



**CANADIAN INTERNATIONAL INTERNET DISPUTE RESOLUTION CENTRE**  
**DOMAIN NAME DISPUTE**  
**ADMINISTRATIVE PANEL**  
**DECISION**

|                              |  |                                     |
|------------------------------|--|-------------------------------------|
| CIIDRC case number:          | <b>22760-<br/>CDRP</b>   | Decision date: <b>April 4, 2024</b> |
| Domain Name:                 | <b>rhenuslogisticsltd.ca</b>                                   |                                     |
| Panel:                       | <b>Richard Levy</b>  |                                     |
| Complainant:                 | <b>Rhenus SE &amp; Co. KG and Rhenus Logistics Canada Ltd.</b> |                                     |
| Complainant's Representative | <b>Nathan Haldane of Fasken Martineau DuMoulin LLP</b>         |                                     |
| Registrant:                  | <b>Sharafat Ali</b>  |                                     |

### **1.0. PROCEDURAL HISTORY**

1. This is a proceeding under the CIRA Domain Name Dispute Resolution Policy (the "CDRP" or "Policy"), in accordance with the CIRA Dispute Resolution Rules (the "Resolution Rules" or "Rules").
2. The procedural history of this case was set out in a letter from the Canadian International Internet Dispute Resolution Centre to the Panel dated March 21, 2024.
3. On February 23, 2024, Nathan Haldane filed a Complaint on behalf of Rhenus SE & Co. KG and Rhenus Logistics Canada Ltd. pursuant to the CDRP and the Resolution Rules.
4. On February 23, 2024, CIRA was notified of this proceeding. On February 23, 2024, CIRA transmitted by email to CIIDRC its verification response informing it of the name of the Registrant of the disputed domain name. CIRA also confirmed that the <rhenuslogisticsltd.ca> domain name was placed on a Registrar LOCK.

5. On February 23, 2024, CIIDRC confirmed compliance of the Complaint with the Resolution Rules and commencement of the dispute resolution process.
6. Pursuant to Resolution Rule 4.4, CIIDRC notified the Registrant of this administrative proceeding and forwarded a copy of the complaint and the commencement letter to Registrant via email.
7. The response deadline was set as March 14, 2024. No response was received by the deadline or since.
8. The Complainant in this administrative proceeding has elected for a Panel consisting of a single member.
9. CIIDRC appointed the undersigned as a single-member Panel.
10. The undersigned has confirmed to CIIDRC that he can act impartially and independently as the Single Member Panel in this matter.
11. The undersigned determines that he has been properly appointed and constituted as the Single Member Panel to determine the Complaint in accordance with the Rules.

## **2.0. CANADIAN PRESENCE AND TECHNICAL REQUIREMENTS**

12. Section 1.4 of the Policy requires that in order to initiate the Complaint, the Complainant, at the time of the initiation of the Complaint, must satisfy the Canadian Presence Requirements for Registrants, version 1.3 (“CPR.”), unless the Complaint relates to a trademark registered in the Canadian Intellectual Property Office (“CIPO”) and the Complainant is the owner of that trademark.
13. The evidence before the Panel is that the Complainant is a corporation incorporated under the laws of a province of Canada.
14. Section 17 of the CPR states that permission to apply to CIRA for the registration of a .ca domain name based on a trademark registered in Canada is limited to an application to register consisting of or including the exact word component of that registered trademark.
15. Complainant is the owner of a Canadian trademark registration for RHENUS & Design and a Canadian trademark registration for RHENUS LOGISTICS & Design.
16. The disputed domain name (the “Domain Name”) “rhenuslogisticsltd.ca” includes the exact word components of each registered trademark owned by the Complainant.

17. The Panel therefore determines that the Complainant has satisfied the provisions of section 1.4 of the Policy. Based upon the information provided by CIIDRC and the Complainant in the Complaint, the Panel finds that all technical requirements for the prosecution of this proceeding have been met.

### 3.0. FACTS ALLEGED BY THE PARTIES AND REMEDIES SOUGHT

#### 3.1 Complainant

18. Domain name registration. The Domain Name was registered on July 28, 2023, with Wild West Domains Canada, Inc..

19. Trademark Rights. The Complaint is based on the following trademarks of which Complainant is the owner:

| Trademark   | App. No. | App. Date  | Reg. No.   | Reg. Date  |
|---|----------|------------|------------|------------|
|  RHENUS              | 1050064  | 2000-03-07 | TMA577663  | 2003-03-19 |
|  RHENUS<br>LOGISTICS | 1864656  | 2017-10-26 | TMA1097956 | 2021-04-12 |

(the “Rhenus Trademarks”)

20. Complainant has used the Rhenus Trademarks in Canada in association with transportation and related logistics services since as least as early as March 2003. On February 27, 2019, Rhenus SE & Co. KG (“Rhenus KG”) incorporated Rhenus Logistics Canada Ltd. (“Rhenus Canada”) in British Columbia as a wholly-owned subsidiary of Rhenus KG.

21. Complainant’s Business. Complainant offers solutions for a wide range of industries along the entire supply chain, including multimodal transport, warehousing, and customs clearance. A global company, Complainant employs more than 39,000 individuals internationally across 1,120 sites.

22. Complainant’s Website. Complainant’s Canadian website is located at [www.rhenus.group/ca](http://www.rhenus.group/ca) and promotes Complainant’s services. This website is active.

23. Registrant’s Website. This website is located at the Domain Name. It purports to be the website for a transportation and logistics company named Rhenus Logistics Ltd. (“Infringing Corporate Name”) and lists its address as 57 Queen St. E, Toronto, Ontario M5C 1R6, an address that does not physically exist. Someone purporting to be Christopher John Tarrant has

registered this corporation on May 31, 2023, with the Ontario Ministry of Public and Business Service Delivery. The corporation lists its registered office address at the same address.

24. Communications by Registrant to Clients of Complainant. Complainant alleges that Registrant, using the Infringing Corporate Name to impersonate Complainant, is emailing Complainant's clients requesting they reset login credentials for corporate accounts between the Complainant and its clients. Complainant alleges that Registrant is doing this to deceive clients that they are interacting with Complainant in order to steal confidential information for malicious purposes. Complainant submitted evidence of correspondence in which Complainant informs its clients that the person using the Infringing Corporate Name is not related to Complainant and in which Complainant attempts to obtain further information from its clients of the approaches made by the impersonator.

### 3.2 Registrant

25. As was noted above, Registrant has not filed a Response.

## 4.0 CONTENTIONS OF THE PARTIES

### 4.1 Complainant

26. Confusingly similar. Complainant submits that the Domain Name is confusingly similar to a trademark or service mark in which the Complainant has rights, namely the Rhenus Trademarks, in which Complainant had rights prior to the registration of the Domain Name and that it continues to have such rights.

27. Complainant submits that in cases where a domain name incorporates the entirety of a trademark, the domain name will normally be considered confusingly similar to that mark, citing (referring here to panels constituted under UDRP Rules and inferring that this Panel constituted under CDRP Rules should be influenced by decisions of UDRP panels):

*WIPO Overview of WIPO Panel Views on Selected UDRP Questions*, Third Edition, Section 1.7.

28. Legitimate interest. Complainant submits that Registrant has no legitimate interest in the Domain Name, in accordance with paragraph 3.1(b) and 3.4 of the Policy, specifying, with respect to each of the circumstances listed in paragraph 3.4, that none of these apply.

29. Complainant argues that there is a relatively low threshold for the proof that Complainant must provide. Complaint asserts that this approach reflects the fact that, in most cases, the

nature of a registrant's legitimate interest, if any, lies most directly within the knowledge of the registrant.

*Calgary Exhibition & Stampede Ltd. v. Squires*, (2013) CIRA No. 00229, at para. 52

30. Complaint contends that previous panels (referring here to panels constituted under UDRP Rules) have held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent, citing:

*WIPO Overview of WIPO Panel Views on Selected UDRP Questions*, Third Edition, Section 2.13

31. Complainant contends that, having shown some evidence that Registrant lacks a legitimate interest in the Domain Name, the onus shifts to Registrant.

32. *Bad faith registration*. Complainant contends that the intention of Registrant from the date of registration was to disrupt the business of Complainant and deceive customers in order to reap a commercial benefit.

33. Complainant submits that this is clear evidence of bad faith on the part of the Registrant, citing (referring again to panels constituted under UDRP Rules):

*WIPO Overview of WIPO Panel Views on Selected UDRP Questions*, Third Edition, Section 3.4

*WIPO Overview of WIPO Panel Views on Selected UDRP Questions*, Third Edition, Section 2.13.1

34. Complainant alleges that anomalies in Registrant's website, such as blocks of text filled in with Lorem Ipsum placeholder text, and the inoperative "Quote Request" feature further suggest that Registrant was in bad faith at the time of Registration of the Domain Name.

35. Complainant alleges that it has satisfied the requirements of paragraphs 3.1 and 4.1 of the Policy.

36. *Remedy sought*. The Complainant requests that the Domain Name be transferred to it pursuant to paragraph 4.3 of the Policy.

#### **4.2 Registrant**

37. As was noted above, the Registrant has not filed a Response.

## 5.0 DISCUSSION AND FINDINGS

### 5.1 Eligibility

38. As indicated in 2.0 above, Complainant is an eligible complainant under Section 1.4 of the CDRP.

### 5.2 Requirements

39. In accordance with Paragraph 4.1 of the CDRP, Complainant must prove, on a balance of probabilities:

- (a) That the Registrant's dot ca (.ca) Domain Name is Confusingly Similar to a trademark or service mark in which the Complainant had Rights prior to the date of registration of the Domain Name and continues to have such Rights, as described in paragraph 3.3 of the Policy;
- (b) That the Registrant has registered the Domain Name in bad faith, as described in paragraph 3.5 of the Policy; and
- (c) That the Registrant has no legitimate interest in the Domain Name, as described in paragraph 3.4 of the Policy, Complainant having the initial onus of providing *some* evidence of this element.

If the Complainant is unable to satisfy its onus and provide the required proof, the Complaint fails. The Panel will consider each of these requirements in turn.

### 5.3 Analysis

#### 5.3.1 That the Domain Name is Confusingly Similar to a Mark in which the Complainant had Rights prior to registration of the Domain Name and continues to have such Rights.

40. The test for determining whether a domain name is "Confusingly Similar" to a Mark is set out in paragraph 3.3 of the Policy, which requires that the Panel "only consider whether the domain name so nearly resembles the Mark in appearance, sound or ideas suggested by the Mark as to be likely to be mistaken for the Mark." This test differs in many ways from the test of confusion under the *Trademarks Act*.

41. The only distinctive element in the Rhenus Trademarks is the word RHENUS; the word "LOGISTICS" is descriptive. This finding is supported by Complainant's use of the mark

RHENUS LOGISTICS at the top of each page of its website, where RHENUS is featured first on a separate line and in bolder typeface than the second word.

42. Complainant also uses the distinctive portion of its business name and the word mark RHENUS alone on many pages on its website.
43. Each one of these marks, RHENUS and RHENUS LOGISTICS, constitutes a “Mark” as defined in paragraph 3.2 of the Policy.
44. The evidence demonstrates that Complainant had “Rights” in these trademarks prior to the date of registration of the Domain Name and continues to have such “Rights”.
45. The Domain Name is virtually identical to the mark, RHENUS LOGISTICS, and “Confusingly Similar” to the Rhenus Trademarks, as that term is defined in paragraph 3.3 of the Policy.
46. Therefore, the Panel finds that Complainant has proven this first element.

### **5.3.2 That the Registrant has No Legitimate Interest in the Domain Name**

- 47 Paragraph 4.1 of the Policy requires that, to succeed in the Complaint, Complainant must provide some evidence that Registrant has no legitimate interest in the Domain Names, as described in paragraph 3.4.
- 48 Paragraphs 3.4 (a) through (d) require that Registrant be acting in good faith. Good faith on the part of Registrant is negated by Registrant attempting to pass itself off as Complainant to deceive clients of Complainant.
- 49 Paragraphs 3.4 (e) and (f), when applied to this matter, do not provide Registrant with a legitimate interest in the Domain Name.
- 50 The Panel finds that the Complainant has provided sufficient evidence that the Registrant has no legitimate interest in the Domain Name and has therefore met its onus. As Registrant did not contest these proceedings, the Panel finds that Complainant has proven this element.

### **5.3.3 That the Registrant has Registered the Domain Name in Bad Faith**

51. Only in rare cases will there be direct evidence of a registration in bad faith. In most cases, as case law attests, such a finding is based on “common sense inferences from the registrant's conduct and other surrounding circumstances.”
52. Under paragraph 3.5 of the Policy, Registrant will be considered to have registered the Domain Name in bad faith if Complainant can demonstrate that Registrant, in effecting the registration of the Domain Name, was motivated by any one of the four general intentions

set out in that paragraph. The paragraph also stipulates that these particular circumstances are “without limitation.”

53. The Panel finds, upon the evidence before it, that Registrant, in using the confusingly similar Domain Name and the Infringing Corporate Name to impersonate Complainant, was misrepresenting to customers of Complainant that they were interacting with Complainant and was doing so for malicious purposes. This constitutes evidence of registration of the Domain Name in bad faith.

54. The Panel holds that the following ground, *inter alia*, in paragraph 3.5 applies to the case at hand:

*Paragraph 3.5(d):* “The Registrant has intentionally attempted to attract, for commercial gain, Internet users to the Registrant’s website or other on-line location, by creating a likelihood of confusion with the Complainant’s Mark as to the source, sponsorship, affiliation, or endorsement of the Registrant’s website or location or of a product or service on the Registrant’s website or location.”

55. Accordingly, the Panel finds that Registrant has registered the Domain Name in bad faith and that Complainant has proven the third required element of the Policy.

56. In summary, the Panel finds that Complainant has proven the three required elements of the Policy.

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**6.0 DECISION AND ORDER**

57. The Panel therefore finds that the Complainant has satisfied the onus placed upon it by paragraph 4.1 of the Policy and is entitled to the remedy sought by it.

58. For the above reasons, in accordance with paragraph 4 of the CDRP, and paragraph 12 of the Resolution Rules, the Panel orders that the Domain Name **rhenuslogisticsltd.ca** be transferred to Complainant.

Dated: April 4, 2024



Signed: Richard S. Levy

