

## ADMINISTRATIVE PANEL DECISION

WABERER'S INTERNATIONAL Nyilvánosan Működő Részvénytársaság v.  
Name Redacted  
Case No. D2024-1124

### 1. The Parties

The Complainant is WABERER'S INTERNATIONAL Nyilvánosan Működő Részvénytársaság, Hungary, internally represented.

The Respondent is Name Redacted<sup>1</sup>, United Kingdom.

### 2. The Domain Names and Registrar

The disputed domain names <waberers.co> and <weberers.com> are registered with NameCheap, Inc. (the "Registrar").

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on March 12, 2024. On March 15, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On the same date, 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 Respondent (Unidentified) and contact information in the Complaint.

The Center sent an email communication to the Complainant on March 21, 2024, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting the Complainant to either file separate complaints for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity

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<sup>1</sup> According to the amended Complaint, the Respondent appears to have used the name of a third party (i.e., an employee of the Complainant) when registering the disputed domain names. 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 names, 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Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case.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](#).

and/or that all domain names are under common control. The Complainant filed an amended Complaint on March 26, 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 March 27, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 16, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 17, 2024.

On April 18, 2024, the Complainant submitted a request to the Center for the addition of a third domain name to this administrative proceeding.

The Center appointed Marilena Comanescu as the sole panelist in this matter on April 23, 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, WABERER'S INTERNATIONAL Nyilvánosan Működő Részvénytársaság, incorporated in Hungary in 1990, is operating in the sector of transportation and warehousing in Europe. The Complainant's shares are listed on the Budapest Stock Exchange.

The Complainant holds trademark registrations for or including WABERER'S, such as the following:

- the European Union Trademark registration number 018764015 for the mark WABERER'S GREEN DIVISION (figurative), filed on September 20, 2022 and registered on January 14, 2023, covering services in Class 39; and
- the Hungarian Trademark Registration number 180678 for the mark WABERER'S OPTIMUM SOLUTIONS (figurative) with priority from September 23, 2003, registered on February 23, 2005, covering services in Classes 35 and 39.

The Complainant holds since August 11, 2003 and uses the domain name <waberers.com>.

The disputed domain name <waberers.co> was registered on January 30, 2024, and the disputed domain name <weberers.com> was registered on February 22, 2024. At the time of filing the Complaint, the disputed domain names resolved to inactive pages.

According to Annex 8 to the Complaint, the Respondent has used the disputed domain names to perpetrate a fraud by creating email addresses corresponding to the disputed domain names and sending emails impersonating the Complainant to subcontractor transportation companies. In such emails, the Respondent impersonates the Complainant and its employees, inserts the Complainant mark and logo, uses genuine information pertaining to the Complainant's employees and submits false transportation orders to defraud the Complainant and its subcontractors. Information about transportation companies and their contact persons can be found on various online transportation forums, available for the public at large.

According to Annex 9 to the Amended Complaint, the name disclosed for the Respondent corresponds to an employee of the Complainant.

## **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 the disputed domain names are similar to its company name, trademark, and domain name used since 2003; the Respondent has no rights or legitimate interests in the disputed domain names; the Respondent registered and is using the disputed domain names in bad faith for sending emails with the fraudulent intent to impersonate the Complainant and defraud the Complainant and its subcontractors, using genuine information pertaining to the Complainant and its employees and submitting false transportation orders; also the email service provider of both email addresses under the disputed domain names use a well known end-to-end encrypted email service which may block or further delay the disclosure of the Respondent's identity; the underlying registrant's name corresponds to the name of the Complainant's commercial manager and the use of phantom data in the disputed domain name registration process is another sign of bad faith.

### **B. Respondent**

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

## **6. Preliminary Issues**

### **A. Consolidation: Multiple Domain Names and Registrants**

The Respondent is an individual whose identity was initially protected by a privacy shield. The Registrar disclosed different contact details for the domain name registrants. After receiving the Center's email communication informing with regard to the underlying registrant revealed by the Registrar's verification response, in its Amended Complaint, the Complainant requested the consolidation of the procedures since both disputed domain names, <waberers.co> and <weberers.com>, were registered under the same name and Registrar.

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 names 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 the disputed domain names were registered: under the name of the same physical person (Name Redacted) and the contact information share several similarities such street name and country; with the same Registrar; and were used in a similar manner.

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 for the disputed domain names <waberers.co> and <weberers.com> registrants (referred to below as “the Respondent”) in a single proceeding.

## **B. Request of Addition of Domain Name Post Notification of Complaint**

On April 18, 2024, the Complainant submitted a request to the Center asking the addition of a third domain name in the dispute.

Request for addition of domain names to a complaint after it has been notified to the respondent and the proceedings have formally commenced would be addressed by the panel on appointment. Except in limited cases where there is clear evidence of respondent gaming/attempting to frustrate the proceedings (for example by registering of additional domain names subsequent to complaint notification), panels are generally reluctant to accept such requests because the addition of further domain names would delay the proceedings involving, inter alia, a new Registrar’s verification request, a re-notification of the proceedings to the parties. [WIPO Overview 3.0](#), section 4.12.2.

This third domain name was registered on February 27, 2024; the Complaint was filed on March 12, 2024; correspondence provided as Annex 8 to the Amended Complaint submitted on April 18, 2024 indicates the Complainant’s knowledge of such third domain name on March 7, 2024; the proceedings were formally commenced and the deadline for the Respondent to respond lapsed on April 17, 2024; Paragraph 10 of the Rules directs the UDRP panel to conduct the proceeding “with due expedition”.

For all the above, the Panel declines the Complainant’s request to add the third domain name in the present proceedings. Of course, such finding would not prevent the filing of separate complaint where such additional domain name may be addressed.

## **7. Discussion and Findings**

Under the Policy, the Complainant is required to prove on the balance of probabilities that:

- (i) the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in the disputed domain names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

### **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 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 Panel finds the mark is recognizable within the disputed domain names.

The disputed domain name <waberers.co> incorporates the dominant element of the mark; and the disputed domain name <weberers.com> is an obvious misspelling of the Complainant’s trademark, with the replacement of the first letter, “a” with an “e”. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.10. and 1.9.

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 non-exhaustive 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.

According to the evidence in the Complaint, the email addresses associated with the disputed domain names were used for scamming purposes. UDRP panels have categorically held that the use of a domain name for illegal activity (such as phishing, impersonation/passing off other types of fraud) can never confer rights or legitimate interests on a respondent. See section 2.13 of the [WIPO Overview 3.0](#).

Further, the composition of the disputed domain names, which reproduces the Complainant’s trademark, company name and website exactly or with a minor alteration, suggests an affiliation with the trademark owner. Panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. [WIPO Overview 3.0](#), section 2.5.1.

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.

In the present case, the Panel notes that the Respondent registered the disputed domain names in bad faith because they are very similar to the Complainant’s trademark, company name and domain name registered since 2003, and furthermore the Respondent fraudulently used the name of the Complainant’s employee as contact information listed in the Whois.

Such conduct leads to infer that the Respondent had previous knowledge of the Complainant, its staff, and that at the time of registering the disputed domain names, it targeted the Complainant.

The Respondent used the disputed domain names to send email communications for illegal activity and other fraudulent purposes in an attempt to obtain financial gain from third parties, impersonating the Complainant. This is a classic phishing scheme and establishes bad faith use and registration. [WIPO Overview 3.0](#), section 3.4.

Panels additionally view the provision of false contact information (or an additional privacy or proxy service) as an indication of bad faith. [WIPO Overview 3.0](#), section 3.6.

Lastly, it should also be noted that the absence of content in the disputed domain names does not prevent a finding of bad faith under the Policy considering the circumstances of the case. [WIPO Overview 3.0](#), section 3.3.

The Panel finds that the Complainant has established the third element of the Policy.

## **8. 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, <waberers.co> and <weberers.com>, be transferred to the Complainant.

For purposes of properly executing this order, the Panel also directs the Registrar's attention to Annex 1 hereto that identifies the entity listed as registrant of the disputed domain names in the formal record of registration, and orders that the disputed domain names, <waberers.co> and <weberers.com>, be transferred from that entity to the Complainant.

The Panel directs the Center that Annex 1 shall not be published along with this Decision.

*/Marilena Comanescu/*

**Marilena Comanescu**

Sole Panelist

Date: May 2, 2024