

## **ADMINISTRATIVE PANEL DECISION**

Talend S.A.S. v. Li Yan  
Case No. D2024-4693

### **1. The Parties**

The Complainant is Talend S.A.S., France, represented by Abion AB, Sweden.

The Respondent is Li Yan, Canada, self-represented.

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

The disputed domain name <aitalend.com> is registered with GoDaddy.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 14, 2024. On November 14, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 15, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on November 18, 2024.

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 November 19, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 9, 2024. The Response was filed with the Center on December 7, 2024.

The Center appointed Andrew D. S. Lothian as the sole panelist in this matter on December 12, 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 Complainant, the Complainant is a software company with offices in North America, Europe, and the Asia Pacific region. The Complainant states that it specializes in business intelligence and data visualization and has created a data integration platform that it has named “Talend”, which integrates enterprise data from diverse sources. The Complainant claims over 7,250 satisfied customers worldwide. According to a “Customer.guru” (third party) analysis, the Complainant has achieved a “net promoter score” (a customer loyalty metric scored between -100 and +100) of 15 in 2023. This score is described by the said analysis as “good”, against an industry average of 0. The Complainant also claims that it has received Global Partner Awards from Amazon Web Services, IBM, and Carahsoft but does not evidence this.<sup>1</sup>

The Complainant owns a variety of registered trademarks for the word mark TALEND, the earliest of which appears to be European Union Registered Trademark Number 14226989, registered on September 23, 2015, in Classes 9, 35, and 42. In the United States of America (“United States”), the Complainant holds three corresponding registered trademarks, namely United States Registered Trademark Number 4977624, registered on June 14, 2016 in Class 9, United States Registered Trademark Number 5002051, registered on July 19, 2016 in Class 42, and United States Registered Trademark Number 5304787, registered on October 10, 2017 in Class 35. In Canada, the location where the Respondent is based, the Complainant owns two corresponding registered trademarks, namely Canadian Registered Trademark Number TMA1043311, registered on July 22, 2019, in Class 35, and Canadian Registered Trademark Number TMA1072733, registered on February 14, 2020, in Classes 9 and 42.

The Complainant shows that a Google search performed on July 31, 2023, for the term “talend” returned top ten results which all appear to refer to the Complainant. A side panel displayed on said search results relates to the Complainant’s company, and notes that it was founded on September 19, 2005.

The disputed domain name was registered on October 29, 2024. The Respondent appears to be a private individual based in Canada. The Complainant’s screenshot of the website associated with the disputed domain name, dated November 14, 2024, consists of a single page claiming to be “Powered by [the Registrar]”, which states in large letters “Great things are coming soon”, and below in smaller letters “Stay tuned”.

The Respondent produces a Certificate of Amendment in respect of Canadian Corporation number 887863-3 dated December 5, 2024, showing that said corporation, formerly named 8878633 Canada Inc., has changed its name to AITALEND INC. The said document also contains the Respondent’s declaration that it is a director of such corporation.

The Respondent also produces a three-page document of 374 words entitled “Website Building Plan”, which is predominantly in bullet-point and list format. According to said document’s meta data, it was created by the Respondent on December 6, 2024, i.e., the day before the Response was filed. Said document briefly covers the goals and proposed content of the Respondent’s planned website, together with a structure of “Home Page”, and “Menu and Subsections”, of which the latter contains “Home”, “Story”, “GenAI” (a blog on generative AI technologies and trends), “Application”, “Q&A”, and “About Us” (information about the Complainant’s corporation and mission).

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<sup>1</sup>The Complainant directed the Panel to its Annex 4 in support of this claim but said Annex contained no evidence of awards from third parties, and consisted only of what appears to be the Complainant’s own award, the 2022 Data Masters Award, which it appears to confer upon other companies, although the document itself had not been printed fully and contained multiple incomplete paragraphs.

## **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 disputed domain name incorporates entirely the Complainant's registered trademark, which is recognizable therein, and is thus confusingly similar.

The Complainant notes that it has not licensed or authorized the Respondent to use its trademarks, is not affiliated to the Respondent, did not authorize the Respondent to register or use the disputed domain name, nor has endorsed or sponsored the Respondent or its website. The Complainant states that there is no evidence that the Respondent is commonly known by the disputed domain name, or owns corresponding registered trademarks, adding that Google search results for "talend" point to the Complainant. The Complainant notes that the website associated with the disputed domain name appears to be parked, adding that this suggests an intent to monetize traffic without a genuine legitimate business use, product or service. The Complainant submits that there is no evidence that the Respondent has used the disputed domain name for a noncommercial or fair use purpose. The Complainant submits that the present use of the disputed domain name constitutes passive holding, which can be interpreted as bad faith.

The Complainant notes that the registration of its trademarks predate the registration of the disputed domain name and asserts that the Respondent has chosen to incorporate the Complainant's distinctive TALEND mark in its entirety, adding that a simple online search regarding this term would have disclosed the Complainant's interest. The Complainant surmises that the Respondent registered the disputed domain name intentionally to take advantage of the reputation of its trademark. The Complainant asserts that panels have found the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. The Complainant concludes that the use of the disputed domain name may mislead potential consumers by creating 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 it is the founder of aitalend Inc. [*sic*], a company focusing on artificial intelligence ("AI") development, news, and applications. The Respondent states that the name was chosen to represent AI as a core area of interest, combined with the word "talend", "for its general meaning of talent or ingenuity", without any intent to infringe the Complainant's trademark.

The Respondent states that the website associated with the disputed domain name is intended to serve as a personal blog and platform for sharing information, insights, and news related to AI, adding that this is unrelated to the Complainant's primary business offerings "which are well-known to be in the field of data integration and enterprise software solutions". The Respondent notes that, while the website associated with the disputed domain name is not yet live, the Respondent plans to launch it shortly, and is actively working on its development. The Respondent concludes that its intended use does not overlap with or seek to exploit the Complainant's business activities, nor does it aim to create confusion with the Complainant's brand.

The Respondent asserts that it chose the disputed domain name independently, without any intent to target or benefit from the Complainant's brand reputation, adding that the addition of "AI" before "talend" reflects its specific focus on artificial intelligence, distinct from the Complainant's trademark and business operations. The Respondent asserts that the Complainant was established prior to the prominence of AI and submits that this supports the alleged distinct and independent origin of the name on the Respondent's part.

The Respondent states that it supports and respects the Complainant “as a prominent company in the software industry” and states that it has no intention of infringing the Complainant’s intellectual property rights, adding that it would support reasonable measures to avoid any potential misunderstanding between the Parties. The Respondent also notes that it is open to including a disclaimer on the website associated with the disputed domain name affirming that the same is not affiliated with or endorsed by the Complainant, and to discuss additional steps to distinguish the disputed domain name from the Complainant’s brand and operations.

The Respondent notes (and produces a screenshot of) a third party website which is associated with a domain name containing the term “talend” coupled with the term “IT”, asserting that this indicates that “talend” as a word or “string” is not exclusively associated with the Complainant, and supporting the alleged independent origin of the disputed domain name.

## **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, “ai”, 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 it has not licensed or authorized the Respondent to use its trademarks, is not affiliated to the Respondent, did not authorize the Respondent to register or use the disputed domain name, nor has endorsed, or sponsored, the Respondent or its website. The Panel also notes the Complainant’s assertion

that that there is no evidence that the Respondent is commonly known by the disputed domain name, or owns corresponding registered trademarks, or that it is engaging in any noncommercial or fair use of the disputed domain name.

The Panel therefore turns to the Respondent's case in rebuttal. The Respondent first notes that it has established a company by the same name as the disputed domain name. The Panel notes that the name change took place on December 5, 2024, i.e., two days before the Response was filed, and several weeks after the filing of the Complaint. Given the timing of this event, coming well after the Complaint was filed, at best, it could only have been accorded limited weight in terms of evidentiary significance, and it could not be said that the Respondent or its company have been commonly known by the disputed domain name in terms of paragraph 4(c)(ii) of the Policy. In any event, it is not infrequently noted by panels under the Policy that the incorporation of a company with a name corresponding to the domain name that is the subject of a complaint under the UDRP does not typically, on its own, lead to a finding of rights and legitimate interests under the Policy (See *Royal Bank of Canada v. RBC Bank*, WIPO Case No. [D2002-0672](#)). It is necessary for the Respondent to go beyond the mere change of name of a company if it is to demonstrate rights and legitimate interests under the Policy.

The Respondent goes on to assert that the inclusion of the term "talend" in the disputed domain name arises from its general meaning of talent or ingenuity. In other words, the Respondent is suggesting that it selected this term independently of the Complainant's rights because it is a dictionary word and is to be used in connection with its ordinary dictionary meaning. The problem with the Respondent's case on this topic is that it has provided no evidence to support its assertion that the term has such a general meaning. While it is incumbent upon the Respondent to demonstrate such meaning, and the Panel need not perform its own research on this or any other topic that is not on the record before it, the Panel has taken the opportunity to review a restricted number of online dictionaries in the English language (both British English and American English) to determine whether "talend" is a dictionary word. The Panel found no evidence of such.<sup>2</sup> In the absence of suitable supporting evidence, the Panel rejects the Respondent's assertion that it selected "talend" because it is a dictionary term or has any general meaning in the English language.

The Respondent further asserts that its use of the name in the disputed domain name is of independent origin from the Complainant's use of the term, first, because the Complainant was established before AI became prominent, and secondly, because the Respondent has identified a third party website, also using the term "talend", which the Respondent says demonstrates that the Complainant does not have exclusivity in the TALEND mark. With regard to the first of these, the Respondent's point is lacking in logic. Many technology companies operating today were established before the prominence of AI. However, it cannot sensibly be said that prefixing the term "AI" to the trademarks of any of these (consider, for example, the coupling of "AI" with the IBM or MICROSOFT trademarks) is demonstrative of any independent origin. By the same token, the existence of this third party website using "talend" is not sufficient, on its own, to establish that this term has any independent meaning, and this would not justify the Respondent's selection of the term. Whatever the merits of the said website (as to which the Panel knows no more than its URL and a screenshot of its homepage, as produced by the Respondent) the Complainant's registered trademarks establish an exclusive right on its part to use the word mark TALEND, importantly in the technology field in which the Respondent is particularly interested, in the jurisdiction where the Respondent is based, and in many others.

The Respondent suggests that its plans for an AI blog site have no overlap with the Complainant's operations. The Panel disagrees. AI is a rapidly expanding field within the technology sector. The Complainant's business and operations are rooted in that sector. Consequently, the use in the disputed domain name of the Complainant's distinctive TALEND mark, prefixed by the term "AI", is most likely to call the Complainant's business to mind, and the Respondent might reasonably have been expected to have known this when it registered the disputed domain name, noting that it expressly acknowledges the prominence of the Complainant in the software industry and describes the Complainant's primary business

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<sup>2</sup>With reference to the Panel conducting independent research of publicly available sources, see the [WIPO Overview 3.0](#), section 4.8.

offerings as being “well-known [...] in the field of data integration and enterprise software solutions”. The fact that the Respondent might be planning a commentary on the industry, rather than necessarily engaging in the field itself, does not change the fact that the composition of the disputed domain name, incorporating the Complainant’s mark in its entirety, is inherently likely to lead to confusion, and that this was known to the Respondent when it selected the disputed domain name.

All of the above analysis suggests that if the Respondent were to make an offering of goods and services along the lines described by it in its Website Building Plan, assuming that the Panel had accepted such as demonstrable preparations of use in accordance with paragraph 4(c)(i) of the Policy,<sup>3</sup> such offering could not be considered to be bona fide, given that it relies upon, and takes unfair advantage of, the Complainant’s TALEND trademark.

In all of these circumstances, the Panel finds that the Respondent has not rebutted the Complainant’s prima facie showing and has not demonstrated 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**

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

In the present case, the Panel notes that the Respondent asserts that it registered the disputed domain name independently of the Complainant’s rights, on the basis of an alleged general meaning, and without any intent to take unfair advantage of the Complainant’s trademark. The Panel has addressed and disposed of the Respondent’s various submissions on that topic in the preceding section. Of particular note is the fact that the Respondent expressly acknowledges the Complainant’s prominence in the software industry and states that the Complainant’s primary business offerings are well-known in its field. The Respondent claims to be a person with a particular interest in AI developments within the software industry. Consequently, it could not be argued reasonably that the Respondent registered the disputed domain name without knowledge of the Complainant or its rights. The Respondent must have been aware that the composition of the disputed domain name would call to mind the Complainant’s distinctive TALEND trademark (noting that “AI” is itself a term relevant to the Complainant’s sector), and that the registration and use of the disputed domain name for the purpose described by the Respondent would be likely to lead to confusion, and would suggest to the relevant public that the Respondent was in some way sponsored or endorsed by the Complainant. In saying this, the Panel is working on the basis that the Respondent’s Website Building Plan is not pretextual. As noted in the preceding section, the Panel considers that, given the extremely brief nature of the document, and its date of creation just before the Response was filed, the Panel cannot be sure of this with any degree of confidence.

In any event, whether or not the Respondent genuinely intended to operate the blog site described under the Complainant’s distinctive TALEND mark, or whether such expressed intention is merely a pretext for cybersquatting, the registration and use of the disputed domain name could not on any view be described as a good faith activity. Crucially, the Respondent did not even attempt to provide authority for its proposition that “talend” has a general meaning, nor is there any obvious example of the same in the typical online dictionaries consulted by the Panel.<sup>4</sup>

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<sup>3</sup> This is itself doubtful in light of the fact that the document is extremely brief, does not constitute a business plan or functional specification of any substance, and appears to have been prepared after the Complaint was filed. It could not be described with degree of confidence as non-pretextual. See [WIPO Overview 3.0](#), section 2.2.

<sup>4</sup>The Panel consulted the online version of the Oxford English Dictionary, Chambers Dictionary, Collins English Dictionary, Merriam Webster Dictionary, and “www.dictionary.com”, in each case, searching for the word “talend”.

Panels have found that the non-use of a domain name (including a blank or “coming soon” page) would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness 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.

## **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 <aitalend.com> be transferred to the Complainant.

*/Andrew D. S. Lothian/*

**Andrew D. S. Lothian**

Sole Panelist

Date: December 17, 2024