

ADMINISTRATIVE PANEL DECISION

Talend S.A.S. v. QAQ QAQ

Case No. D2024-0330

1. The Parties

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

The Respondent is QAQ QAQ, China.

2. The Domain Name and Registrar

The disputed domain name <tal-end.com> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 25, 2024. On January 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 26, 2024, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 29, 2024, 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 February 8, 2024.

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 February 12, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 3, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 7, 2024.

The Center appointed Beatrice Onica Jarka as the sole panelist in this matter on March 15, 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 which has created the Talend platform, a powerful and comprehensive data integration platform that helps organizations seamlessly connect, transform, and manage data across various systems and applications.

The Complainant has a global presence with offices in North America, Europe, and the Asia Pacific region including in China, and maintains a robust network of international partners.

The primary objective of the Complainant is to empower organizations of all sizes and across various industries to fully harness the value of their data.

To achieve this, the Complainant offers an end-to-end platform that combines enterprise-grade data integration, data quality, data governance, and application and API integration.

This comprehensive platform enables the unification of data from diverse sources, whether they reside in the cloud, hybrid environments, or multi-cloud setups.

As a testament to its capabilities, the Complainant has amassed over 7,250 satisfied customers worldwide who rely on its flexible and trustworthy platform for modern data management, resulting in tangible business value.

The Complainant owns numerous trademark registrations for TALEND (thereafter the "Complainant's trademark"), such as but not limited to:

- United Kingdom trademark registration No. UK00801310047 registered on September 24, 2017;
- International Trademark registration No. 1345814 registered on March 07, 2017;
- International trademark registration No. 1310047 registered on March 25, 2016.

The Complainant also operates its official website at <talend.com>.

According to the Registrar's verification, the Respondent in this proceeding is "QAQ QAQ" from China.

The disputed domain name appears to be registered on December 28, 2023.

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 incorporates entirely the Complainant's registered trademark TALEND. The term "talend" is only separated by a hyphen, but this does not alter the fact that the disputed domain name essentially reproduces the Complainant's trademark. The TALEND trademark is clearly recognizable within the disputed domain name.

The disputed domain name was registered by the Respondent on December 28, 2023, well after the registration of the Complainant's trademarks.

The Complainant has not licensed or authorized the Respondent to use its trademarks. The Respondent is not affiliated to the Complainant. The Complainant did not authorize the Respondent to register or use the

disputed domain name incorporating its respective trademarks nor has the Complainant endorsed or sponsored the Respondent or the Respondent's websites.

There is no evidence that the Respondent is commonly known by the disputed domain name or owns any registered trademarks including the disputed domain name or the term "tal-end". In fact, when entering the term "talend" in the Google search engine, the returned results point to the Complainant and its online activity. Therefore, apart from the reference to the disputed domain name, there is no available information on the Respondent being commonly known by the disputed domain name.

At the time of filing this Complaint, the disputed domain name resolves to a website that reproduces the Complainant's trademark, creating a likelihood of confusion with the Complainant's official website.

Moreover, the fact that the disputed domain name requests personal data of the customers via a form available on the website, cannot be considered as a bona fide offering of goods or services, and cannot confer rights or legitimate interests to the Respondent. Furthermore, this activity could be recognized as an attempt to impersonate the Complainant.

The Respondent is merely seeking, and has sought, to exploit the Complainant's trademark and create a commercial gain for itself on the internet.

The Complainant, before filing this Complaint, has filed several takedown forms to the Registrar, without receiving any feedback.

B. Respondent

Although properly notified by the Center, the Respondent did not reply to the Complainant's contentions.

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.

As mentioned in the Factual Background section above, 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 disputed domain name is confusingly similar to the Complainant's trademark, while it incorporates the said trademark with minor variations, the term "talend" being only separated by a hyphen. Such an alteration does not alter the fact that the disputed domain name essentially reproduces the Complainant's trademark and thus does not prevent a finding of confusing similarity as the TALEND trademark remains clearly recognizable within the disputed domain name.

Accordingly, 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.

The Panel notes the following assertions of the Complainant making prima facie case on the Respondent lacking rights or legitimate interests in respect of the disputed domain name, as follows:

- the Respondent registered the disputed domain name on December 28, 2023, well after the registration of the Complainant’s trademarks.
- the Complainant has not licensed or authorized the Respondent to use its trademarks and there is no affiliation of the Respondent to the Complainant.
- there is no evidence that the Respondent is commonly known by the disputed domain name or owns any registered trademarks including the disputed domain name or the term “tal-end”.
- at the time of filing this Complaint, the disputed domain name resolves to website that reproduces the Complainant’s trademark, creating a likelihood of confusion with Complainant’s official website.
- the disputed domain name clearly refers to the Complainant, its trademarks and services and the Complainant did not authorize the creation of such domain name nor the website to which the disputed domain name resolves. The use of the Complainant’s trademark directly related to the Complainant’s business, reflects the Respondent’s intention to create an association, and a subsequent likelihood of confusion, with the Complainant and its trademarks in Internet users’ mind.

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 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 name such as those enumerated in the Policy or otherwise.

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

Consequently, 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.

In the present case, the Panel notes that the Respondent:

- registered the disputed domain name resolving to a website that reproduces the Complainant’s trademark, creating a likelihood of confusion with the Complainant’s official website.
- has a clear intention to create an association, and a subsequent likelihood of confusion, with the Complainant and its trademarks in Internet users’ mind as to the source, sponsorship, affiliation, or endorsement of the Respondent’s website.
- uses the disputed domain name to request personal data of the customers via a form available on the website, in an activity that would be recognized as an attempt to impersonate the Complainant.
- is merely seeking, and has sought, to exploit the Complainant’s TALEND trademark and create a commercial gain for itself on the internet.

- has chosen to use the distinctive trademark TALEND in the disputed domain name in its entirety although the Complainant's trademarks predate the registration of the disputed domain name and the Respondent has never been authorized by the Complainant to use the TALEND trademarks nor to register the disputed domain name.
- registered the disputed domain name using the trademark TALEND intentionally in order to take advantage of the reputation of the trademark and the Complainant's goodwill free-riding on the Complainant's reputation.
- has not answered to the Complainant's several takedown notices nor has the Respondent responded to this Complaint.

The said circumstances documented by the evidence submitted by the Complainant indicate that the Respondent's aim in registering the disputed domain name was to profit from or exploit the Complainant's trademark and the Panel finds that the Respondent did register and is using the disputed domain name in bad faith targeting the Complainant and its trademark.

Consequently, The Panel finds 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 <tal-end.com> be transferred to the Complainant.

/Dr. Beatrice Onica Jarka/

Dr. Beatrice Onica Jarka

Sole Panelist

Date: March 29, 2024