial gain, attempts to attract Internet users to the related website by creating a likelihood of confusion with the OLEFY trademark as to source, sponsorship, affiliation, or endorsement of the Respondent's website, while also damaging the interests and businesses of the Complainants. The Respondent is misleadingly and unlawfully appropriating the OLEFY trademark and goodwill by relying on Internet users finding the Respondent's website via searches or by presuming that these would be registered and controlled by the Complainants.

The Respondent only chose the disputed domain names because the Complainants' plans were well-known to it and not because it would have any rights to, or legitimate interests in, the OLEFY mark. The Respondent has chosen the disputed domain names to mislead Internet users as to their ownership or sponsorship of related websites, to obtain investor and other communications addressed to the Complainants, to prevent the Complainants from obtaining and seeing such communications, and to prevent the Complainants from using domain names that correspond to the mark and tradename.

The Respondent had discussions with VTT on potential consultancy work related to the spinout of Olefy technologies and registered the disputed domain names without authorization into its own name before the second Complainant was established. Although the second Complainant became aware of the registration of the disputed domain names, the registrant data was behind a privacy service. The second Complainant suspected that the disputed domain names were in the Respondent's hands and demanded their transfer on September 29, 2022, and again on October 20, 2022. The Respondent did not reply to these contacts. The Respondent was not a board member of the second Complainant at the time of registration of the disputed domain names and is no longer a board member. The Respondent does not use the disputed domain names for any legitimate business purposes unrelated to the Respondent's efforts to capitalize on their association with the Complainants. The status of a former or current employee does not create any rights or legitimate interests in a domain name. Such person is not a licensee and has no authorization to register or use a company's trademark in its own name without permission.

Registering the disputed domain names with the knowledge of the OLEFY trademarks and the Complainants' plans and businesses constitutes bad faith and their use to benefit unlawfully and to cause detriment to the Complainants constitutes bad faith use. As the Complainants have presented *prima facie* evidence for the Respondent's bad faith, it is up to the Respondent to provide evidence of its good faith in registering and using the disputed domain names.

B. Respondent

In summary, the Respondent contends as follows:

Background

The Respondent was approached by VTT's headhunter for a CEO/Entrepreneur in residence position, had two interviews with VTT and was asked to prepare, and delivered, a framework plan for the commercialization of the Olefy spinout project. The Respondent was informed by VTT that it was selected for the position on February 1, 2022. The Respondent signed a non-disclosure agreement prior to a kickoff meeting held on February 4, 2022. The first project group kickoff meeting was held on February 14, 2022, and from then until September 6, 2022, the Respondent worked continuously on the spinoff project.

The project had been going for some two years before the Respondent took over in February 2022. The team had not performed well due to the poor performance of the business development lead, who was subsequently moved out of the team after the Respondent raised this with VTT. Thereafter, the Respondent worked in the Olefy team with Mr. Manninen until another team member joined in June 2022. The Respondent attended daily meetings, meetings with potential partners, investors, and external advisors, and monthly meetings with VTT. The Respondent also attended entrepreneurship training sessions organized by VTT's LaunchPad with external providers.

In June 2022, the Parties finalized their business plans, investment and profitability calculations and pitch deck, and thereafter, the Respondent was involved in the preparations for the principal press release. At this point, the Respondent discussed the need for an Internet presence for the project, including obtaining email addresses to be "@olefytech.com" before the press release launch. It was concluded that the Respondent would register the disputed domain names and social media handles, and create the website and email addresses.

On June 29, 2022, the Respondent asked the manager of VTT LaunchPad by email if that entity had pre-agreed deals with any Internet Service Provider. Said manager replied that there were no such deals, that the Respondent should register the disputed domain names itself "and then you don't need to worry about transferring the ownership". The Respondent then proceeded to register the disputed domain names and social media handles, and built the website, paying personally for those services. The availability of the disputed domain name <olefy.tech> was raised by the website builder and the Respondent discussed it with Mr. Nieminen and then registered this in addition to <olefytech.com>, paying personally for this. The spinoff company name was only decided in June between the Respondent and Mr. Nieminen.

The press release was issued as planned on August 16, 2022. The Respondent's listed role, "Head of Business, Olefy Technologies", was deliberately omitted from the version of this document produced with the Complaint.

Mr. Nieminen registered the second Complainant without the Respondent's consent, nominating himself as Chairman, CEO and sole shareholder. When queried, he said that there was a concern that someone else might register the company due to the press release. This was a breach of the Respondent's agreement with VTT. Said registration took place while the Olefy team, including the Respondent, were engaged in the process of negotiating service agreements, the spinoff company founding documentation and shareholders' agreement. The disputed domain names were registered at the Respondent's personal expense as directed by VTT more than a month before the second Complainant was incorporated.

On September 6, 2022, VTT's intellectual property manager informed the Respondent that VTT would not invest any intellectual property in a spinoff company in which the Respondent would be participating. This breached the agreement that the Respondent had entered into with VTT on February 1, 2022. The Respondent's legal advisors are in contact with VTT's legal advisors on this issue. There is also a dispute regarding the Respondent's consulting rates.

The Respondent registered the disputed domain names pursuant to a commercial agreement in good faith. It has provided access to the general email account since August 20, 2022 to provide VTT with full access to received email.

Identical or confusingly similar

The Respondent was fully aware of the first Complainant's trademarks and the disputed domain names are similar to the second Complainant's company name. However, the name is not unique as a third party owns <olefy.com>.

Rights and legitimate interests

The Respondent was commissioned by VTT to commercialize the spinoff company as Entrepreneur in residence and later as CEO of the company. The disputed domain names are part of the Respondent's dispute with VTT. Registration of the disputed domain names was thoroughly discussed with the manager of VTT LaunchPad and the Principal Scientist at VTT. The disputed domain names were registered at the Respondent's own expense in its name as instructed by the former, making the Respondent the legal owner of the disputed domain names. The malicious incorporation of the second Complainant was made over a month after the disputed domain names were registered. The Complainants have no rights to them. They lead to webpages built by the Respondent in July/August 2022 for the spinoff company and have been continuously online since then. There is no bad will intentions of fraudulent use. "Olefy" and "Olefytech" are different names.

Before the Respondent received notice of the dispute, there is evidence of its use or demonstrable preparations to use the disputed domain names in connection with a *bona fide* offering of goods or services other than via the second Complainant. The Respondent has been commonly known as the disputed domain names in its capacity as Entrepreneur in residence in the spinoff company "Olefy Technologies". The Respondent was making a legitimate and fair use of the disputed domain names with no intent to divert consumers.

Registered and used in bad faith

The disputed domain names are not used in bad faith but, as originally intended, to promote the spinoff company which the Respondent was leading until breach of the agreement by the Complainants. They are included in the ongoing conciliation between the Parties. They were not registered in bad faith for personal gain to compete with the Complainants or to create confusion for Internet users. The Respondent's intentions are sincere.

Reverse Domain Name Hijacking

The Complainant is deliberately making erroneous claims and allegations. The disputed domain names were not registered for any of the reasons in paragraph 4(b) of the Policy.

6. Discussion and Findings

A. Preliminary matter: consolidation of Complainants

The Complainants seek consolidation of their respective complaints against the Respondent in this case. The Complainants submit that they have a common legal interest and are both the target of and affected by common conduct by the Respondent as further described in the Complaint. The Complainants assert that they have a common grievance and that they both suffer from the Respondent's conduct in terms of the registration and use of the disputed domain names. By way of elaboration, the Complainants note that they do not control and have no access to the disputed domain names although the content on the associated websites contains the first Complainant's OLEFY registered trademarks and material concerning the second Complainant. The Complainants also assert that they do not have access to the general email address presented on said websites and that correspondence which Internet users may aim to address to the second Complainant are not received by it but are received by the Respondent.

Section 4.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") discusses the issue of multiple complainants filing a single complaint against a respondent. The section notes that in examining this issue, panels typically consider whether (i) the complainants have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected the complainants in a similar fashion, and (ii) it would be equitable and procedurally efficient to permit the consolidation.

In the present case, based on the Complainants' preliminary submissions as outlined above, the Panel is satisfied that the Complainants have a specific common grievance against the Respondent that is sufficient to consolidate their respective complaints. The Panel notes that the Respondent did not comment on the topic of consolidation.

B. Preliminary matter: other legal proceedings

The Respondent asserts that there is an ongoing conciliation between the Parties regarding the breach of its agreement with the first Complainant regarding the commercialization and spinout from VTT LaunchPad. The Respondent indicates that the Complainants are represented in that procedure by their representatives in the present administrative proceeding. The dispute relates to the commissioning of the Respondent to head the spinoff company and VTT's alleged failure to invest the related intellectual property, both patents and OLEFY trademarks, in a company involving the Respondent's participation. The Respondent goes on to detail the alleged breaches which it maintains have occurred, the essence of which is the registration of the second Complainant without the Respondent's consent and VTT's subsequent refusal to invest the said intellectual property in any company in which the Respondent was the CEO or founding partner. The Respondent asserts that litigation will follow if the conciliation process does not lead to a settlement.

Paragraph 18 of the Rules provides:

"Effect of Court Proceedings

(a) In the event of any legal proceedings initiated prior to or during an administrative proceeding in respect of a domain-name dispute that is the subject of the complaint, the Panel shall have the discretion to decide whether to suspend or terminate the administrative proceeding, or to proceed to a decision.

(b) In the event that a Party initiates any legal proceedings during the Pendency of an administrative proceeding in respect of a domain-name dispute that is the subject of the complaint, it shall promptly notify the Panel and the WIPO Center. See Paragraph 8 above."

The Panel notes that the Respondent describes a conciliation process under the heading of "Other Legal Proceedings". This process is not a legal proceeding in respect of a domain name dispute that is the subject of the Complaint in terms of paragraph 18 of the Rules, and the Panel has not been invited by the Respondent to suspend or terminate the administrative proceeding. Consequently, the Panel will proceed to a decision in the administrative proceeding.

C. Merits

The factual background and Parties' contentions do not disclose a typical case of cybersquatting of the kind that the Policy was intended to resolve. Instead, what is described is a business dispute of a much wider nature in which the disputed domain names feature somewhat incidentally. For example, the Complainants cite the non-disclosure agreement between the Parties in which it is specified that, while the Respondent may receive certain intellectual property rights from the Complainant, no license is granted to these. The Complainants also assert that the Respondent was merely a consultant engaged by the first Complainant on a project basis. Meanwhile, the Respondent asserts that VTT promised it a founder's role and a shareholding in the spinout vehicle, on which matters it states that VTT has subsequently reneged, and it also submits that VTT expressly invited it to register the disputed domain names itself at its own cost.

With a view to bringing this business dispute within the ambit of the Policy, the Complainant cites two previous UDRP cases which the panels concerned found suitable for determination. The first of these is *Ruby's Diner, Inc. v. Joseph W. Popow*, WIPO Case No. [D2001-0868](#). In that case, the respondent was a former employee of the complainant. The respondent invited the complainant to consider the prospect of the respondent building a website for the complainant. A representative of the complainant warned the respondent to be careful about using the complainant's trademarked logo. The respondent nevertheless registered the domain name concerned without the complainant's permission and later indicated that it

wished to sell it to the complainant for USD 50,000. An assertion was made that the respondent had informed the complainant that it registered domain names to supplement its income and the complainant also submitted that the respondent had registered another domain name that referenced a third party's trademark. The panel noted (and the Complainant in the present case relies upon the principle) that an employee or former employee is not a licensee, and thus has no authorization to use a company's trademark or a confusingly similar variation without permission.

This case may be distinguished from the present because there is at least an indication here that the Respondent registered the disputed domain names with the express permission, or at least at the express invitation of the first Complainant, and in the expectation that it was, or was about to be, a founder and shareholder in the enterprise to be incorporated in due course. There is no evidence of any intent on the Respondent's part to profit specifically from the registration of the disputed domain names offering to sell them to the Complainant in an act of cybersquatting.

Secondly, the Complainant cites *VML London Limited v. Andrew Levicki*, WIPO Case No. [D2010-0910](#). In this case, the respondent, a former employee of the complainant and later the employee of a related company, was requested by the complainant's managing partner to register one of the domain names concerned on behalf of the complainant and in the complainant's name because the registrar would not accept the complainant's credit card. According to the complainant, the respondent would have been reimbursed for that expense. The respondent registered the domain name concerned in its own name. The complainant then proceeded to use this domain name for its business for a period of time. After discussions between the complainant and the respondent, the respondent disabled the domain name concerned, preventing the complainant from receiving its business email, and registered the second domain name concerned. It also proceeded to offer the first domain name for sale. The panel held that the respondent could not bring itself within the ambit of paragraph 4(c) of the Policy and that the complainant had always been the beneficial owner of the domain name concerned.

Again, these facts may be distinguished from those of the present case. In the present case, the Respondent was not expressly asked to register the disputed domain names in the name of the Complainant (though potentially this might have been implied by the terms of the non-disclosure agreement depending upon whether this has been superseded by subsequent agreements). On the contrary, on the Respondent's interpretation of the email concerned, the Respondent was expressly told by a member of staff at the Complainant to deal with this matter itself and at its own expense. The Respondent has neither disabled the disputed domain names nor offered them for sale. As opposed to being an existing or former employee of one of the Complainants, albeit that briefly it was a board member of the second Complainant, the Respondent asserts that it was to be a founding shareholder of the spinoff company which has yet to come into existence (not the second Complainant, as the Respondent objects to the incorporation of that company because it has not been allowed to participate in it as previously agreed) and is holding the disputed domain names pending resolution of its dispute with VTT over the failure to allow it such participation.

In neither of the two cases cited by the Complainants was the precise nature of the business relationship between the Parties in issue, nor was the effect either of a non-disclosure agreement, of a purported consultancy or founder shareholder's arrangement, or of a purported instruction to register the disputed domain names at the Respondent's own expense the subject of the parties' dispute. These wider issues are better suited to resolution either by way of the Parties' ongoing conciliation process or by the courts. In the latter case, the Parties would have the benefit of oral testimony, cross-examination, discovery procedures, and *interim* remedies, all of which might assist them in getting to the root of their relationship.

The Policy is narrowly crafted to apply to a particular type of abusive registration, commonly called cybersquatting. Panels under the Policy are not a general domain name court, and the Policy is not designed to adjudicate all disputes of any kind that relate in any way to domain names (*The Thread.com, LLC v. Jeffrey S. Poploff*, WIPO Case No. [D2000-1470](#)). Nevertheless, while the Panel has reached the conclusion that the present case is unsuitable for determination under the Policy, this should in no way be considered as an endorsement of the case of either or both of the Parties on the present record.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Andrew D. S. Lothian/

Andrew D. S. Lothian

Sole Panelist

Date: January 23, 2023