

## **ADMINISTRATIVE PANEL DECISION**

Talend S.A.S. v. rgq gafdfd; fdbaerg greaafew; hnjrtyh mrwtge; regdfga adfdg; gwerger erfsgadsf; fdcas reqgfads  
Case No. D2023-5114

### **1. The Parties**

The Complainant is Talend S.A.S., France, represented by BrandIT GmbH, Switzerland.

The Respondents are rgq gafdfd, United Kingdom; fdbaerg greaafew, United Kingdom; hnjrtyh mrwtge, United Kingdom; regdfga adfdg, United Kingdom; gwerger erfsgadsf, United Kingdom; and fdcas reqgfads, Canada.

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

The disputed domain names <talendalliance.com>, <talend-analyse.com>, <talend-apps.com>, <talend-scale.com>, <talend-senna.com>, <talend-talent.com>, <talend-web.com>, and <talend-world.com> are registered with Gname.com Pte. Ltd. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 5, 2023. On December 11, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On December 12, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondents (Redacted for Privacy) and contact information in the Complaint.

The Center sent an email communication to the Complainant on December 20, 2023, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting the Complainant to either file separate complaint(s) for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all disputed domain names are under common control. The Complainant filed an amended Complaint on December 27, 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 Respondents of the Complaint, and the proceedings commenced on January 5, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 25, 2024. The Respondents did not submit any response. Accordingly, the Center notified the Respondents' default on January 29, 2024.

The Center appointed Zoltán Takács as the sole panelist in this matter on February 9, 2024. 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 software company that specializes in business intelligence and data visualization.

The Complainant created a comprehensive data integration platform under the name TALEND which helps organizations to connect, transform, and manage data across various systems and applications.

The Complainant is present in North America, Europe, and the Asia Pacifica region and maintains a significant network of international partners.

The Complainant among others owns the International Trademark Registration No. 1345814 for TALEND, which was registered on March 7, 2017.

The Complainant's Internet presence is at "www.talend.com", with the corresponding domain name <talend.com> being registered since April 8, 2005.

The disputed domain names were registered on the following dates: <talendalliance.com> on November 22, 2023, <talend-analyse.com> on November 17, 2023, <talend-apps.com> on November 11, 2023, <talend-scale.com> on October 26, 2023, <talend-senna.com> and <talend-talent.com> on October 18, 2023, <talend-web.com> on October 21, 2023 and <talend-world.com> on November 3, 2023, and have all resolved to webpages with identical layout and content, prominently featuring the Complainant's trademark and inviting the potential users to register an account or to log in by using their username and password. The websites connected to the disputed domain names have also featured a copyright notice reading "Copyright © 2023 Talend All Rights Reserved".

Currently the disputed domain names do not resolve to any active websites.

#### **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:

- all the disputed domain names entirely incorporate its TALEND trademark and are therefore confusingly similar to the trademark at issue;
- the Respondents have no rights or legitimate interests in respect of the disputed domain names and are unable to rely on any of the circumstances set out in paragraphs 4(c)(i), (ii), or (iii) of the Policy; and
- the Respondents have registered the disputed domain names likely being aware of its TALEND trademark and had used them to take advantage of the reputation and goodwill built up by the Complainant in the mark at issue.

The Complainant requests that the disputed domain names be transferred from the Respondents to the Complainant.

## **B. Respondents**

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

## **6. Discussion and Findings**

### **Consolidation: Multiple Underlying 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.

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: (i) the naming pattern in the disputed domain names is highly similar (e.g., the Complainant's trademark plus descriptive terms); (ii) the disputed domain names seem to have been registered using false contact details in a highly similar fashion; and (iii) the content and layout of the websites corresponding to the disputed domain names are identical.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

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.

### **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 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 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.

Although the addition of other terms (in this case "analyse", "apps", "scale", "senna", "talent", "web", "world", and "alliance") may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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.

As shown by the Complainant, the Respondent used the disputed domain names to confuse Internet users presumably looking for the Complainant through redirecting them to its own, identically looking websites which have prominently displayed the Complainant’s TALEND trademark in the exact same letter type and color the Complainant is using it at its website.

In addition, the Respondent’s use of a copyright notice that suggested the Complainant’s rights in the websites indicates that the Respondent intended to impersonate the Complainant.

Panels have held that the use of a domain name for illegal activity, here impersonation/passing off 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.

Having reviewed the record, the Panel finds the Respondent’s registration and use of the disputed domain names constitutes bad faith under the Policy.

In the present case, the Panel notes that the disputed domain names fully contain the Complainant’s inherently distinctive TALEND trademark. A basic Internet search for TALEND returns solely the Complainant and its business.

The Respondent used the disputed domain names for identically looking websites, which featured the Complainant’s mark in the exact same letter type and color the Complainant is using it at its website, as well as a copyright notice which suggested the Complainant’s rights in the websites at the disputed domain names.

Given the above mentioned, in view of the Panel it is improbable that the Respondent registered the disputed domain names without knowledge of the Complainant and its mark and for any other purpose than to target the Complainant and the mark through impersonation or false association. Such activity is illegal and constitutes bad faith under the Policy. [WIPO Overview 3.0](#), section 3.4.

In addition, the Panel finds that the names of the registrants the Respondent provided at registration of the disputed domain names are manifestly fake, which is further evidence of bad faith. [WIPO Overview 3.0](#), section 3.2.1.

As mentioned above, currently the disputed domain names do not resolve to any active websites.

Panels have found that the non-use of a domain name (including a blank or “coming soon” page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain names does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant’s mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3.

Having reviewed the available record, the Panel notes the distinctiveness of the Complainant’s trademark; the composition of the disputed domain names as mentioned above; the Respondent’s failure to respond to the Complaint and provide any good faith explanation as to its registration and use of the disputed domain names; and the Respondent’s use of false contact details at registration of the disputed domain names. Accordingly, the Panel finds that in the circumstances of this case, the passive holding of the disputed domain names does not prevent a finding of 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 names <talendalliance.com>, <talend-analyse.com>, <talend-apps.com>, <talend-scale.com>, <talend-senna.com>, <talend-talent.com>, <talend-web.com>, and <talend-world.com> be transferred to the Complainant.

*/Zoltán Takács/*

**Zoltán Takács**

Sole Panelist

Date: February 19, 2024