

## **ADMINISTRATIVE PANEL DECISION**

Construction Skills Certification Scheme Limited v. cscs  
Case No. D2024-4773

### **1. The Parties**

The Complainant is Construction Skills Certification Scheme Limited, United Kingdom, represented by Wedlake Bell, United Kingdom.

The Respondent is cscs, United States of America.

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

The disputed domain name <cscs.tech> is registered with CSL Computer Service Langenbach GmbH dba Joker.com (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 19, 2024. On November 20, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 22, 2024, 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 (cscs.tech c/o CSL Computer Service) and contact information in the Complaint. The Registrar also confirmed that the registration agreement is in both the English and German languages. The Center sent an email communication to the Complainant on November 27, 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 December 2, 2024. Later on December 2, 2024, the Complainant filed a Second Amended Complaint in response to a request from the Center.

The Center verified that the Complaint together with the amended Complaints 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 3, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 23, 2024. On December 19, 2024, the Center

received an email from a party related to one of the two email addresses to which the Registrar had forwarded the Notification of the Complaint.

The Center appointed Warwick A. Rothnie as the sole panelist in this matter on January 6, 2025. 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 managed the Construction Skills Certification Scheme ("Scheme") in the United Kingdom from 1995 to May 31, 2024. From June 1, 2024, the Scheme has been managed by CSCS Cards limited under licence from the Complainant.

According to the Complaint, the Scheme has become the industry-standard competency card scheme for many hundreds of occupations in the construction industry in the United Kingdom. Some of the occupations covered by the Scheme include antennae installers, bricklayers, carpenters, painters and decorators, upholsterers, architects, site managers, conservation consultants, quantity surveyors, acoustic consulting engineers, art restorers, blacksmiths, catering equipment installers, computer systems installers, locksmiths, and miners.

The Scheme and the cards issued under it has been conducted under the sign CSCS both in logo form and as an acronym.

At present, over 1.8 million CSCS cards are in circulation. The Scheme's website at "www.cscs.uk.com" receives over 150,000 visitors each month.

The Scheme has the support of major trade associations, professional institutions, clients, and contractors. His Majesty's Government requires contractors to carry appropriate CSCS cards, or equivalent, in all construction contracts.

The Complaint includes evidence that the Complainant owns a number of registered trademarks in the United Kingdom and the European Union. The earliest registration is United Kingdom Registered Trademark No. UK00002190060 for a figurative mark consisting of CSCS in white on a black lozenge which has been registered since February 24, 1999 in respect of education and training services relating to construction in International Class 41. The Complainant also has registrations for CSCS in block letters including:

- (1) United Kingdom Registered Trademark No. UK00002520953, which has been registered with effect from July 14, 2009 for goods and services in International Classes 9, 16, and 35;
- (2) United Kingdom Registered Trademark No. UK00003442176 which has been registered with effect from November 6, 2019 for goods in International Classes 9 and 16;
- (3) United Kingdom Registered Trademark No. UK00003442193 which has also been registered with effect from November 6, 2019 in respect of services in International Classes 37 and 41; and
- (4) European Union Registered Trademark No. 006347868 which has been registered with effect from November 1, 2007 in respect of goods and services in International Classes 9, 16, 35, and 37.

According to the Whois record, the disputed domain name was registered on August 14, 2024.

The disputed domain name resolves to a website which is headed "cscs common source computer services" and is in English.

The website has links to sections called Guides, Tools, Donate, Documentation, Community and Development. There is also a link “lore”. Clicking on it and the heading section for Guides takes the browser to a page headed “Welcome Welcome to My Tutorials” “Various tips and guides can be found here. Under the heading Tutorials there are further links to sections headed Networking, Performance, and Recovery.

The first link under Networking is to “File Sharing Services”. This appears to list a number of “open services” and Linux code such as 0x0.st 512 MB Limit, Oshi.at 5000 MB Limit. The code or instruction under 0x0.st is `curl -F'file=@yourfile.png' https://0x0.st`.

There is similar material under the link for Pastebin Services. There is also similar material with more textual commentary – at least some of which has been extracted from archi.wiki – under the other links.

The Tools link includes an Overview and content related to dnsdig, maclean, and mapare each of which has some limited commentary and information and links to Github pages.

The Community heading has links to “Ko-fi” and “Manjaro”. The Ko-fi page is for “cscs” which has 12 supporters and under About states “I do Linux and open source things” and has links to the cscs gitlab page. This page appears to have attracted 58 donations.

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy provides that in order to divest the Respondent of a disputed domain name, the Complainant must demonstrate each of the following:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

Paragraph 15(a) of the Rules directs the Panel to decide the Complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable.

The Respondent did not reply to the Complainants’ contentions. However, on December 19, 2024, the Center received an email from a third party the Registrar had forwarded the Complaint to – the Registrar did not explain why this email address was used or any relation it may have to the Respondent; neither did the person replying clarify their relation, if any, to the Respondent. The email purports to be from an account named “cscs” which is the name identified by the Registrar as the name of the registrant. Some matters claimed in the communication are consistent with the content of the website to which the disputed domain name resolves. Other aspects of this communication are discussed below. In the absence of a response using the email address confirmed by the Registrar, the Panel proposes to treat this communication as being from the Respondent.

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

The first element that the Complainant must establish is that the disputed domain name is identical with, or confusingly similar to, the Complainant’s trademark rights.

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 proven ownership of registered trademarks for CSCS. On the basis of the information included in the Complaint, the Panel also accepts that the Complainant will have sufficient use and reputation of CSCS in at least the United Kingdom to support actions for passing off.

The Complainant further claims its reputation extends internationally due to the cross-border nature of the construction industry and the migration of construction workers from Ireland and Eastern Europe to work on construction sites in the United Kingdom. The Complainant may in fact have such a reputation but on the materials before the Panel this claim does not rise above mere assertion and cannot be sustained. [WIPO Overview 3.0](#), section 1.3.

The first element test simply requires a visual and aural comparison of the disputed domain name to the proven trademarks. This test is narrower than and thus different to the question of “likelihood of confusion” under trademark law. In undertaking the comparison of the disputed domain name to the Complainant's trademark, it is permissible in the present circumstances to disregard the generic Top-Level Domain (“gTLD”) component as a functional aspect of the domain name system. [WIPO Overview 3.0](#), section 1.11.

Disregarding the “.tech” gTLD, the disputed domain name consists merely of the Complainant's registered trademark. Accordingly, the Panel finds that the Complainant has established that the disputed domain name is identical with the Complainant's trademark and the requirement under the first limb of the Policy is satisfied.

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

The second requirement the Complainant must prove is that the Respondent has no rights or legitimate interests in the disputed domain name.

Paragraph 4(c) of the Policy provides that the following circumstances can be situations in which the Respondent has rights or legitimate interests in a disputed domain name:

- (i) before any notice to [the Respondent] of the dispute, [the Respondent's] use of, or demonstrable preparations to use, the [disputed] domain name or a name corresponding to the [disputed] domain name in connection with a bona fide offering of goods or services; or
- (ii) [the Respondent] (as an individual, business, or other organization) has been commonly known by the [disputed] domain name, even if [the Respondent] has acquired no trademark or service mark rights; or
- (iii) [the Respondent] is making a legitimate noncommercial or fair use of the [disputed] domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

These are illustrative only and are not an exhaustive listing of the situations in which a respondent can show rights or legitimate interests in a domain name.

While 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 often impossible 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. 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.

The Respondent registered the disputed domain name well after the Complainant began using the trademark and also after the Complainant had registered its trademark.

The Complainant states that it has not authorised the Respondent to use the disputed domain name. Nor is the Respondent affiliated with it.

The Complainant contends that, as a four letter acronym, “cscs” is inherently distinctive. That, together with the Complainant’s long use and well-established reputation, leads to the Complainant’s submission that the Respondent has adopted the disputed domain name to take advantage of the Complainant’s reputation in its trademark. For example, the Complainant submits in paragraph 34.2 of the Amended Complaint:

“The Respondent neither has, nor has it ever had, any authority from the Complainant of any kind to use the Complainant’s trade or service marks (whether registered or otherwise) in any capacity or for any purpose anywhere in the world. Yet it is clear that the Respondent was simply seeking to take advantage of the Complainant’s marks and reputation.”

There is no dispute between the Parties that the Respondent is not associated with the Complainant in any way nor authorised by the Complainant to use the disputed domain name.

The website to which the disputed domain name resolves purports, however, to be the website of “common source computer services”. According to the email received from a party seemingly acting on behalf of Respondent, it was set up to provide information about open source software in general and the Manjaro distribution of Linux in particular.

The disputed domain name was registered only in August 2024 and there is evidence of the website being accessible after that date. The person apparently replying in behalf of Respondent does claim the website and the disputed domain name were registered and being used for the current purposes over a decade ago with the disputed domain name being used or held by an Indian computer club in the interim. There is, however, no evidence of either of these matters. Further, the Panel’s own search of the disputed domain name on the Wayback Machine does not disclose any captures which would support these claims. In these circumstances, the Panel cannot find the Respondent’s claims about past use to be sustained.

Accordingly, the Panel must act on the basis that the Respondent has adopted the name “common source computer services” only since August 2024.

The Respondent has not explained the derivation of the disputed domain name or the name the website is being operated under. However, the name “common source computer services”, while cumbersome, is arguably descriptive of the content of the Respondent’s website.

The Complainant points to the rudimentary nature of the website, criticizing that it does not appear to have been properly set up. Instead, the Complainant contends it is a fraudulent site seeking to attract Internet users to the Respondent’s website by causing them to mistakenly associate it with the Complainant and its reputation in its trademark.

The Panel accepts that the website to which the disputed domain name resolves is rudimentary. There are also typographical or grammatical errors in the text. It is possible that, as the Complainant contends, the website has been cobbled together merely to disguise the Respondent’s true purpose. However, the content on the website has not been demonstrated to be false or obviously inaccurate. There is no evidence before the Panel indicating that the Respondent does not have expertise or some level of skill in Manjaro or Linux generally. On the materials before the Panel, while acknowledging the limitations of the website, the Panel cannot simply dismiss it as a pretext. There is for example a website at “www.0x0.st” and it does provide a “temporary file hoster” for files up to 512 MB.

Nor, contrary to the Complainant’s submission, does the Panel consider that the four-letter acronym is so inherently distinctive that the only, or even most likely, explanation for its adoption was to trade on the Complainant’s reputation for providing certification services in relation to the United Kingdom construction industry.

The Panel accepts, as the Complainant contends, that the Respondent's website is accessible from around the world and not just in the United States of America. Even accepting that, however, the Panel cannot find that the Respondent's use of the disputed domain name involves targeting the Complainant and its trademark on the information before the Panel. The fields the respective Parties appear to operate in are too different. The disputed domain name is not like "sainsburys", "marks and spencer" and the other names at issue in the *One in a Million* case relied on by the Complainant.<sup>1</sup> Nor is there evidence of a pattern of the Respondent registering a pattern of other person's trademarks as domain names as in the *One in a Million* case.

The Panel acknowledges that the Complainant has successfully challenged a number of domain names under either the Policy or the dispute resolution policy relating to domain names registered in the ".uk" country-code top level domain. The facts in those cases, however, are different to the facts in the present case. Most of them, for example, involved domain names directly suggestive of the Complainant's services and being used to target the Complainant's trademark or were "no response" cases. Short of completely dismissing the use actually being made of the disputed domain name in this proceeding (as the Complainant invites the Panel to do), the evidence in this proceeding does not support a conclusion of targeting the Complainant.

Accordingly, the Panel finds the Complainant has not established the second requirement under the Policy.

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

In the circumstances, no good purpose would be served by considering whether the third requirement under the Policy has been satisfied as the Complaint must fail in any event.

## **7. Decision**

For the foregoing reasons, the Complaint is denied.

*/Warwick A. Rothnie/*

**Warwick A. Rothnie**

Sole Panelist

Date: January 20, 2025

---

<sup>1</sup> *British Telecommunications plc v One In a Million Ltd* [1999] FSR 1.