

ADMINISTRATIVE PANEL DECISION

QlikTech International AB v. Alexander Fischer, Theseus-AT Case No. D2024-4010

1. The Parties

The Complainant is QlikTech International AB, Sweden, represented by Abion AB, Sweden.

The Respondent is Alexander Fischer, Theseus-AT, Austria.

2. The Domain Name and Registrar

The disputed domain name <qlick.info> is registered with IONOS SE (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on September 30, 2024. On September 30, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 1, 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 (Tom Shaffer) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 4, 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 October 10, 2024.

On October 4, 2024, the Center informed the Parties in German and English, that the language of the Registration Agreement for the disputed domain name is German. On October 10, 2024, the Complainant filed a submission requesting 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 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 October 11, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 31, 2024. The Respondent did not submit any response. However, informal email communications were received from the Respondent on October 10, October 20, October 21, October 25, October 28, October 30, and November 14, 2024. The Center notified the Commencement of Panel Appointment Process on November 11, 2024.

The Center appointed John Swinson as the sole panelist in this matter on November 15, 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 specializing in data analytics and business intelligence solutions.

The Complainant owns a portfolio of trademark registrations for QLIK including European Union Trademark No. 001115948 registered on May 16, 2000.

The disputed domain name was registered on September 18, 2024.

The Respondent did not file a formal Response, so little information is known about the Respondent. The Respondent has an address in Austria.

At the present time, the disputed domain name does not resolve to an active website.

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 only difference between the disputed domain name and the Complainant's trademark is the addition of the letter "c" in the disputed domain name, which does not eliminate the confusing similarity.

There is no evidence that the Respondent is commonly known by the disputed domain name or owns any registered trademarks including the term "qlick.info". In fact, when entering the term "qlik" in the Google search engine, the returned results point to the Complainant and its online activity.

The disputed domain name is a copycat website of the Complainant's official website. Therefore, it is self-evident that the Respondent registered and is currently using the disputed domain name in bad faith, with the clear intent to take a free ride on the Complainant's renown.

B. Respondent

The Respondent did not file a formal Response. In informal communications, the Respondent stated that the disputed domain name was not actually used. The Respondent also sent an email to the Center, in both English and German, stating "I am willing to transfer the domain 'qlick.info' to Abion or QlikTech, but I am uncertain how to properly complete this process. As I am not a lawyer and my legal advisors have only recommended that I proceed with the transfer, I would appreciate a brief explanation of how best to carry out this transfer."

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied, namely:

- (i) the disputed domain name is 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 respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

Paragraph 4(a) of the Policy states that the Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not formally replied to the Complaint. *Stanworth Development Limited v. E Net Marketing Ltd.*, WIPO Case No. [D2007-1228](#).

However, concerning the uncontested information provided by the Complainant, the Panel may, where relevant, accept the provided reasonable factual allegations in the Complaint as true. *Merit Turizm Yatirim Ve Isletme Anonim Sirketi v. Fedlan Kilicaslan, G&F Company Group NV / Redsoft N.V.*, WIPO Case No. [D2017-1398](#).

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. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that key documents are in English, and the cost of translating documents and providing interpretation services for proceedings not conducted in English would impose a significant financial burden on the part.

The Respondent did not make any specific submissions with respect to the language of the proceeding but sent email communications in both German and 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, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

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 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.

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.

The Respondent states that he has not used the disputed domain name and has not put forward any information regarding his plans for use of the disputed domain name.

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

C. Registered and Used in Bad Faith

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 Complainant alleges that the website at the disputed domain name is a copycat website of the Complainant’s website. The exhibits to the Complaint did not demonstrate this at all. The Complaint included a snippet of part of a website, but there is no evidence to show that this snippet was located on a website at the disputed domain name or when this snippet was made.

An asserting party needs to establish that it is more likely than not that the claimed fact is true. An asserting party cannot meet its burden by simply making conclusory statements unsupported by evidence, as the Complainant has done in this case. To allow a party to merely make factual claims without any supporting evidence would essentially eviscerate the requirements of the Policy as both complainants or respondents could simply claim anything without any proof. For this reason, UDRP panels have generally dismissed factual allegations that are not supported by any bona fide documentary or other credible evidence. *Snowflake, Inc. v. Ezra Silverman*, WIPO Case No. [DIO2020-0007](#); *Captain Fin Co. LLC v. Private Registration, NameBrightPrivacy.com / Adam Grunberg*, WIPO Case No. [D2021-3279](#). Accordingly, the Panel makes no finding that the Respondent was operating a copycat website.

The Respondent sent an email to the Center stating that he was prepared to transfer the disputed domain name to the Complainant but needed instruction as to how to implement such a transfer.

The Panel reaches the conclusion based on this correspondence that the Respondent is consenting to the transfer of the disputed domain name to the Complainant. The Panel therefore adopts the approach set out

in [WIPO Overview 3.0](#), section 4.10 as follows: “Where parties to a UDRP proceeding have not been able to settle their dispute prior to the issuance of a panel decision using the ‘standard settlement process’ described above, but where the respondent has nevertheless given its consent on the record to the transfer (or cancellation) remedy sought by the complainant, many panels will order the requested remedy solely on the basis of such consent. In such cases, the panel gives effect to an understood party agreement as to the disposition of their case (whether by virtue of deemed admission, or on a no-fault basis).”

See, for example, *Infonxx.Inc v. Lou Kerner, WildSites.com*, WIPO Case No. [D2008-0434](#), where the Panel stated as follows: “However, this Panel considers that a genuine unilateral consent to transfer by the Respondent provides a basis for an order for transfer without consideration of the paragraph 4(a) elements. As was noted by the Panel in *The Cartoon Network LP, LLLP v. Mike Morgan*, WIPO Case No. [D2005-1132](#), when the Complainant seeks the transfer of the disputed domain name, and the Respondent consents to transfer, the Panel may proceed immediately to make an order for transfer pursuant to paragraph 10 of the Rules. Accordingly, and in light of the parties’ stipulations set forth above, the Panel will order the transfer of the disputed domain name to the Complainant. This is clearly the most expeditious course.” See also *Dell Inc. v. New Project*, WIPO Case No. [D2021-1433](#).

Even so, the Panel considers it appropriate to record the Panel’s findings in respect of the substantive matters set out above to avoid any injustice. See *American Woodmark Corporation v. Azeem Cv*, WIPO Case No. [D2015-0089](#).

In conclusion, the Panel makes no substantive findings under the third element of the Policy, but based on the prior cases cited above, will make an order for transfer of the disputed domain name to the Complainant.

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 <qlick.info> be transferred to the Complainant.

/John Swinson/

John Swinson

Sole Panelist

Date: November 28, 2024