

## **ADMINISTRATIVE PANEL DECISION**

Wärtsilä Technology Oy Ab v. Mark Jones  
Case No. D2024-5056

### **1. The Parties**

The Complainant is Wärtsilä Technology Oy Ab, Finland, represented by SafeNames Ltd., United Kingdom.

The Respondent is Mark Jones, United States of America.

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

The disputed domain name <wartasila.com> is registered with Hostinger Operations, UAB (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 9, 2024. On December 9, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 10, 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 (“Privacy Protect, LLC (PrivacyProtect.org)”) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 10, 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 10, 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 December 12, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 1, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 8, 2025.

The Center appointed Rodrigo Velasco Santelices as the sole panelist in this matter on January 20, 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 is a Finnish corporation which operates in the field of smart technologies and complete lifecycle solutions for the marine and energy markets. Within this sector, it places a strong emphasis on sustainable innovation, efficiency and data analytics to maximize the environmental and economic performance of its customers' vessels and power plants. As of 2021, the Complainant had net sales of EUR 4.8 billion with over 17,000 employees. The Complainant has a strong international presence with operations in over 200 locations across 68 countries. The Complainant's main website can be located from "www.wartsila.com".

The Complainant's activities are centered around two businesses: 'Wärtsilä Marine' and 'Wärtsilä Energy'. The Complainant's Marine Business is concerned with enhancing the business of its marine and oil & gas industry customers by providing innovative products and integrated solutions that eliminate process inefficiencies. It strives for decarbonization and ecosystem thinking through the implementation of environmentally (and economically) sustainable solutions. The Complainant's Energy Business is engaged in providing services and solutions to enhance the business performance of power generation companies. It achieves this by offering, among other solutions, energy management and storage systems, as well as lifecycle services to improve the efficiency and performance of power plants.

The Complainant operates its services internationally, with power plants in locations including but not limited to, Hungary, Texas (United States of America), Indonesia, Kenya, the United Kingdom, and the Caribbean, and was established and has been operating continually since 1834. The Complainant has made several acquisitions over the course of its history. This journey, as well as a comprehensive list of its acquisitions and management changes, has been explained (and reproduced in Annex 6 of the Complaint).

The Complainant, its affiliates, and associated companies own trademarks for the mark WÄRTSILÄ and WARTSILA across several jurisdictions. Some of the Complainant's trademark registrations are:

WÄRTSILÄ registered in the United States, under number 2078313, dated July 15, 1997, in class 7;

WÄRTSILÄ registered in the European Union under number 000838466, dated February 21, 2000, in classes 7, 12, 37;

WÄRTSILÄ International Registration number 1005789, dated May 22, 2009, in classes 7, 9, 11, 12, 35, 37, 41, 42.

The Complainant has spent a considerable amount of time, money and effort promoting, marketing and using the WÄRTSILÄ and WARTSILA marks to identify and distinguish its services domestically and internationally. As a result of this, the WÄRTSILÄ and WARTSILA marks have acquired distinctiveness in the market worldwide with customers that rely on the brand's name and quality.

The Complainant operates from its main domain, <wartsila.com>, which it uses to advertise its products and services, in addition to promoting its WÄRTSILÄ and WARTSILA marks globally. The Complainant holds a portfolio of over 400 active domain name registrations. This list includes a number of domain names incorporating the Complainant's mark with ccTLD extensions (e.g. <wartsila.cm>) as well as registrations with gTLD extensions (e.g. <wartsila.careers>).

The disputed domain name <wartasila.com> was registered by the Respondent on November 14, 2024.

The disputed domain name does not resolve to an active website but was used to send phishing emails.

## 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 <wartasila.com> is confusingly similar to the Complainant's WARTSILA mark. The issue of 'identical or confusingly similar' for the purposes of paragraph 4(a)(i) should be adjudicated upon by utilizing a side-by-side comparison to decide whether the alphanumeric string comprising the challenged domain name are identical or sufficiently approximate to the trademark. The disputed domain name matches the WARTSILA mark, except for the addition of the letter 'a' between the 't' and 's'.

The disputed domain name constitutes an example of 'typosquatting'. Internet users may easily mistype or misread the disputed domain name as matching the Complainant's mark by mistake. The small changes made to the WARTSILA term are not sufficient to distinguish the disputed domain name from the Complainant's trademark. Many previous decisions under the UDRP have been found as such. For example, in *Calvin Klein Trademark Trust and Calvin Klein, Inc. v. Francois Babicu*, WIPO Case No. [D2021-0136](#), it was concluded that "the addition of the single letter 'j' to 'calvin' is insufficient to avoid confusing similarity between 'calvin' and 'calvjn' and that therefore 'calvjn' as used in the disputed domain name is confusingly similar to the mark".

In respect of the generic top-level domain (gTLD) ".com" featured in the disputed domain name, the Complainant understands that it is common practice for the panel to disregard it under the first element as it is a standard registration requirement (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)", section 1.11). Numerous past decisions have applied this principle.

In light of all the above arguments, the Complainant requests that the Panel concurs and classifies the disputed domain name as confusingly similar to the Complainant's mark for the purposes of paragraph 4(a)(i) of the Policy.

### B. Respondent

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

## 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 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 with the addition of the letter “a”. Accordingly, the disputed domain name is identical or confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7 and 1.9.

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. The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Panels have held that the use of a domain name for illegitimate activity (here, claimed impersonation through a fraudulent email scheme) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel finds the second element of the Policy has been established.

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

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, while the disputed domain name does not resolve to any active content, the Panel notes that the Complainant submitted evidence demonstrating that the disputed domain name has been used to carry out phishing activity by way of scam emails using the email address (...)@wartasila.com. Thus, the Respondent was impersonating employees of the Complainant in order to solicit money transfers from customers of the Complainant.

Panels have held that the use of a domain name for illegitimate activity [here, claimed impersonation through a fraudulent email scheme] constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent’s registration and use of the disputed domain name constitutes 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 <wartasila.com> be transferred to the Complainant.

*/Rodrigo Velasco Santelices/*

**Rodrigo Velasco Santelices**

Sole Panelist

Date: February 3, 2025