

ADMINISTRATIVE PANEL DECISION

Terraheart Software Ltd v. laoa nota, and Ahmed Kamel, IST 30311
Case No. D2025-0458

1. The Parties

The Complainant is Terraheart Software Ltd, Cyprus, represented by Artem Semenov, Ukraine.

The Respondent is laoa nota, Viet Nam, and Ahmed Kamel, IST 30311, United States of America.

2. The Domain Names and Registrar

The disputed domain names <lossless-scaling.com> and <lossless-scaling.xyz> are registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 5, 2025. On February 5, 2025, and March 7, 2025, the Center transmitted by email requests for registrar verifications in connection with three domain names, including the disputed domain name <lossless-scaling.com>. On February 6, 2025, and March 7, 2025, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for these domain names which differed from the named Respondent and contact information in the Complaint.

The Center sent an email communication to the Complainant on March 12, 2025, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting the Complainant to either file a separate complaint for the domain name(s) associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all domain names are under common control. The Complainant filed the first amended Complaint on March 14, 2025, removing two domain names from dispute, leaving only the disputed domain name <lossless-scaling.com> in dispute, and requested addition of the disputed domain name <lossless-scaling.xyz> on March 17, 2025.

On March 19, 2025, the Center transmitted by email a request for registrar verification in connection with the additional disputed domain name. On March 19, 2025, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the additional 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 March 21, 2025, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting the Complainant to either file a separate complaint for the disputed domain name associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that both domain names are under common control. The Complainant filed the second amended Complaint on March 23, 2025.

The Center verified that the Complaint together with the first and second 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 March 28, 2025. In accordance with the Rules, paragraph 5, the due date for Response was April 17, 2025. The Respondent Ahmed Kamel sent email communications to the Center on March 14, 2025, March 16, 2025, March 17, 2025, and March 28, 2025. On April 20, 2025, the Center notified the Parties that it would proceed to panel appointment.

The Center appointed Luca Barbero as the sole panelist in this matter on May 5, 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 game and app development studio and is the owner of the LOSSLESS SCALING software, designed for scaling and frame generation in games. The Complainant's software has been marketed and sold primarily via the digital distribution platform Steam ("<https://store.steampowered.com/>") as of December 28, 2018.

The Complainant has provided evidence of ownership of the European Union trademark registration No. 019081623 for LOSSLESS SCALING (figurative mark), filed on September 20, 2024, and registered on January 9, 2025, in International class 9.

The first disputed domain name <lossless-scaling.com> was registered on June 28, 2024, and currently resolves to a security alert page, stating the website may contain malware. According to the screenshots submitted by the Complainant - which have not been contested by the Respondent -, prior to the present proceeding the disputed domain name pointed to a website displaying the LOSSLESS SCALING software name, logo, and screenshots, as well as publishing links to download the full version of the software. As of March 21, 2025, the Respondent's website included a disclaimer stating that the website was an independent platform and was not affiliated with, endorsed by, or connected to the official LOSSLESS SCALING software or its developers and inviting users to visit the Steam website to download the official LOSSLESS SCALING software.

The disputed domain name <lossless-scaling.xyz> was registered on March 14, 2025, and currently points to an error page stating: "page not found". The screenshots provided by the Complainant - again, not challenged by the Respondent -, show that the disputed domain name initially pointed to a website that strongly resembled the website originally published at the first disputed domain name. Despite minimal layout changes, such as modifications to the software description, the overall website remained highly recognizable, featuring the same software screenshots, header and footer, and links to video tutorials as the previous site, along with a download section that was most similar to the version of the previous layout of the website to which the disputed domain name <lossless-scaling.com> resolved.

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 names.

Notably, the Complainant contends that despite its mark being registered on January 9, 2025, the LOSSLESS SCALING software had already acquired goodwill and world renown since 2018, becoming a distinctive identifier well before its trademark registration.

The Complainant contends that the disputed domain names are identical or at least confusingly similar to the trademark LOSSLESS SCALING in which the Complainant has rights as they both reproduce the trademark in its entirety with the mere addition of a hyphen between the words "lossless" and "scaling", and the generic Top-Level Domains ("gTLDs") ".com" and ".xyz".

The Complainant states that the Respondent does not have any rights or legitimate interests in respect of the disputed domain names since: i) the Respondent has not made use or preparations to use the disputed domain names in connection with a bona fide offering of goods or services, as the website associated with the disputed domain name <lossless-scaling.com> falsely represented itself as the official page for the LOSSLESS SCALING software, using the software name, logo, and screenshots, hosting links to download the full version of the software and potentially harmful malware; ii) the Respondent is not commonly known by the disputed domain names, as there is no indication that the Respondent has used them as part of their business or organization and they appear to have been used for deceptive purposes and do not reflect a genuine business or organizational identity that the Respondent has built; iii) the Respondent is not making a legitimate noncommercial or fair use of the disputed domain names as it intended to divert users from the official source of LOSSLESS SCALING software for commercial gain, capitalizing on the goodwill of the LOSSLESS SCALING name, misleading consumers and potentially preventing the Complainant from displaying it in corresponding domain names.

With reference to the circumstances evidencing bad faith, the Complainant indicates that the disputed domain names were registered after LOSSLESS SCALING software had already achieved widespread recognition and popularity and that the Respondent's use of the disputed domain names in connection with websites pretending to be official pages for the software suggests that the Respondent used the disputed domain names to exploit the well-established reputation of the LOSSLESS SCALING mark and mislead users.

The Complainant submits that the Respondent intended to disrupt the Complainant's business by diverting users who would have otherwise purchased the software legitimately since, as of February 4, 2025 (the day before the date of the original Complaint submission), the Respondent's website at the disputed domain name <lossless-scaling.com> falsely presented itself as the official page for LOSSLESS SCALING, illegally offering the software as a free download, despite LOSSLESS SCALING being officially distributed as paid software on Steam.

The Complainant also states that, despite the fact that, as of March 21, 2025 (the date of the amended Complaint), the Respondent's website at the disputed domain name <lossless-scaling.com> no longer falsely presented itself as the official page for LOSSLESS SCALING and added a disclaimer, such change appears to be a direct response to the current dispute, likely as an attempt to conceal evidence, and the website continues to distribute an unauthorized copy of the LOSSLESS SCALING software for free. The Complainant also states that the software offered under the disputed domain name <lossless-scaling.com> is bundled with malicious software, which is clear evidence of the Respondent's intent to deceive users for financial gain.

The Complainant informs the Panel that, on March 12, 2025, a security researcher and YouTube blogger released a video analyzing the website at the disputed domain name <lossless-scaling.com> and providing a detailed breakdown of the malware behavior it distributed. The Complainant also states that a Google Search results page for the query “Lossless Scaling” shows the website displayed at the disputed domain name <lossless-scaling.com> is in the second position, immediately after the official Steam store page of the Complainant, and note that this demonstrates the potential high volume of traffic the website at <lossless-scaling.com> might be receiving.

The Complainant submits that the Respondent’s use of the disputed domain name <lossless-scaling.com> not only harms the Complainant’s reputation but also poses a significant risk to users, further demonstrating the Respondent’s bad faith.

The Complainant further states that, on February 14, 2025, following the submission of the original Complaint, the disputed domain name <lossless-scaling.com> was transferred from the previous registrar, Dynu Systems Incorporated, to the current registrar, in violation of the Policy. The Complainant concludes that the Respondent likely became aware of the original Complaint in some way and took actions in response, also making slight modifications to its website’s layout, altering the background, software screenshots, and adding a disclaimer, in an attempt to cover up evidence in response to the domain name dispute.

Furthermore, the Complainant contends that the Respondent’s registration details raise serious concerns regarding their authenticity, as the Respondent supplied fake contact details in the Registrar’s Whois records and the name used in the Whois information was not the same as the one used by the Respondent in an email communication sent to the Center on March 14, 2025. The Complainant believes that these actions constitute an attempt to cover up evidence in response to the domain name dispute, that the owner of both disputed domain names is the same and that their behavior regarding the unauthorized distribution of software and malware is identical.

The Complainant also states that the Respondent contacted the Complainant’s representatives via the official LOSSLESS SCALING Discord server and in direct messages, on March 12, 13 and 14, 2025 requesting that the Complainant withdraw the Complaint and purchase the disputed domain name <lossless-scaling.com>, but that as a consequence of unsuccessful negotiations, the Respondent chose to register the second disputed domain name <lossless-scaling.xyz>, on March 14, 2025, indicating presumably falsified registrant details, and used it to publish an almost identical website to that originally published on the disputed domain name <lossless-scaling.com>.

Therefore, the Complainant concludes that the Respondent registered and used the disputed domain names in bad faith, with the intent to profit from the LOSSLESS SCALING name and trademark, deceive consumers, and damage the Complainant’s business and reputation.

B. Respondent

On March 14, 2025, the Respondent Ahmed Kamel sent an informal communication to the Center requesting the Complainant’s contact details to resolve the matter amicably.

On March 16, 2025, the Respondent Ahmed Kamel sent a further email communication to the Center requesting that the disputed domain name <lossless-scaling.com> be transferred “as swiftly as possible” to the Complainant since it acquired the disputed domain name from another individual and wished to solve the matter in the best possible way.

On March 17, 2025, the Respondent Ahmed Kamel sent a further email to the Center requesting that its previous message be disregarded and stating that it would proceed with the dispute.

Lastly, on March 28, 2025, the Respondent Ahmed Kamel sent a last informal communication to the Center, requesting that the Complaint against the disputed domain name <lossless-scaling.com> be withdrawn and dismissed until a separate, appropriately filed Complaint specifically addressed to said disputed domain name, was submitted.

6. Discussion and Findings

6.1. Consolidation: Multiple Respondents

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are the same entity or mere alter egos of each other, or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The disputed domain name registrants did not comment on the Complainant's request. However, the Respondent Ahmed Kamel requested that the Complaint against the disputed domain name <lossless-scaling.com> be withdrawn and dismissed until a separate, appropriately filed Complaint specifically addressed to said disputed domain name, was submitted.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 4.11.2.

As regards common control, the Panel notes that the Complainant asserted that the disputed domain names, although registered in the name of different entities, are under common control since:

- i) The disputed domain name <lossless-scaling.xyz> was registered on March 14, 2025, after unsuccessful negotiations with the Complainant about the disputed domain name <lossless-scaling.com>, that the Respondent indicated to be available to sell after the start of the proceeding;
- ii) Both disputed domain names were registered through the same registrar;
- iii) Despite minimal layout changes, such as modifications to the software description, the website at <lossless-scaling.xyz> was highly similar to the website originally displayed at <lossless-scaling.com>, as it featured the same software screenshots, header and footer, and links to video tutorials along with a download section that was most similar to the version of the previous layout of the website at <lossless-scaling.com> on February 4, 2025;
- iv) The registrant details for the disputed domain names have been falsified, since the name used in the Whois information of <lossless-scaling.com> was not the same as the one used by the Respondent in an email communication sent to the Center on March 14, 2025, whilst for <lossless-scaling.xyz>, the street name is identical to the city name, and the provided email address including the wording "dlsoftfree" can be interpreted as "download software free", strongly suggesting that it was specifically created to reinforce the Respondent's illegal activities.

The Panel finds that the elements highlighted by the Complainant and referenced above demonstrate a common control of the disputed domain names. Indeed, the disputed domain names both reproduce the LOSSLESS SCALING mark of the Complainant with the mere addition of a hyphen and have been used in connection with very similar websites providing links to download LOSSLESS SCALING software for free.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party. According to the records, the Complaint has been notified to the Registrar-provided addresses for both disputed domain names and no communication indicating that the two disputed domain names were owned by different individuals or entities has been received.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below as “the Respondent”) in a single proceeding.

6.2. Substantive Issues

According to paragraph 15(a) of the Rules: “A Panel shall decide a 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.” Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following:

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

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 names. 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. Indeed, the Complainant has provided evidence of ownership of a valid trademark registration for LOSSLESS SCALING (figurative mark).

The Panel finds that the dominant portion of the Complainant’s mark, consisting of the denominative element “lossless scaling”, is entirely reproduced, and is thus recognizable, in the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. Since design elements are incapable of representation in domain names, these elements can be disregarded for purposes of assessing identity or confusing similarity under the first element. [WIPO Overview 3.0](#), section 1.10.

The Complainant also asserts unregistered trademark rights over LOSSLESS SCALING, submitting the following documents and statements:

- i) The LOSSLESS SCALING software has been sold on the Steam digital distribution platform starting from December 28, 2018, as shown by a webpage of the Steam website dedicated to LOSSLESS SCALING specifying the release date of the software (Annex 5 to the Complaint).
- ii) The Complainant’s software has been consistently identified as LOSSLESS SCALING, establishing significant consumer recognition of the mark even prior to the registration date of the LOSSLESS SCALING mark, as shown by a review of LOSSLESS SCALING software published on January 3, 2019 on Windows Central (Annex 6 to the Complaint);
- iii) Since its release, the LOSSLESS SCALING software has gained widespread popularity and is now recognized under its name by millions of gamers worldwide, having been reviewed numerous times by the press and media, mentioned in the news, and discussed on forums and social networks, as shown by a list of 18 online media reviews dated before the registration date of the first disputed domain name, submitted as

Annex 12 to the Complaint;

iv) Around the time the first disputed domain name <lossless-scaling.com> was registered, the LOSSLESS SCALING software had already drawn the attention of one of the most respected publications in the field, Digital Foundry, which published a video review of the software on July 4, 2024.

The Panel finds that the evidence provided by the Complainant shows that LOSSLESS SCALING has become a distinctive identifier which the relevant consuming public, namely gamers and game developers, associates with the Complainant's software. [WIPO Overview 3.0](#), section 1.3.

The mere addition of a hyphen and of the gTLDs “.com” and “.xyz” to the LOSSLESS SCALING mark does not prevent a finding of confusing similarity under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

Therefore, 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 names. 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 names such as those enumerated in the Policy or otherwise.

The Panel notes that there is no relation, disclosed to the Panel or otherwise apparent from the record, between the Respondent and the Complainant. The Respondent is not an affiliate or licensee of the Complainant, nor has the Respondent obtained authorization to use the Complainant's trademark or to register the disputed domain names.

Moreover, there is no element from which the Panel could infer the Respondent's rights over the disputed domain names, or that the Respondent might be commonly known by the disputed domain names.

The Panel also finds that there is no evidence of use of the disputed domain names by the Respondent in connection with a bona fide offering of goods or services or a legitimate noncommercial or fair use without intent for commercial gain to misleadingly divert consumers or to tarnish the Complainant's trademark.

As mentioned above, the disputed domain names <lossless-scaling.com> and <lossless-scaling.xyz> currently resolve to a security alert page and to an error page, respectively, but, according to the Complainant's submissions – which have not been contested by the Respondent – they were previously redirected to websites publishing the Complainant's LOSSLESS SCALING mark, using the LOSSLESS SCALING software name, logo, and screenshots, as well as publishing links through which users could purportedly download the full version of the software – that would be legally downloadable for a fee on the

Steam platform – for free.

According to the screenshots on record, the Respondent did not initially accurately and prominently disclose its lack of relationship with the Complainant and proceeded in adding a disclaimer on the website to which <lossless-scaling.com> resolved only on March 21, 2025, after receiving notice of the dispute. In addition, according to the reviews of the website submitted as annexes to the Complaint and as the security alert message currently displayed on the website apparently confirms, the links available therein allow to download potentially harmful malware.

The second disputed domain name <lossless-scaling.xyz> pointed to a website that strongly resembled the website at the first disputed domain name, reproducing the Complainant's marks and providing links which apparently enabled users to download the LOSSLESS SCALING software free of charge.

The Panel notes that the Respondent's use of the disputed domain names suggests that the Respondent intended to attract users to its websites, passing off as the Complainant and/or suggesting an affiliation with it, and finds that such use does not amount to a bona fide offering of goods or services or a legitimate noncommercial or fair use. The addition of a disclaimer after having received notice of the dispute is not sufficient to claim a legitimate interest, especially considering the Respondent has continued to offer purported copies of the LOSSLESS SCALING software for download and appears to have also distributed malware.

Moreover, Panels have categorically held that the use of a domain name for illegal activity, such as distributing malware, impersonation/passing off, or other types of fraud, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel further notes that the disputed domain names, reproducing the Complainant's LOSSLESS SCALING mark in its entirety, carry a high risk of implied affiliation with the Complainant. Therefore, such composition cannot constitute fair use. [WIPO Overview 3.0](#), section 2.5.1.

Therefore, the Panel finds the second element of the Policy has also 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, the first disputed domain name <lossless-scaling.com> was registered on June 28, 2024, before the trademark LOSSLESS SCALING was filed and registered with the European Union Intellectual Property Office. However, as indicated above, the Panel finds that the Complainant has demonstrated to have used the LOSSLESS SCALING mark in connection with its software sold via the digital distribution platform Steam as of December 28, 2018 and that the mark has become known in the gaming sector before the registration of the disputed domain name <lossless-scaling.com>.

In view of the above, the Panel finds that the Respondent knew or should have been aware of the Complainant's LOSSLESS SCALING mark at the time of the registration of the disputed domain names.

Moreover, according to the documents and statements submitted by the Complainant - which have not been contested by the Respondent -, it appears that the Respondent registered the second disputed domain name <lossless-scaling.xyz>, on March 14, 2025, after the Respondent was unsuccessful in negotiating with the Complainant concerning the first disputed domain name <lossless-scaling.com>.

Furthermore, the identity of the disputed domain names with the Complainant's mark and the content initially published on the websites to which the disputed domain names resolved, featuring the LOSSLESS SCALING marks and providing links to purportedly download LOSSLESS SCALING software for free,

suggest that the Respondent was not only well aware of the Complainant's mark but also that the disputed domain names were registered with a deliberate intent to create an impression of an association with the Complainant.

In view of the use of the disputed domain names in connection with the websites described above, the Panel finds that the Respondent used the disputed domain name to intentionally attempted to attract Internet users to its websites by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its websites.

As indicated under the previous section, the Respondent's addition of a disclaimer on the website at <lossless-scaling.com> after receiving notice of the dispute cannot be considered sufficient to prevent a likelihood confusion under the circumstances, in view of the composition of the disputed domain name, almost identical to the Complainant's trademark, and its redirection to a website purportedly enabling to download the LOSSLESS SCALING copyrighted software for free.

The circumstance that the links displayed on the website to which the disputed domain name <lossless-scaling.com> resolves apparently to enable the download of malware, as the current redirection to a security alert page apparently confirms, further demonstrates the Respondent's bad faith.

The disputed domain name <lossless-scaling.xyz> does not currently resolve to an active website. Panels have found that the non-use of a domain name 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 reputation of the Complainant's mark in its sector and, considering the composition of the disputed domain name, the Respondent's failure to provide any evidence of actual or contemplated good-faith use and the implausibility of any good faith use to which the disputed domain name may be put, finds that, under the circumstances, the current passive holding of the disputed domain name <lossless-scaling.xyz> does not prevent a finding of bad faith under the Policy.

Therefore, the Panel finds that the Complainant has established the third element of the Policy as well.

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 names <lossless-scaling.com> and <lossless-scaling.xyz> be transferred to the Complainant.

/Luca Barbero/

Luca Barbero

Sole Panelist

Date: May 20, 2025