

## ADMINISTRATIVE PANEL DECISION

Tenways Technovation Limited, 深圳市十方运动科技有限公司 (ShenZhen Shifang Technovation Limited) v. Name Redacted

Case No. D2023-2120

### 1. The Parties

The Complainants are Tenways Technovation Limited, China, and 深圳市十方运动科技有限公司 (ShenZhen Shifang Technovation Limited), China, represented by Beijing Kang Da (Shen Zhen) Law Firm, China.

The Respondent is Name Redacted.<sup>1</sup>

### 2. The Domain Name and Registrar

The disputed domain name <tenways-bikes.com> (the “Domain Name”) is registered with Gransy, s.r.o. d/b/a subreg.cz (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 8, 2023. On May 16, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On May 17, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on May 17, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amended Complaint on May 22, 2023.

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

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<sup>1</sup> The Respondent appears to have used the name of a third party when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted the Respondent’s name from this decision. However, the Panel has attached as Annex 1 to this decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

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 May 23, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 12, 2023. The Respondent did not submit any response. The Center received communications from a third party by email on May 26, 2023, June 6, 2023, and June 13, 2023. On June 13, 2023, the Center notified the Parties that it would proceed to panel appointment.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on July 4, 2023. 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 Tenways Technology Limited was founded in 2019 and it has been acquired by the second Complainant. The brand TENWAYS was founded in 2021 in relation to design, R&D, production, sales, and service of e-bikes. The Complainants have a brand design and sales headquarters in the Netherlands, and R&D, operation and supply chain centers in Hong Kong, China and Chinese Mainland. Additionally, the Complainants have more than 200 offsite stores in the world.

The Complainants have trademark registrations for TENWAYS in the European Union, the United Kingdom (“UK”), Switzerland, Norway, and China, such as UK trademark registration number UK00003625563 registered on August 20, 2021. The Complainants have been using “Tenways” as its business name.

The Domain Name was registered March 9, 2023. The Domain Name has resolved to a webpage with the Complainants’ logo and product pictures. The webpage has not been used for actual sales of the Complainants’ products, rather as part of a scheme to obtain consumers’ credit card information.

#### **5. Parties’ Contentions**

##### **A. Complainant**

The Complainants provide evidence of trademark registrations and argues that the identifiable part of the Domain Name is the same as the Complainants’ trademark, and therefore the Domain Name is confusingly similar to the Complainants’ trademark.

The Complainants argue that the Respondent has no rights or legitimate interests in respect of the Domain Name. The Respondent has not provided any evidence of *bona fide* use of, or demonstrable preparations to use, the Domain Name in connection with any legitimate offering of goods or services. The use of the Domain Name is evidence of bad faith.

The Complainants argue that the Respondent knew of the Complainants’ trademarks at the time of registration of the Domain Name. The Respondent use of the Domain Name is evidence of bad faith as the Respondent’s webpage copies and plagiarizes the pictures and logo of the Complainants’ bike products and uses the Complainants’ trademark without authorization.

##### **B. Respondent**

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

## 6. Discussion and Findings

### A. Identical or Confusingly Similar

The test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. See [WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, \("WIPO Overview 3.0"\)](#), section 1.7.

The Complainant has established that it has rights in the trademark TENWAYS. The Domain Name incorporates the Complainants' trademark, with the addition of "-bikes". The addition does not prevent a finding of confusing similarity. See [WIPO Overview 3.0](#), section 1.8. For the purpose of assessing under paragraph 4(a)(i) of the Policy, the Panel may ignore the generic Top-Level Domain ("gTLD"); see [WIPO Overview 3.0](#), section 1.11.1.

Based on the available record, 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. 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. See [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainants have established a *prima facie* case that the Respondent lacks rights or legitimate interests in the Domain Name. The Respondent has not rebutted the Complainants' *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Domain Name.

The Respondent is not affiliated or related to the Complainants. There is no evidence that the Respondent has registered the Domain Name as a trademark or acquired trademark rights. There is no evidence of the Respondent's use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services. On the contrary, the use of the Domain Name is evidence of bad faith, see below.

Based on the available record, 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.

The composition and use of the Domain Name make it probable that the Respondent was aware the Complainants' and their prior rights when the Respondent registered the Domain Name. The Respondent has not submitted any *bona fide* intent in relation to the Domain Name. The use of the Domain Name, to lure credit card information from consumers, is clear evidence of bad faith. Moreover, as a final indication of bad faith, the Respondent appears to have listed false contact details.

For the reasons set out above, the Panel concludes that the Domain Name was registered and is being used

in bad faith, within the meaning of paragraph 4(a)(iii) of the Policy. The third element of the Policy has been established.

## **7. Decision**

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders the Domain Name <tenways-bikes.com> be transferred to the Complainants.

*/Mathias Lilleengen/*

**Mathias Lilleengen**

Sole Panelist

Date: July 12, 2023