

## **ADMINISTRATIVE PANEL DECISION**

### **CEGEDIM v. Eunice Osborne, Cegedim**

### **Case No. D2024-1905**

#### **1. The Parties**

The Complainant is CEGEDIM, France, represented by SCP Derriennic Associes, France.

The Respondent is Eunice Osborne, Cegedim, United Kingdom.

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

The disputed domain name <cegedim.tech> is registered with Squarespace Domains II LLC (the “Registrar”).

#### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 6, 2024. On May 7, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 8, 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 (Contact Privacy Inc. Customer 7151571251) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 8, 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 May 13, 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 May 22, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 11, 2024. The Respondent sent an email communication to the Center on May 22, 2024.

The Center appointed Alissia Shchichka as the sole panelist in this matter on June 28, 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**

Founded in 1969, the Complainant specializes in digital flow management for the healthcare and BtoB sectors. They cater to healthcare providers, pharmaceutical labs, insurance companies, and other industries needing outsourcing, secure hosting, and digital exchanges. The Complainant is publicly traded on the Paris stock exchange, achieving EUR 555.2 million in revenue in 2022 with a workforce exceeding 6,000 employees across more than 10 countries.

The Complainant has evidenced to be the registered owner of numerous trademark registrations, including, but not limited, to the following:

- European Union trademark registration No. 009278136, registered on January 10, 2011, for the figurative mark CEGEDIM, in classes 9, 35, 38, 42 and 44; and
- United Kingdom trademark registration No. UK00909278136, registered on January 10, 2011, for the figurative mark CEGEDIM, in classes 9, 35, 38, 42 and 44.

The Complainant also owns more numerous domain names, which include <cegedim.com> (registered on May 13, 1998), <cegedim.co.uk> (registered on July 15, 2001), <cegedim.uk> (registered on May 31, 2019), and other domain names containing the CEGEDIM trademarks.

The above trademarks and domain names were registered prior to the registration of the disputed domain name, which was registered on February 6, 2024. The disputed domain name leads to an inactive page.

The Respondent, according to the disclosed Whois information for the disputed domain name, is apparently located in the United Kingdom.

#### **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 asserts that the CEGEDIM trademark has achieved global recognition in its industry and is well-known.

According to the Complainant, the disputed domain name is confusingly similar to the Complainant's trademark CEGEDIM as it incorporates the entire trademark.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name since (1) the Complainant has never licensed, contracted, or otherwise permitted the Respondent to apply to register the disputed domain name; (2) the Respondent is not commonly known by the CEGEDIM trademark; and (3) the Respondent is using the domain name in connection with an active website.

Finally, the Complainant argues that the Respondent has registered and is using the disputed domain name in bad faith for the following reasons: 1) the Complainant's trademark significantly predates the registration of the disputed domain name, and the Complainant's CEGEDIM trademark is well known; 2) the

Respondent has registered the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the disputed domain name to the Complainant or to a Complainant's competitor or preventing the Complainant from using and reflecting its trademarks in the disputed domain name; 3) the Complainant refers to the landmark UDRP decision, *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#), to conclude that the current non-use of the disputed domain names does not preclude a finding of bad faith, as established in this case.

The Complainant requests that the disputed domain name be transferred to the Complainant.

## **B. Respondent**

The Respondent did not file any substantial reply to the Complainant's contentions. However, after receiving the notification from the Center regarding the initiation of the UDRP procedure, the Center received two emails as follows:

"What is this??? Please if it is fraudulent it is a very funny joke. Can you not send this to me again. I am not Eunice Osborne as stated. Please do not send me this my mental health can not take this stress."

"I am writing to express my concern and confusion regarding the emails and communications I have been receiving under the name "Eunice Osborne." I am not Eunice Osborne, and I have no knowledge of this person. I worked for Cegedim for only four months last year, and that was the extent of my association with your organization. Despite this, I have been receiving persistent emails and even a text message addressed to Eunice Osborne. Initially, I assumed these emails were fraudulent and deleted them. However, the situation has escalated, leading to my growing concern. Could you please clarify how my contact details came to be associated with Eunice Osborne? I would also appreciate it if you could cease sending me these emails and rectify any errors in your records immediately. Thank you for your prompt attention to this matter".

## **6. Discussion and Findings**

Under paragraph 4(a) of the Policy, the Complainant carries the burden of proving:

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

The Respondent's default in the case at hand does not automatically result in a decision in favor of the Complainant, however, paragraph 5(f) of the Rules provides that if the Respondent does not submit a substantive response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the Complaint.

Further, according to paragraph 14(b) of the Rules, the Panel may draw such inferences from the Respondent's failure to submit a substantive response as it considers appropriate.

### **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.

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 name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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 Complainant has confirmed that the Respondent is not affiliated with the Complainant, or otherwise authorized or licensed to use the CEGEDIM trademarks or to seek registration of any domain name incorporating the trademarks.

Accordingly, the Complainant has provided evidence supporting its prima facie claim that the Respondent lacks any 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 substantial evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Therefore, the Panel concludes that the Respondent does not have any rights or legitimate interests in the disputed domain name and the Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

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

## **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.

On the issue of registration, the Panel observes that the Complainant’s rights to the well-known CEGEDIM trademarks substantially precede the Respondent’s registration of the disputed domain name. Consequently, the Respondent knew or should have known of the Complainant’s trademarks at the time of registering the disputed domain name. [WIPO Overview 3.0](#), section 3.2.2.

Further, the mere registration of the disputed domain name that is confusingly similar to the Complainant’s well-known trademarks by the Respondent, who is unaffiliated with the Complainant, can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4.

On the issue of use, upon reviewing the available evidence, the Panel concludes that the current non-use of the disputed domain names does not preclude a finding of bad faith, as established in the landmark UDRP decision *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#).

In this context, the Panel also attaches significance to the fact that the Center did not receive any substantive response from the Respondent. The individual associated with the email address provided by the Respondent to the Registrar at the time of the disputed domain name registration wrote to the Center, expressing confusion and concern over receiving persistent emails and a text message addressed to “Eunice Osborne,” despite having no knowledge of this person and “having only worked for Cegedim for four months last year”. They requested clarification on how their contact details were associated with Eunice Osborne and asked for the emails to stop and for any record errors to be corrected immediately. Consequently, either the Respondent provided false contact details, or the Respondent chose not to provide explanations or a substantive response to the Complainant’s claims. In either case, the Panel views this as an indication of the Respondent’s bad faith.

The Panel finds that, in the circumstances of this case, the Respondent’s registration and use of the disputed domain name constitute bad faith.

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 name <cegedim.tech> be transferred to the Complainant.

*/Alissia Shchichka/*

**Alissia Shchichka**

Sole Panelist

Date: July 12, 2024