

ADMINISTRATIVE PANEL DECISION

Pylon Technologies Co., Ltd. v. De Stille Boot vof Case No. DNL2023-0030

1. The Parties

The Complainant is Pylon Technologies Co., Ltd., China, represented by Chofn Intellectual Property (Chofn IP), China.

The registrant of the disputed domain name is De Stille Boot vof, Netherlands (Kingdom of the), (the “Respondent”).

2. The Domain Name and Registrar

The disputed domain name <pylontech.nl> is registered with SIDN through NetBiz.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 21, 2023. On September 21, 2023, the Center transmitted by email to SIDN a request for registrar verification in connection with the disputed domain name.

On September 22, 2023, SIDN 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 and contact information in the Complaint.

The Center sent an email communication to the Complainant on September 27, 2023, providing the information disclosed by SIDN, and inviting the Complainant to amend the Complaint in this light. The Complainant filed an amended Complaint on September 28, 2023.

The Center verified that the Complaint as amended satisfies the formal requirements of the Dispute Resolution Regulations for .nl Domain Names (the “Regulations”).

In accordance with articles 5.1 and 16.4 of the Regulations, the Center formally notified the Respondent of the Complaint and the proceedings commenced on October 5, 2023. In accordance with article 7.1 of the Regulations the due date for Response was October 25, 2023. The Center did not receive any response. Accordingly, the Center notified the Respondent’s default on November 8, 2023. On November 9, 2024, the Center notified the Parties that the Respondent was granted a five-day period (e.g., through November 14, 2023) in which the Respondent could indicate whether it wishes to participate in this proceeding.

On November 13, 2023, the Center received an email from the Respondent with the contents as relayed in paragraph 5.B below.

On November 21, 2023, SIDN informed the Center that it considers the Respondent's November 13, 2023, email as a formal Response, and the Center subsequently acknowledged receipt of the Response on November 22, 2023. On November 23, 2023, SIDN commenced the mediation process. On December 19, 2023, SIDN informed parties that the dispute had not been solved in the mediation process. The Center appointed Alfred Meijboom as the panelist in this matter on November 14, 2023. The Panel finds that it was properly constituted. The Panelist has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required to ensure compliance with the Regulations, article 9.2.

4. Factual Background

The Complainant is a Chinese supplier specializing in battery energy storage systems, which was established in 2009. Over the past few years, the Complainant's global shipments have continued to rise, with its products spreading to more than 80 countries and regions around the world, and more than 10,000 sets of energy storage systems have been put into operation. On December 30, 2020, the Complainant was formally listed on the Science and Technology Board of the Shanghai Stock Exchange.

The Complainant owns several registered trademarks, including International trademark registration PYLONTECH with registration number 1149396 of December 11, 2012 for battery related goods in class 9, which designates the European Union and therefore also the Netherlands (the "Complainant's PYLONTECH trademark").

The Respondent is a distributor for electric motors and accessories for electric boats and mobile power supplies and batteries. The disputed domain name was registered on April 7, 2020, and does not resolve to an active website except for the message "pylontech.nl's server IP address could not be found".

5. Parties' Contentions

A. Complainant

The Complainant alleges that the disputed domain name completely contains the Complainant's PYLONTECH trademark and is likely to cause confusion.

According to the Complainant, the Respondent has no rights to or legitimate interests in the disputed domain name as the Respondent does not own trademarks, is not a reseller of the Complainant and was never directly or indirectly authorized to use the disputed domain name.

The Complainant claims to believe that the Respondent has malicious intent when it registered the disputed domain name because the Complainant has prior rights in the POLYTECH trademark, and before the disputed domain name was registered the Complainant's PYLONTECH trademark had already gained sufficient visibility in the world, including in the European Union, and the Complainant participated in a number of industry trade shows in the European Union. The Complainant alleges that it has a high global market share in the field of battery storage systems, and the Respondent knew or should have known of the existence of the Complainant's POLYTECH trademark at the time of registration of the disputed domain name, which has therefore been registered in bad faith.

The Complainant also believes that the respondent's registration of the disputed domain name has disrupted the Complainant's normal business operations in the Netherlands, as the disputed domain name has been registered and remained unused for a long period of time, making it impossible for the Complainant to obtain and use the disputed domain name through the normal domain name registration channels. According to the Complainant such behavior fully satisfies the requirements of article 3.2 of the Regulations that the disputed

domain name has been registered in order to prevent the Complainant from using it, or the disputed domain name has been registered primarily for the purpose of disrupting the Complainant's activities.

B. Respondent

The Respondent sent an email to the Center on November 13, 2023 in which it conformed that it is "(...) willing to cooperate. We registered the domain name pylontech.nl in good faith. We are a company that sells batteries and we had the intention to represent Pylon Technologies in The Netherlands. The domain name registration was before Pylon Tech registered their brand with the Benelux office for intellectual property. Nevertheless we are open for a transfer of the domain name for an appropriate reimbursement of our cost of the last 3 years".

6. Discussion and Findings

Based on article 2.1 of the Regulations, a request to transfer the disputed domain name must meet three cumulative conditions:

- a. the disputed domain name is identical or confusingly similar to:
 - I. a trademark, or trade name, protected under Dutch law in which the Complainant has rights;
 - or
 - II. a personal name registered in the General Municipal Register ('gemeentelijke basisadministratie') of a municipality in the Netherlands, or the name of a Dutch public legal entity or the name of an association or foundation registered in the Netherlands under which the Complainant undertakes public activities on a permanent basis; and
- b. the Respondent has no rights to or legitimate interests in the disputed domain name; and
- c. the disputed domain name has been registered or is being used in bad faith.

A. Identical or Confusingly Similar

With regard to the assessment of identity or confusing similarity, it is generally accepted that this test involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name (see section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"))¹. It is also well established precedent that the Top-Level Domain ".nl" may be disregarded in assessing identity or confusing similarity between the trademark on the one hand and the disputed domain name on the other hand (see, e.g., *Roompot Recreatie Beheer B.V. v. Edoco LTD*, WIPO Case No. [DNL2008-0008](#)).

Applying the criteria of article 2.1 of the Regulations, the Panel finds that the disputed domain name incorporates the Complainant's PYLONTECH trademark, which is protected under Dutch law, in its entirety.

Consequently, the Panel finds that the disputed domain name is identical to the Complainant's trademark so that the requirement of article 2.1 sub a. of the Regulations has been satisfied.

B. Rights or Legitimate Interests

Article 2.1(b) of the Regulations requires the Complainant to demonstrate that the Respondent has no rights to or legitimate interests in the disputed domain name. This condition is met if the Complainant makes out a

¹ In view of the fact that the Regulations are substantially similar to the Uniform Domain Name Dispute Resolution Policy ("UDRP"), it is well established that both cases decided under the Regulations and cases decided under the UDRP, and therefore [WIPO Overview 3.0](#), may be relevant to the determination of this proceeding (see, e.g., *Aktiebolaget Electrolux v. Beuk Horeca B.V.*, WIPO Case No. [DNL2008-0050](#)).

prima facie case that the Respondent has no such rights or legitimate interests and if the Respondent fails to rebut this (see, e.g., *Technische Unie B.V. and Otra Information Services v. Technology Services Ltd.*, WIPO Case No. [DNL2008-0002](#)).

The Panel is satisfied that the Complainant has made such a *prima facie* case, showing that the Respondent has not used the disputed domain name in connection with a *bona fide* offering of goods or services before the Respondent had received the notice of the dispute, and that the Respondent was not commonly known by the disputed domain name and was not authorized to use the disputed domain name.

Even if the Respondent, as claimed in its email of November 13, 2023, intended to use the disputed domain name to represent the Complainant in the Netherlands, this would not grant the Respondent rights to or legitimate interests in the disputed domain name. It remains undisputed that the Respondent did not use or make demonstrable preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services, while it had ample time to do so since the registration of the disputed domain name on April 7, 2020.

Furthermore, the Panel notes the composition of the disputed domain name, being identical to the Complainant's POLYTECH trademark, carries a risk of implied affiliation (see section 2.5.1 [WIPO Overview 3.0](#)).

The Panel finds that the Complainant has satisfied the requirement of article 2.1(b) of the Regulations.

C. Registered or Used in Bad Faith

In absence of a specific meaning of the term “pylontech” in Dutch or another language commonly understood in the Netherlands, as it remained undisputed that the Complainant has been active on the European market in the same field as where the Respondent is active, and by the Respondent's own admission, that it had the intention to represent the Complainant in the Netherlands, the Panel finds that the Respondent had been aware of the Complainant's PYLONTECH trademark when it registered the disputed domain name. The Respondent's passive holding of the disputed domain name prevents the Complainant to register its PYLONTECH trademark as a “.nl” domain name, with the risk that the Respondent's activities would disrupt the Complainant's business and use of its POLYTECH trademark in the Netherlands as meant in article 3.2(c) of the Regulations. The Panel therefore finds that the Respondent has registered and uses the disputed domain name in bad faith.

Consequently, the requirement of article 2.1(c) of the Regulations has also been met.

7. Decision

For all the foregoing reasons, in accordance with articles 1 and 14 of the Regulations, the Panel orders that the disputed domain name <pylontech.nl> be transferred to the Complainant.

/Alfred Meijboom/

Alfred Meijboom

Panelist

Date: January 7, 2024