

## **ADMINISTRATIVE PANEL DECISION**

Wartsila Technology Oy Ab v. stella fred, bigtreat  
Case No. D2024-2807

### **1. The Parties**

The Complainant is Wartsila Technology Oy Ab, Finland, represented by SafeNames Ltd., United Kingdom.

The Respondent is stella fred, bigtreat, United States of America (“United States”).

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

The disputed domain name <vwartsila.cam> is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 10, 2024. On July 10, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 10, 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 July 16, 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 17, 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 24, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 13, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 5, 2024.

The Center appointed Charles Gielen as the sole panelist in this matter on September 11, 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 Finnish corporation which operates in the field of smart technologies and complete lifecycle solutions for the marine and energy markets. Within this sector, it places a strong emphasis on sustainable innovation, efficiency, and data analytics to maximize the environmental and economic performance of its customers' vessels and power plants. As of 2023, the Complainant had net sales of EUR 6 billion with over 17,000 employees. The Complainant has a strong international presence with operations in over 280 locations across 79 countries. The Complainant holds a portfolio of registrations for trade marks, consisting in the word WÄRTSILÄ or WARTSILA in several countries and regions in the world. Among others the Complainant owns United States registration No. 2078313, registered on July 15, 1997, for goods in cl. 7 and European Union Trade Mark No. 000838466, registered on February 21, 2000, for goods in classes 7 and 12 and services in class 37, both for the trade mark WÄRTSILÄ. Furthermore, the Complainant owns European Union Trade Mark No. 011765294, registered on September 18, 2013, for goods in classes 7, 9, 11 and 12 and services in classes 35, 37, 41, 42 for the trade mark WARTSILA.

Since many years the Complainant operates under domain names consisting of the term "wartsila", for example <wartsila.com>.

The disputed domain name does not resolve to an active website. The Complainant has provided evidence demonstrating that the Respondent has used the disputed domain name for sending email communications impersonating employees of the Complainant purportedly aiming at canvassing its customers for money. Furthermore, the Complainant provided evidence that in said email communications also the domain name <wartsila.cam> has been used by the Respondent.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant asserts that it has accrued significant goodwill and reputation in the trade marks WÄRTSILÄ and WARTSILA, which have become an indication of the source of goods and services supplied by the 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 is confusingly similar to the trade mark. It differs from the trade mark WARTSILA only by the fact that the letter 'w' has been replaced with the letters 'vv', which in combination mimic a "w". The substitution of characters in this way, commonly referred to as 'typosquatting', constitutes a deliberate misspelling of the WARTSILA mark intended to emulate the WARTSILA mark.

Furthermore, the Complainant contends that the Respondent does not have any rights or legitimate interests in the disputed domain name. First of all, the Respondent is not offering any goods or services using the disputed domain name. The disputed domain name does not resolve to an active webpage and, as such, it is being passively held. The non-use of a domain name should be considered not to be a bona fide offering of goods or services. Second, the disputed domain name has been used to carry out phishing activity by way of scam emails using email addresses with the extension <vvarsila.cam>. Use of a domain name for such illegal activities can never confer rights or legitimate interests on a Respondent.

Finally, the Complainant argues that the Respondent registered and is using the disputed domain name in bad faith. First, the Complainant contends that the disputed domain name was registered in bad faith, because the Respondent must have been aware of the prior long use of the famous trade marks WÄRTSILÄ and WARTSILA. Also, the attempt by the Respondent to copy this trade mark through the substitution of characters which resemble one another (“w” and “v”), deems it highly implausible that the Respondent was unaware of the Complainant’s rights. Second, the bad faith use of the disputed domain name follows from the fact that the Respondent fabricated an affiliation with the Complainant and distributed phishing emails to its clients whilst purporting to be an employee of the Complainant. The Respondent distributed these emails to the Complainant’s clients in an attempt to solicit payments using fraudulent documents (purchase orders and an advance payment guarantee). This is in itself evidence that the disputed domain name was registered and is being used in bad faith.

## **B. Respondent**

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 trade mark 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 trade marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds that the trade marks WÄRTSILÄ and WARTSILA are clearly recognizable within the disputed domain name. The only difference is that in the disputed domain name the letter ‘w’ has been replaced with the letters ‘vv’, which in combination mimic a “w”. Accordingly, the disputed domain name is confusingly similar to the trade marks for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.7 and 1.9. The disputed domain name is a clear example of typo squatting.

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 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.

In particular, the Respondent is not offering any goods or services using the disputed domain name. The disputed domain name does not resolve to an active webpage and, as such, it is being passively held. The non-use of a domain name should be considered not to be a bona fide offering of goods or services. Furthermore, as Panels have held, the use of a domain name for an illegal activity can never confer rights or legitimate interests on a respondent. In this case, the illegal activity consists of the use of the disputed to send out scam emails using email addresses with the extension <vvartsila.cam>. [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.

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 Panel finds that in this case it is clear that the bad faith of both the registration and use of the disputed domain name is constituted by the fact that the disputed domain name is used for an illegal activity. This activity consists of sending out false emails impersonating employees of the Complainant in order to canvass its customers for money. Taking also into account that the disputed domain name does not resolve to an active website, the Panel finds the Respondent's registration and use of the disputed domain name constitutes 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 name <vvartsila.cam> be transferred to the Complainant.

*/Charles Gielen/*

**Charles Gielen**

Sole Panelist

Date: September 24, 2024