

ADMINISTRATIVE PANEL DECISION

QlikTech International AB v. Carlita Smith

Case No. D2024-2759

1. The Parties

The Complainant is QlikTech International AB c/o Ports Group AB, represented by Abion AB, Sweden.

The Respondent is Carlita Smith, United States of America (“United States”).

2. The Domain Names and Registrars

The disputed domain names <qlikbe.com> is registered with Hostinger Operations, UAB. The disputed domain name <qlikbe.vip> is registered with NameCheap, Inc. (collectively the “Registrars”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 8, 2024. On July 8, 2024, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On July 8, and 9, 2024, the Registrars transmitted by email to the Center their verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 9, 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 July 9, 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 July 17, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 6, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 7, 2024.

The Center appointed Rodrigo Azevedo as the sole panelist in this matter on August 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 technology company specialized in data analytics and business intelligence solutions, that operates under the brand QLIK.

The Complainant owns QLIK trademarks in various jurisdictions, including the United States Trademark No. 2657563, registered on December 10, 2002.

The disputed domain names were registered on July 2, 2024, indicating a United States address.

The Panel accessed the disputed domain names on August 18, 2024, and found that they were not linked to any active website.¹

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:

- The disputed domain names are identical or confusingly similar to a trademark in which the Complainant has rights. The Complainant owns numerous trademark registrations for QLIK in numerous jurisdictions. The only difference between the disputed domain names and the Complainant's trademark is addition of the word "be". This small difference is not enough to distinguish the disputed domain names from the Complainant's trademark and is likely to confuse consumers into thinking that the disputed domain names are associated with or endorsed by the Complainant. The QLIK trademark is clearly recognizable within the disputed domain names.
- The Respondent has no rights or legitimate interests in respect of the disputed domain names. The disputed domain names were registered by the Respondent well after the registration of the Complainants' 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 names incorporating its respective trademarks nor have 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 names. In fact, when entering the term "qlik" 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 names, there is no available information on the Respondent being commonly known by the disputed domain names. At the time of filing of the Complaint, the disputed domain names resolve to an inactive page. The disputed domain names are passively held. There is no evidence of any actual or contemplated good-faith use of the disputed domain names. Moreover, previous UDRP panels have held, under the doctrine of passive holding, that the non-use of a domain name would not prevent a finding of bad faith.
- The disputed domain name was registered and is being used in bad faith. It is very likely that the Respondent registered the disputed domain names using the trademark QLIK intentionally in order to take advantage of the reputation of the trademark and the Complainant's goodwill, free-riding on the Complainant's reputation. The Paragraph 4(b) of the Policy identifies, in particular but without limitation, four circumstances which shall be evidence of the registration and use of a domain name in bad faith. Among those circumstances Paragraph 4(b) of the Policy reads: "(ii) you have registered the domain name in order

¹ Further to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.8, "[n]oting in particular the general powers of a panel articulated inter alia in paragraphs 10 and 12 of the UDRP Rules, it has been accepted that a panel may undertake limited factual research into matters of public record if it would consider such information useful to assessing the case merits and reaching a decision. This may include visiting the website linked to the disputed domain name in order to obtain more information about the respondent or its use of the domain name...".

to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct.” The WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), paragraph 3.1.4 states that “Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith”. The fact that the disputed domain names incorporate in its entirety the trademark QLIK without displaying a disclaimer of affiliation with the Complainant’s official website, may mislead the potential consumers by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation and making the general public believe that the paid services advertised on the website are actually official and authorized by the Complainant.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that in order to be entitled to a transfer of the disputed domain name, a complainant shall prove the following three elements:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- (ii) the respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is 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.

Annex 6 to the Complaint shows registrations of QLIK trademarks obtained by the Complainant in different jurisdictions, including in the United States, in 2002. Based on the available record, the Panel finds 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 trademark QLIK is wholly encompassed within the disputed domain names, together with the suffix “be”, as well as with the generic Top-Level Domain (“gTLD”) “.com” and “.vip”, respectively.

Although the addition of other terms (here, “be”) may bear on assessment of the second and third elements, the Panel finds that it 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.

It is also well established that the addition of a gTLD, such as “.com” or “.vip”, is typically disregarded when determining whether a domain name is confusingly similar to a complainant’s trademark as such is viewed as a standard registration requirement. [WIPO Overview 3.0](#), section 1.11.1.

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.

The Panel finds no indication that the Respondent is commonly known by the disputed domain names and the Complainant has asserted that the Respondent is not an authorized representative, nor has not obtained any permission for such use of the QLIK trademark.

The term “qlikbe” has no dictionary meaning in English and the Respondent has not presented any justification for the registration of the disputed domain names incorporating such expression.

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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

The disputed domain names include the trademark QLIK, which has no dictionary meaning.

Furthermore, when the disputed domain names were registered, in 2024, the QLIK trademark was already registered and used in connection with the Complainant’s business, especially in the United States.

Therefore, the Panel concludes that it is not feasible that the Respondent was not aware of the Complainant’s trademark and that the registration of the disputed domain names were a mere coincidence.

Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness and reputation of the Complainant’s trademark and the composition of the disputed domain names, and 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 non-collaborative posture of the Respondent, i.e., (a) not hosting any content on the disputed domain names, (b) not indicating any intention for the use of the disputed domain name, and (c) not at least submitting a Response to this procedure or providing justifications for the use of a third-party trademark, certainly cannot be used in benefit of the Respondent in this Panel’s opinion. Such circumstances, are enough in this Panel’s view to characterize bad faith registration and use in the present case.

Therefore, having reviewed the record, the Panel finds the registration and use of the disputed domain names constitute bad faith under 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 <qlikbe.com> and <qlikbe.vip> be transferred to the Complainant.

/Rodrigo Azevedo/

Rodrigo Azevedo

Sole Panelist

Date: August 23, 2024