

ADMINISTRATIVE PANEL DECISION

Technisem v. Leang Giang, Giang sas
Case No. D2023-3056

1. The Parties

The Complainant is Technisem, France, represented by Cabinet Bouchara, France.

The Respondent is Leang Giang, Giang sas, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <techinsem.com> (the “Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 17, 2023. On July 18, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On July 18, 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 (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 2, 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 2, 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 response. Accordingly, the Center notified the Respondent’s default on September 1, 2023.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on September 7, 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 to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is a French company created in 1985. It is a leading company in the field of agriculture, specifically in the cultivation of cereals (with the exception of rice), pulses and oilseeds.

The Complainant owns trademark registrations in TECHNISEM, such as French trademark No. 4463790, registered from June 22, 2018, and French trademark No. 3696807, registered from December 7, 2009.

The Complainant owns the domain name <technisem.com> registered in 1999.

The Domain Name appears to be registered on May 28, 2023. At the time of filing of the Complaint, according to the Complainant, the Domain Name resolved to the Registrar's parking page with pay-per-click links. At the time of drafting the Decision, the Domain Name continues to resolve to the website operated by the Registrar with pay-per-click links.

5. Parties' Contentions

A. Complainant

The Complainant provides evidence of trademark registrations and argues that since the Domain Name contains the Complainant's trademark, with the letters "ni" converted in "in", the Domain Name is confusingly similar to the Complainant's trademark.

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the Domain Name. The Complainant has not authorized, licensed, or permitted the Respondent to register or use a domain name incorporating the Complainant's trademark. The passive holding of the Domain Name does not qualify as *bona fide* offering of goods or services.

The Complainant argues that it cannot be mere coincidence that the Respondent registered the Domain Name which incorporates the Complainant's trademarks with a small and insignificant inversion of letters relatively recently and many years after the Complainant's registration of its trademark. The Domain Name was clearly intentionally registered in order to create a likelihood of confusion with the Complainant's trademark. The Domain Name resolves to an inactive website redirecting with automatic links apparently being generated by the Registrar. The bad faith is not altered by the Respondent's non-use of the Domain Name under the doctrine of passive holding. The Respondent concealing its identity through use of a privacy protection service, may be an additional indication of bad faith.

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 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 TECHNISEM. The Domain Name differs from the trademark only in the inversion of the letters "ni" to "in". This alteration does not prevent a finding of confusing similarity. See [WIPO Overview 3.0](#), section 1.9. For the purpose of assessing the confusing similarity, 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 Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the 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 Domain Name. Based on the record, the Respondent is not affiliated or related to the Complainant. 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 in connection with a *bona fide* offering of goods or services as described the above, the Domain Name resolves to the website operated by the Registrar with pay-per-click links.

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.

Based on the composition of the Domain Name, a misspelling of the Complainant's trademark, it is probable that the Respondent was aware of the Complainant and its prior rights when the Respondent registered the Domain Name. Based on the case file, it appears that the Respondent is intentionally creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement. The use of the Domain Name for the Registrar's parking page with no substantive content does not alter the Respondent's bad faith considering a) the Complainant's trademark is distinctive, b) the Respondent has failed to provide any evidence of good faith use, and c) the Respondent initially concealed its identity through

a privacy service. Based on the case file, it is implausible that the Respondent may put the Domain Name to any good faith use.

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 <techinsem.com> be transferred to the Complainant.

/Mathias Lilleengen/

Mathias Lilleengen

Sole Panelist

Date: September 21, 2023