

## **ADMINISTRATIVE PANEL DECISION**

Tetra Laval Holdings & Finance S.A. v. Tulick Lucy  
Case No. D2023-0589

### **1. The Parties**

The Complainant is Tetra Laval Holdings & Finance S.A., Switzerland, represented by Aera A/S, Denmark.

The Respondent is Tulick Lucy, Nigeria.

### **2. The Domain Name and Registrar**

The disputed domain name <tettrapak.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on February 8, 2023. On February 9, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 10, 2023, 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.

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 February 14, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 6, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 7, 2023.

Due to an administrative oversight, the Respondent was granted a five day period (e.g., through March 18, 2023) in which to indicate whether it wishes to participate to this proceeding. The Respondent did not submit any response.

The Center appointed Nayiri Boghossian as the sole panelist in this matter on March 23, 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 member of the Tetra Laval Group, which includes the Tetra Pak Group. The latter is a multinational food processing and packaging company found in 1947. The Complainant owns trademark registrations for TETRA PAK such as:

- International trademark registration No. 1146433, registered on November 6, 2012;
- European Union Trade Mark registration No. 001202522, registered on October 2, 2000.

The disputed domain name was registered on February 3, 2023, and resolves to an inactive website. It is used in connection with a fraudulent email requesting payment to be made to a specific bank account.

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

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

The Complainant contends that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights. The disputed domain name is a deliberate misspelling of the Complainant's trademark. The misspelling is typosquatting. The generic Top-Level Domain ("gTLD") ".com" should be ignored.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not affiliated with nor licensed by the Complainant. The Respondent is not known by the trademark TETRA PAK and there is no *bona fide* offering of goods or services. The disputed domain name is not connected to an active website but is used to impersonate an employee of the Complainant for the purposes of fraudulent phishing activity.

The Complainant contends that the disputed domain name is registered and is being used in bad faith. The Respondent must have been aware of the Complainant's trademark and the registration of the disputed domain name has been made in order to trade off the reputation of the Complainant's trademark. The Complainant's trademark is well known. Prior UDRP panels have found that the registration of a well-known trademark can constitute bad faith registration. The use of the disputed domain name in connection with phishing activity is an indication of bad faith. Given the distinctive nature of the Complainant's trademark and the absence of connection between the word "tettrapak" and the Respondent, it can only be assumed that the Respondent intended to trade off the goodwill and reputation of the Complainant's trademark.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

##### **A. Identical or Confusingly Similar**

The Complainant owns trademark registrations for TETRA PAK. The Panel is satisfied that the Complainant has established its ownership of the trademark TETRA PAK.

The disputed domain name incorporates the Complainant's trademark with a typo adding the letters "t" and "r". This is a typical case of typosquatting, which is designed to confuse users (*Redbox Automated Retail*,

*LLC d/b/a Redbox v. Milen Radumilo*, WIPO Case No. [D2019-1600](#)). The gTLD “.com” can be ignored when assessing confusing similarity as it is viewed as a standard registration requirement.

Consequently, the Panel finds that the disputed domain name is confusingly similar to the trademark of the Complainant and that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

## **B. Rights or Legitimate Interests**

Under paragraph 4(a)(ii) of the Policy, a complainant must make at least a *prima facie* showing that a respondent does not have any rights or legitimate interests in the disputed domain name. Once such showing is made, the burden of production shifts to the respondent. In the instant case, the Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name and that the Respondent is not licensed by the Complainant nor affiliated with it. The Complainant has established a *prima facie* case and the burden of production shifts to the Respondent to show that it has rights or legitimate interests.

The disputed domain name is used in connection with an email address that is being used as part of a fraudulent scheme to obtain money. Use of the disputed domain name for illegal activity cannot confer rights or legitimate interests onto the Respondent. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 2.13.

Furthermore, the Respondent has not provided any evidence to show that it has any rights or legitimate interests in the disputed domain name. Given the typosquatting nature of the disputed domain name, the construction of the disputed domain name is likely to mislead or cause confusion, which was likely the intent of the Respondent when registering such typosquatting domain name, which cannot amount to fair use nor confer rights or legitimate interests upon the Respondent. Accordingly, the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

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

Typosquatting may be an indication of bad faith (*ESPN, Inc v. XC2*, WIPO Case No. [D2005-0444](#)) and the Complainant’s trademark is well known. In the present case, the typosquatting indicates that the Respondent was aware of the Complainant’s trademark and has added the letters “t” and “r” in order to confuse Internet users.

The disputed domain name resolves to an inactive website.

However, the evidence submitted by the Complainant showing the use of the disputed domain name in connection with an email address that is part of a fraudulent scheme is a clear indication of bad faith. It is well accepted that the use of a domain name to perpetuate fraud constitutes bad faith use ([WIPO Overview 3.0](#), section 3.4).

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(iii) of the Policy.

## **7. Decision**

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <tettrrapak.com> be transferred to the Complainant.

*/Nayiri Boghossian/*

**Nayiri Boghossian**

Sole Panelist

Date: April 6, 2023