

## **ADMINISTRATIVE PANEL DECISION**

Wartsila Technology Oy Ab v. Alan Baker  
Case No. D2024-0429

### **1. The Parties**

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

The Respondent is Alan Baker, United Kingdom.

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

The disputed domain name <vvarsilas.com> is registered with NameSilo, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 30, 2024. On January 30, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 January 31, 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 January 31, 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 sent the notification to the Respondent of the Complaint, and the proceedings commenced on February 2, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 22, 2024. The Respondent did not submit any response. Accordingly, the Center sent the notification of the Respondent’s default on February 23, 2024.

The Center appointed Petra Pecar as the sole panelist in this matter on March 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 established in 1834 and engaged in smart technology and lifecycle solutions for marine and energy sectors, which prioritizes environmental stewardship and operational efficiency. The Complainant reported EUR 4.8 billion in net sales for 2021, employs over 17,000 people, and operates in 68 locations, including, Hungary, Texas, United States of America, Indonesia, Kenya, the United Kingdom, the Caribbean, among others. The Complainant business is divided into two primary sectors: “Wärtsilä Marine” and “Wärtsilä Energy”, both dedicated to eco-friendly solutions and enhancing performance, respectively.

The Complainant is the owner of the trademark WÄRTSILÄ and WARSTILA in many jurisdictions, including:

- United States of America Patent and Trademark Office Reg no. 2078313 for WÄRTSILÄ, registered on July 15, 1997;
- European Union Intellectual Property Office Reg no. 000838466 for WÄRTSILÄ, registered on February 21, 2000;
- International Registration no. 1005789 for WÄRTSILÄ, registered on May 22, 2009; and
- European Union Intellectual Property Office Reg no. 011765294 for WARTSILA, registered on September 18, 2013.

The Complainant’s substantial brand promotion efforts have led to market distinctiveness, online and social media presence, reinforcing its claim of significant market goodwill and reputation.

The Complainant operates its main domain, <wartsila.com>, to globally advertise its offerings and trademark WÄRTSILÄ and WARSTILA. The Complainant holds over 400 domain names, including variations with different generic and country code Top-Level Domains (“TLD”s) like <wartsila.cm> and <wartsila.careers>.

The disputed domain name <vvartsilas.com> was registered on September 26, 2023 and currently resolves to an inactive website. Prior the Complaint filing, the disputed domain name was inactive and used for phishing.

The Respondent is an individual 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.

The Complainant states that they own registered marks for WÄRTSILÄ and WARTSILA, which are recognized and hold considerable goodwill, establishing their rights. This stance is supported by various UDRP decisions where the distinctiveness and association of the WÄRTSILÄ and WARTSILA marks with the Complainant’s services were acknowledged by UDRP panels in earlier cases.

Furthermore, the Complainant submits that the disputed domain name, <vvartsilas.com>, exhibits confusing similarity to their WARTSILA mark. The Complainant argues this case is a clear example of “typosquatting”, where the simple replacement of the letter “w” with letters “vv” and the addition of an “s” could easily mislead Internet users into mistaking the disputed domain name for the Complainant’s mark. This manipulation typically aims to exploit typographical errors made by Internet users, potentially redirecting them to an unintended website. The Complainant also points out that in UDRP decisions, the generic TLD (“gTLD”) “.com” is overlooked when evaluating similarity, with the focus instead on the significant part of the domain name. Therefore, the Complainant asserts that the disputed domain name is confusingly similar to the Complainant’s registered mark, except for minor changes that fail to prevent user confusion.

The Complainant argues that the Respondent has no legitimate interests or rights in the disputed domain name. According to the Complainant, the Respondent does not own any trademark rights related to the disputed domain name in question and has not received authorization from the Complainant to use the associated mark within a domain name. Furthermore, the Complainant highlights that the Respondent allegedly engaged in phishing activities using the disputed domain name, impersonating the Complainant's employees to illicitly solicit funds from its customers. Such behavior is a significant factor undermining any potential legitimate interests.

Moreover, the Complainant notes that the disputed domain name is currently not being used, which typically indicates a lack of a bona fide offering of goods or services. The non-use, combined with the absence of evidence suggesting that the Respondent is commonly known by the disputed domain name, leads the Complainant to assert that there is no plausible legitimate interests for the Respondent in holding the disputed domain name.

The Complainant argues that the historical use of the disputed domain name for fraudulent purposes, coupled with its current non-use, does not constitute legitimate non-commercial or fair use. Consequently, the Complainant believes that the Respondent lacks rights or legitimate interests in the disputed domain name, shifting the burden of proof to the Respondent to demonstrate otherwise. The Complainant claims that the Respondent registered and is using the disputed domain name with malicious intent, which involves a case where the Respondent is accused of exploiting the Complainant's well-known mark to deceive Internet users, a practice known as "typosquatting", which is seen as a form of bad faith. The mark owned by the Complainant has been established for over 26 years and holds significant recognition and goodwill in the energy and marine sectors. Searches for the Complainant's brand typically lead users directly to their legitimate services, highlighting its prominence and the potential for confusion created by the Respondent's similar disputed domain name.

The Complainant further states that the Respondent engaged in phishing – sending deceptive emails to trick individuals into believing they are communicating with the Complainant, with the goal of illegally obtaining commercial gain. Such actions are typically recognized as evidence of malicious intent.

Additionally, the Complainant argues that even though the disputed domain name is not currently linked to an active webpage, such passive holding does not negate the presence of bad faith. They point to previous UDRP decisions where the lack of active use of a disputed domain name did not preclude findings of bad faith, especially when the disputed domain name involves a well-known mark and there appears to be no legitimate use for it by the Respondent.

## **B. Respondent**

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

## **6. Discussion and Findings**

As the Respondent did not file a Response to the Complainant's contentions, the Panel shall consider the issues present in the case based on the statements and documents submitted by the Complainant.

"A Panel shall 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", as indicated in paragraph 15(a) of the Rules.

Under paragraph 4(a) of the Policy, the Complainant is required to prove each of 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;

- (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 by the Respondent 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 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 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 typosquatting practice of replacing the letter "w" by the double letter "v", in which is clear that double letter "v" imitates the letter "w" and additional ending letter "s", which is used to form plurals and to indicate possession, does not prevent this Panel to conclude that the disputed domain name is confusingly similar to the Complainant's trademark under WIPO Overview, section 1.9.

Moreover, the ".com" gTLD is viewed as a standard registration requirement and is generally disregarded under the first element of the confusing similarity test, as set forth in section 1.11.1 of [WIPO Overview 3.0](#).

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.

According to the Complainant, it seems that the Respondent is not associated or connected with the Complainant in any way, and the Complainant has not granted the Respondent any license or authorization to use or register any domain name that includes the Complainant's WÄRTSILÄ and/or WARTSILA mark. Moreover, the Respondent has not replied to the Complaint, failing to show any justifiable prior rights or legitimate interests in the disputed domain name.

There is also no evidence suggesting the Respondent has rights or legitimate interests in the disputed domain name. Contrarily, the Respondent used the disputed domain name initially for phishing attacks, pretending to be a Complainant's employee and soliciting payments. Such deceptive practices align with the

established principles in [WIPO Overview 3.0](#), section 2.13.1, indicating that such use cannot confer any rights or legitimate interests to the Respondent.

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.

In the present case, the Panel notes that the Complainant has provided evidence demonstrating that the WÄRTSILÄ and WARTSILA marks are well known, having been registered and used 26 years before the Respondent's registration of the disputed domain name. It is apparent that by registering the disputed domain name, the Respondent aimed to exploit the Complainant's mark WÄRTSILÄ and/or WARTSILA, thereby causing confusion among Internet users and leveraging the Complainant's esteemed reputation, within the meaning of paragraph 4(b)(iv) of the Policy.

Moreover, the Respondent's registration of the disputed domain name that incorrectly spells the Complainant's mark, using double letter "v" instead letter "w", which are confusingly similar, and adding last letter "s", suggests a clear case of typosquatting, intended to create confusion and unjustly benefit from the Complainant's mark.

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 name at the time of the Complaint filing was redirected to an inactive website, but the Complainant has submitted evidence that the disputed domain name was used to execute phishing attacks, aiming to capitalize on the potential confusion of users receiving fraudulent emails regarding the origin of the disputed domain name.

Panels have held that the use of a domain name for illegal activity as phishing and impersonation of the Complainant constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, 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 <vvarsilas.com> be transferred to the Complainant.

*/Petra Pecar/*

**Petra Pecar**

Sole Panelist

Date: March 25, 2024