

ADMINISTRATIVE PANEL DECISION

Sisense, Ltd. v. 林 凡 (Lin Fan)

Case No. D2022-3501

1. The Parties

The Complainant is Sisense, Ltd., Israel, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is 林 凡 (Lin Fan), China.

2. The Domain Names and Registrar

The disputed domain names <sisense-hk.com> and <sisense-training.com> (the “Domain Names”) are registered with Name.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 21, 2022. On September 22, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. On September 22, 2022, 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 September 27, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 17, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 20, 2022.

The Center appointed Willem J.H. Leppink as the sole panelist in this matter on November 3, 2022. 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 following facts are undisputed.

The Complainant is a business intelligence software company. The Complainant was founded in 2004 as a spin-off of Interdisciplinary Center Herzliya, an Israeli University. The Complainant provides for an artificial intelligence (“AI”) driven platform that streamlines data for business industries. Amongst others, it provides data solutions to over 2,000 global companies operating in industries such as finance, marketing, media and healthcare.

Currently, the Complainant employs over 600 professionals and creates an annual revenue of more than USD 140 million. The Complainant operates its business worldwide from offices in New York, San Francisco, Scottsdale, Melbourne, Sydney, Ramat Gan, Tokyo, Kyiv, and London.

The Complainant is the owner of several trademark registrations comprising of the word element “Sisense”, including, but not limited to the European Union trademark, SISENSE (word mark), with registration No. 013824636 and registration date of September 4, 2015, for goods and services in classes 9, 35, and 42; and the United States of America trademark SISENES (word mark), with registration No. 86394713 and registration date of June 7, 2016, for goods in class 9. These two trademark registrations will together in singular be referred to as the “Trademark”.

The Complainant promotes its business and services to its customers through the website to which its domain name <sisense.com> resolves.

The Domain Name <sisense-hk.com> was registered on April 24, 2022. The Domain Name <sisense-training.com> was registered on May 8, 2022. Currently, both Domain Names do not resolve to any active website. However, before the Complainant’s partners requested a takedown of the Domain Name <sisense-hk.com>, it resolved to a website that displayed the Trademark, as well as the Complainant’s logo (with the same yellow/black/white color scheme as utilized by the Complainant) and a login portal.

5. Parties’ Contentions

A. Complainant

The Complainant contends the following:

The Domain Names are identical or at least confusingly similar to the Trademark, since the Domain Names incorporate the Trademark in its entirety. The Respondent only added a hyphen followed by a geographical term (“hk”) and a generic descriptive term (“training”). The Complainant offers training courses through its Sisense Academy.

The Respondent cannot have any rights or legitimate interests in relation to the Domain Names. The Respondent simply copies the Trademark in which the Complainant has rights and is not licensed, authorized or otherwise permitted to do so. The Respondent is not commonly known by the Domain Names nor is the Respondent sponsored by or affiliated with the Complainant. In addition to this, the Domain Names currently resolve to inactive websites and before one of them used to resolve to a website which impersonated the Complainant. Such use cannot constitute a *bona fide* offering of goods and services.

Furthermore, the Domain Names have been registered and used in bad faith. The Respondent registered the Domain Names with prior knowledge of the Trademark. This is because, the Respondent chose to register two Domain Names that both encompass the Trademark of the Complainant. Moreover, the website at the the Domain Name <sisense-hk.com> previously impersonated the Complainant, by displaying the Trademark, the Complainant’s logo and its color scheme. Additionally, the Respondent has intentionally

used the Domain Name <sisense-hk.com> to attract Internet users to the website by creating a likelihood of confusion that derives from the false impression of an association with the Complainant. In doing so, the Respondent is using the login portal for fraudulent activities, such as phishing. The current non-use of the Domain Names does not prevent a finding of bad faith.

B. Respondent

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

6. Discussion and Findings

Pursuant to paragraph 4(a) of the Policy, the Complainant must prove each of the following three elements:

(i) the Domain Names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and

(ii) the Respondent has no rights or legitimate interests in respect of the Domain Names; and

(iii) the Domain Names have been registered and are being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has sufficiently proven to have rights in the Trademark.

The Domain Names are confusingly similar to the Trademark. The Domain Names both consist of the Trademark in its entirety, followed by either a geographical term ("hk") or a descriptive term ("training"). These terms indicate either the Complainant's activities or the location where the Complainant could be possibly active.

As set out in the WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8, the addition of other terms, such as a geographical or descriptive term, would not prevent a finding that a domain name is confusingly similar to the relevant mark for purposes of the first element.

The Trademark is clearly recognizable in the Domain Names. The addition of the geographical or descriptive term does not prevent a finding of confusing similarity between the Domain Names and the Complainant's Trademark.

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

B. Rights or Legitimate Interests

The Complainant in its Complaint and as set out above has established a *prima facie* case that the Respondent has no rights or legitimate interests in the Domain Names.

The Panel could not find any evidence by referring to the types of evidence set forth in paragraph 4(c) of the Policy from which the Panel might conclude that the Respondent has rights or legitimate interests in the Domain Names, such as:

(i) use or preparation to use the Domain Names or a name corresponding to the Domain Names in connection with a *bona fide* offering of goods or services prior to notice of the dispute; or

(ii) being commonly known by the Domain Names (as an individual, business or other organization) even if the Respondent has not acquired any trademark or service mark rights; or

(iii) making legitimate noncommercial or fair use of the Domain Names, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The *prima facie* case presented by the Complainant is enough to shift the burden of production to the Respondent to demonstrate that it has rights or legitimate interests in the Domain Names. However, in the absence of a response, the Respondent has not presented any evidence of any rights or legitimate interests he may have in the Domain Names, and the Panel is unable to establish any such rights or legitimate interests on the basis of the evidence in front of it.

In more detail, the Complainant asserted that the Respondent registered the Domain Names without receiving prior authorization from the Complainant. There is no evidence of an economic, financial or any other kind of relationship with the Complainant. Moreover, the Complainant asserted that there is no evidence that “sisense” is the Respondent’s name or that the Respondent is commonly known under that name or by the Domain Names.

In addition to this, the Respondent has not used or made preparations to use the Domain Names or a name corresponding to the Domain Names in connection with a *bona fide* offering of goods or services. To the contrary, the Respondent used the website, to which one of the Domain Names used to resolve, to possibly obtain personal information from the Internet users by asking them to fill in personal information through a login portal. By doing so, the Respondent has purposely committed acts of fraud. In accordance with section 2.13.1 of the [WIPO Overview 3.0](#) the use of a domain name for illegitimate activity, such as phishing or the impersonation of a complainant, can never confer rights or legitimate interests on a respondent.

Certainly lacking a Response, the Panel finds that the former website created the impression of being an official website affiliated with the Complainant. The website could even be regarded as an impersonation of the Complainant because the website encompassed the Complainant’s Trademark, logo, and color scheme. In accordance with the [WIPO Overview 3.0](#), section 2.5.1, such use of the Domain Names can not constitute fair use as it effectively impersonates or suggests endorsement by the Complainant. The Domain Names currently do not resolve to any active website.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in relation to the Domain Names.

The Panel, therefore, finds that the second element has been satisfied.

C. Registered and Used in Bad Faith

The Panel finds that the Respondent has registered and used the Domain Names in bad faith and refers to its considerations under section 6.B. above.

Taking into consideration the evidence filed by the Complainant, the Panel finds that the Trademark and the Complainant’s activities are well known throughout the world. The Complainant is the owner of numerous trademarks, which were used and registered a couple of years before the Domain Names were registered.

Certainly lacking a Response, the Panel finds that there is no other plausible explanation than that the Respondent was aware of the existence of the Complainant’s rights and activities at the time the Respondent registered the Domain Names. All the more so, because the Respondent has previously reproduced the Trademark and Complainant’s logo on the website connected to one of the two Domain Names, even using the Complainant’s color scheme, which creates the impression that the website is affiliated with the Complainant.

As a result, the Respondent has registered and used at least one of the Domain Names, *i.e.*, <sisense-hk.com> to intentionally attract Internet users for commercial gain to his website by creating a likelihood of confusion with the Trademark as to the source, sponsorship, affiliation or endorsement of the

Website. On the website the Internet users were asked to fill in their personal details in order to get access to the website. This strongly indicates that the Domain Name <sisense-hk.com> has been used for phishing activities. Considering the fact that phishing is considered a *per se* illegitimate activity such behavior is, in accordance with section 3.1.4 of the [WIPO Overview 3.0](#), manifestly considered evidence of bad faith. The current non-use of this Domain Name does not change the Panel's finding of the Respondent's bad faith.

Although one of the Domain Names, *i.e.*, <sisense-training.com>, resolves to a blank page, this will also in light of the facts of the matter, including the circumstances outlined above, not prevent a finding of bad faith under the doctrine of the passive holding (see section 3.3 of the [WIPO Overview 3.0](#)). Also, it is likely that this Domain Name could be used for phishing or other illegal activities considering the Respondent's use of the other Domain Name.

Finally, although the lack of a formal or substantive response by the Respondent as such cannot by itself lead to the conclusion that there is registration and use in bad faith, the cumulative circumstances as outlined in the Decision, including the fact that the Whois details show an incomplete address, are sufficient for the Panel to find that the registration and use of the Domain Names by the Respondent are in bad faith.

In light of the above circumstances, the Panel is satisfied that the third element of the Policy is met and that the Domain Names were registered and are being used in bad faith.

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 Domain Names, <sisense-hk.com> and <sisense-training.com>, be transferred to the Complainant.

/Willem J.H. Leppink/

Willem J.H. Leppink

Sole Panelist

Date: November 17, 2022