

## **ADMINISTRATIVE PANEL DECISION**

Red Lion Controls Inc. v. Petra Scheuermann  
Case No. D2024-3561

### **1. The Parties**

The Complainant is Red Lion Controls Inc., United States of America (“US”), represented by Abion AB, Sweden.

The Respondent is Petra Scheuermann, Germany.

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

The disputed domain name <red-lion.net> is registered with IONOS SE (the “Registrar”).

### **3. Procedural History**

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on September 3, 2024. On September 3, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 5, 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 September 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 amendment in English to the Complaint on September 10, 2024.

On September 9, 2024, the Center further informed the parties in German and English, that the language of the registration agreement for the disputed domain name is German. On September 9, 2024, the Complainant requested English to be the language of the proceeding. The Respondent did not submit any comment on the Complainant’s submission.

The Center verified that the Complaint together with the amendment to the 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 in English and German of the Complaint, and the proceedings commenced on September 18, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 8, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 15, 2024.

The Center appointed Philippe Gilliéron as the sole panelist in this matter on October 21, 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 data company seated in Pennsylvania with offices across the Americas, Asia-Pacific and Europe which develops and manufactures products and solutions to access, connect and visualize information.

The Complainant holds several trademarks consisting in RED LION such as, in particular:

- International Trademark Registration (Reg.) n° 974123, that was registered in class 9 on August 8, 2008;
- US Trademark Reg. n° 3368713, that was registered in class 9 on January 15, 2008.

The Complainant further holds the domain name <redlion.net>, which hosts its main commercial website.

On December 11, 2013, the Respondent registered the disputed domain name. The disputed domain name is passively held and does not lead to any active website.

The Complainant was informed that the Respondent sent an email impersonating one of its employees on August 26, 2024.

#### **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 is confusingly similar to its trademark as it entirely incorporates the terms "red lion".

The Complainant then affirms that the Respondent has no rights or legitimate interests in the disputed domain name as it has never been licensed by the Complainant to use its trademarks, is not known under that name and does not have any legitimate business in relation to the disputed domain name which appears to be a mere passive registration.

The Complainant finally is of the view that the disputed domain name was registered and is being used in bad faith. The choice of a domain name identical to its main corporate domain name <redlion.net> cannot be a mere coincidence and demonstrates that the Respondent was aware of the Complainant's trademark when she registered the disputed domain name. The registration of a domain name for phishing purposes is an illegitimate activity which obviously amounts to a use in bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

Paragraph 15(a) of the Rules instructs this Panel to “[...] decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable.”

Pursuant to paragraph 4(a) of the Policy, the Complainant must prove each of the following three elements to obtain an order that the disputed domain name should be cancelled or transferred:

- (i) the disputed domain name registered by the Respondent is identical or confusingly similar to a trademark or a service mark in which the Complainant has rights;
- (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.

Prior to turning to the merits of the case, the Panel however has to address a formal issue regarding the language of the proceedings.

### **A. Language of the Proceeding**

The language of the Registration Agreement for the disputed domain name is German. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English on September 3, 2024. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that the disputed domain name is in English characters, that the email that was sent on August 26, 2024, was in English and that, in light of the circumstances, the translation of the Complaint in German would lead to disproportionate additional costs.

The Respondent did not make any specific submissions with respect to the language of the proceeding and did not comment on the Complainant's request for the language of the proceeding be English.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.5.1).

Having considered all the matters above, taking into account the fact that the Respondent was given the opportunity to comment on the Complainant's request for English to be the language of the proceeding but did not do so, the Panel sees no reason to oppose such request and determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

### **B. 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 entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar 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.

### **C. 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.

The Panel finds the second element of the Policy has been established.

### **D. 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.

Bad faith requires the Respondent to be aware of the Complainant’s trademarks. In the present case, the disputed domain name entirely incorporates the Complainant’s trademark. The Respondent has further impersonated a Complainant’s employee to send a fraudulent email on August 26, 2024. As a result, there is little doubt in the Panel’s opinion that the Respondent was aware of the Complainant’s trademark when it registered the disputed domain name.

On August 26, 2024, the Respondent sent a fraudulent email impersonating a Complainant’s activity. Panels have held that the use of a domain name for an illegal activity such as phishing activity constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

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 <red-lion.net> be transferred to the Complainant.

*/Philippe Gilliéron/*

**Philippe Gilliéron**

Sole Panelist

Date: October 31, 2024