

## **ADMINISTRATIVE PANEL DECISION**

Clearent, LLC v. DNS Admin, Buntai LTD  
Case No. D2023-2918

### **1. The Parties**

The Complainant is Clearent, LLC, United States of America (“US”), represented by Wiggin LLP, United Kingdom.

The Respondent is DNS Admin, Buntai LTD, Switzerland, represented internally.

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

The disputed domain name <myclearent.net> is registered with Key-Systems GmbH (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 7, 2023. On July 7 and 31, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 10, 2023, the Registrar indicated to the Center that “the domain myclearent.net was deleted by the reseller Buntai”. Upon several communications between the Registrar and the Center, on August 1, 2023, 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 (PERSONS UNKNOWN, Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 1, 2023, 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 August 4, 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 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 August 8, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 28, 2023. The Respondent did not submit any formal response. Accordingly, the Center notified the Commencement of Panel Appointment Process on August 29, 2023. The Respondent sent an email communication to the Center on August 28, 2023.

The Center appointed Knud Wallberg as the sole panelist in this matter on September 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 is a US company which provides payment solutions. The Complainant has traded under and by reference to the names “Clearent, LLC” and “CLEARENT” since incorporation in 2005.

The Complainant is the owner of the US trademark No. 6037321 CLEARENT registered on April 21, 2020, and covering services in classes 36 and 42.

The Complainant is also the registrant of the domain name <clearent.com>.

The disputed domain name was registered on March 17, 2022, and has previously pointed to a spam web URL cache that when enabled, sends notifications in Edge or other web browsers saying the user’s PC is infected, that virus software must be installed or trying to encourage users to download malicious code. At the time of submitting the Complaint, the disputed domain name linked to a blank page stating, “This site can’t be reached”.

#### **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 is confusingly similar to the CLEARENT mark since it incorporates the mark in its entirety. The addition of “my” prior to the “clearent” element will be seen as a descriptor, inviting the customer to visit or have their own “Clearent” page or site. Indeed, the Complainant operates a client portal page at the sub-domain name <my.clearent.net>.

The Complainant further submits that it has no relationship with the Respondent and that the disputed domain name was registered without the consent of the Complainant. Moreover, the Respondent is not using and has never used the disputed domain name in connection with a *bona fide* offering of goods/services, just as that the use of a domain name for activities such as malware, phishing and the like can never confer “rights or legitimate interests” in a respondent.

The Complainant finally submits that the disputed domain name was registered and is being used in bad faith. The Complainant thus submits that it is clear that the disputed domain name was registered and is used either primarily for the purpose of disrupting the business of the Complainant and/or for the purposes of attempting to attract Internet users for commercial gain by creating a likelihood of confusion with the Complainant’s mark.

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

The Respondent did not substantively reply to the Complainant’s contentions. The Legal Counsel at Buntai Ltd. submitted the following communication: “Following the receipt of the Notification of the Complaint, my client has informed me that it does not own the abovementioned domain name. I hereby request the

deletion of the Complaint.”<sup>1</sup>

## 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. Based on the available record, the Panel finds the Complainant has shown rights in respect of the trademark and service mark CLEARANT for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1

The Panel finds the mark is recognizable within the disputed domain name, and that the disputed domain name is therefore identical or confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other terms here, “my” may bear on assessment of the second and third elements, the Panel finds the addition of such terms do 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.

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. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the 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 names.

The Panel considers that the record of this case reflects that the Respondent is not 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. Paragraph 4(c)(iii) of the Policy, and [WIPO Overview 3.0](#), section 2.4.

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<sup>1</sup> The Registrar indicated that the disputed domain name was deleted around the time the Complaint was being prepared and submitted to the Center. However, the Panel notes that the Registrar has confirmed that the disputed domain name is active, and is not available for registration. Furthermore, the Registrar identified the Respondent as the domain holder. Hence, for purposes of this UDRP decision, the Panel finds that DNS Admin, Buntai LTD is the Respondent.

Based on the available record, the Panel finds that 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 Panel considers that the record of this case reflects that the Respondent initially used the disputed domain name in an attempt to attract, for commercial gain, Internet users to its web sites or other on-line location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's web site or location or of a product or service on the Respondent's web site or location. Paragraph 4(b)(iv) of the Policy, and [WIPO Overview 3.0](#), section 3.1.4.

The fact that the disputed domain name does not appear to be used actively anymore, does not prevent a finding of bad faith in the circumstances of this proceeding. [WIPO Overview 3.0](#), section 3.3.

Based on the available record, the Panel finds that 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 that the disputed domain name, <myclearent.net>, be transferred to the Complainant.

*/Knud Wallberg/*

**Knud Wallberg**

Sole Panelist

Date: September 19, 2023