



BELGIAN CENTRE FOR ARBITRATION AND MEDIATION

DECISION OF THE THIRD-PARTY DECIDER

Wolfspeed, Inc. / ZHAO KE

Case no. 444187: wolfspeed.be

1. The parties

1.1. Complainant: Wolfspeed, Inc., with registered office at Silicon Drive 4600, NC 27703 Durham, United States;

Represented by:

Safenames Ltd, Safenames House, Sunrise Parkway, Linford Wood, with registered office at MK14 6LS Milton Keynes, United Kingdom

1.2. Respondent: Zhao KE, residing at Qiai Road 161, 201210 Pudong Shanghai, China

2. Domain name

Domain name: **"wolfspeed.be"**
Registered on: 22 March 2022

hereafter referred to as "the Domain Name".

3. Background to the case

On 7 March 2023, the Complainant filed a complaint with CEPANI under article 10 of the general terms and conditions of the domain name registration within the ".be" domain governed by DNS.be (hereafter referred to as "the Policy") and in accordance with the CEPANI rules for domain name dispute resolution (hereafter referred to as "the Rules").

CEPANI – NON-PROFIT ASSOCIATION

Rue des Sols 8, B-1000 Brussels ● Telephone: +32 2 515 08 35 ● Fax: +32 2 515 08 75

E-mail: info@cepani.be ● Website: <http://www.cepani.be>

FORTIS BANK: 210-0076085-89 ● KBC: 430-0169391-20 ● BBL: 310-0720414-81

CEPANI provided the complaint to the Respondent and invited the Respondent to reply to the complaint. No such reply was however received by CEPANI.

On 3 April 2023, CEPANI appointed Mr. Geert Glas to act as third-party decider pursuant to the Rules (hereafter referred to as "Third-Party Decider"). The Third-Party Decider accepted this instruction and provided CEPANI with the declaration of independence in accordance with article 7 of the Rules.

Pursuant to article 7.2 of the Rules, CEPANI formally appointed the Third-Party Decider in an email dated 3 April 2023 and provided him with an electronic copy of the case file, consisting of the completed complaint form (hereafter referred to as "the Complaint").

On the same day, CEPANI informed the Complainant and the Respondent of the appointment of the Third-Party Decider and notified them that deliberations would be closed on 10 April 2023, with the final decision being due on 24 April 2023.

4. Factual information

The Complainant, Wolfspeed, Inc., is a company founded in 1987 and counting around 3,500 employees, that specialises in the manufacturing and marketing of lighting-class LEDs, lighting products and products for power and radio frequency applications. The Complainant is also a supplier of silicon carbide semiconductors. The Complainant's products and services are especially used in the automotive and energy sectors.

The Complainant registered the WOLFSPEED trademark in numerous countries around the world including the European Union (word mark, registration no. 014730683, registered on 15 April 2016 in class 9, 40, 42), the United States, India, Australia and Canada (hereafter "the WOLFSPEED trademarks"). The oldest WOLFSPEED trademark was filed by the Complainant on 26 October 2015 in Australia.

On 22 March 2022, the Respondent registered the Domain Name <wolfspeed.be>.

The Domain Name redirects Internet users to the *www.sedo.com* site where the Domain Name is offered for sale at 8,500 EUR and Internet users can place offers on the Domain Name.

On 13 September 2022, the Complainant sent a cease and desist letter to the Respondent requesting that the Respondent cease the registration of three domain names which consist of the word "wolfspeed": the Domain Name, <wolfspeed.tw> and <wolfspeed.hk>. On the same day, the Respondent offered to transfer the Domain Names <wolfspeed.tw> and <wolfspeed.hk> to the Complainant for 6,500 USD each.

5. Position of the parties

5.1 Position of the Complainant

The Complainant considers that all conditions provided for in Article 10, b) (1) of the Policy are fulfilled. The Complainant thus requests that the Domain Name be transferred to it.

(A) the Respondent's Domain Name is identical or confusingly similar to a trademark, a trade name, a social name or corporation name, a geographical designation, a name of origin, a designation of source, a personal name or name of a geographical entity in which the Complainant has rights

The Complainant contends that it has conducted substantial marketing under its WOLFSPEED trademark, which are well-known in the sector of semiconductors. The Complainant holds that the WOLFSPEED trademarks benefit from a strong reputation and goodwill.

The Complainant asserts that the Domain Name is identical to the Complainant's WOLFSPEED trademarks and that the country code top-level ".be" does not negate the identical character of the Domain Name to the WOLFSPEED trademark.

(B) the Respondent has no rights or legitimate interests in the Domain Name

The Complainant contends that the Respondent has no rights or legitimate interests in the Domain Name given that:

(i) the Respondent has not used the Domain Name with a *bona fide* offering of goods or services; instead, the Respondent is offering the Domain Name for sale for a price in excess of its registration costs;

(ii) the Respondent is not known or has never been commonly known by the WOLFSPEED trademarks;

(iii) the Respondent has not made a legitimate non-commercial use or fair use of the Domain Name; instead the Respondent is trying to make a commercial gain by offering the Domain Name for sale; and

(iv) the Complainant has not authorised the Respondent to use the WOLFSPEED trademarks or trade name.

(C) the Domain Name has been registered or is being used in bad faith

The Complainant also contends that the Respondent's bad faith can be found in the circumstances that:

(i) the Complainant's WOLFSPEED trademarks predate the registration date of the Domain Name by more than 6 years;

(ii) a simple search on any search engine or on public trademark databases would have informed the Respondent of the existence of the WOLFSPEED trademarks;

(iii) the Respondent intentionally targeted the Complainant's trademark and seeks to exploit the commercial value of the WOLFSPEED trademarks by selling the Domain Name on the website to which the Domain Name redirects;

(v) the Respondent tried to sell the Domain Name to the Complainant for an amount far in excess of registration costs; and

(vi) the Respondent registered other similar domain names (<wolfspeed.tw> and <wolfspeed.hk>) under different identities and its e-mail dated 13 September 2022 evidences his control over the ownership of the three domain names.

Consequently, the Complainant requests the transfer of the Domain Name.

5.2 Position of the Respondent

The Respondent did not reply to the Complaint.

6. Discussion and findings

Paragraph 16 of the Rules instructs the Third-Party Decider on the principles that the Third-Party Decider must use in determining the dispute: “*The Third-Party Decider shall rule on the Complaint with due regard for the views of the Parties and in accordance with the Policy of DNS Belgium, the Registration Agreement and these Rules.*”

In accordance with article 10 of the Policy, entitled “*Dispute resolution policy*”, the complainant has to assert and to prove, in compliance with the rules of procedure, that :

- (i) *the registrant's domain name is identical or confusingly similar to a trademark, a trade name, a registered name or a company name, a geographical designation, a name of origin, a designation of source, a personal name or name of a geographical entity in which the complainant has rights; and*
- (ii) *the registrant has no rights or legitimate interests in the domain name; and*
- (iii) *the registrant's domain name has been registered or is being used in bad faith.*

It appears from this provision that three cumulative conditions must be met to order the transfer of the disputed Domain Name to the Complainant.

6.1 The registrant's domain name is identical or confusingly similar to, *inter alia*, a trademark, a trade name, a company name in which the complainant has rights

The Policy states that the domain name in question in any dispute must be “identical or confusingly similar to, *inter alia*, a trademark, a trade name, a company name in which the complainant has rights”.

The Complainant is the owner of the WOLFSPEED trademarks, which it has registered in several jurisdictions across the world. Accordingly, the Complainant has demonstrated its ownership over the WOLFSPEED trademarks, which can be relied upon for assessing the first element of article 10 (b) (1) of the Policy.

The Domain Name incorporates the WOLFSPEED trademarks in their entirety and does not differ from it. Given that the country code top-level domain ‘.be’ must be disregarded for the purpose of assessing the identical character of a domain name (Moneygram Payment Systems, Inc. / Easy Domain Connect Ltd., CEPANI Case [No. 44292](#)), the Domain Name is identical to the Complainant’s WOLFSPEED trademarks.

Consequently, the Third-Party Decider finds that the first condition of Article 10 (b) (1) of the Policy is satisfied.

6.2 The registrant has no rights or legitimate interests in the domain name

Pursuant to Article 10 (b) (3) of the Policy, a respondent's rights or legitimate interest to the domain name can be proven by certain circumstances. Article 10 (b) (3) of the Policy provides a non-exhaustive list of such circumstances:

- (i) *prior to any notice of the dispute, the respondent used the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services or made demonstrable preparations for such use; or*
- (ii) *the respondent (as an individual, business or other organisation) has been commonly known by the domain name, even if he has no trademark; or*
- (iii) *the respondent is making a legitimate and non-commercial or fair use of the domain name, without intent to misleadingly divert consumers for commercial gain or to tarnish the trademark, trade name, social name or corporation name, geographical designation, name of origin, designation of source, personal name or name of the geographical entity at issue.*

In the present case, the Third-Party Decider notes that the Respondent has used the Domain Name to redirect Internet users to a website where the Domain Name was put up for sale for 8,500 EUR. Additionally, the Respondent has tried to sell the Domain Name and other domain names incorporating the WOLFSPEED trademarks (<wolfspeed.tw> and <wolfspeed.hk>) to the Complainant for the substantial amounts of 6,500 USD each. By offering the Domain Name for sale, the Respondent is not making a legitimate and non-commercial or fair use of such the Domain Name and failed to use the Domain Name in connection with a *bona fide* offering of goods or services.

Additionally, the Respondent failed to produce concrete and credible evidence of being commonly known by the Domain Name.

Consequently none of the examples listed in Article 10 (b) (3) of the Policy are supported by the facts.

The Respondent did not reply to the Complaint and by doing so failed to provide any evidence or even argument that it would indeed have any rights or legitimate interests in the Domain Name.

For these reasons, the Third-Party Decider finds that the second condition of Article 10 (b) (1) of the Policy is satisfied.

6.3 The Respondent's domain name has been registered or is being used in bad faith

In order to meet the third condition of Article 10 (b) (1) of the Policy, the Complainant must prove that the Respondent registered or used the Domain Name in bad faith.

The Complainant's trademarks predate the registration date of the Domain Name. A simple search in any search engine would have informed the Respondent of the existence of the Complainant's trademarks. Additionally, the identical nature of the Complainant's trademarks and the Domain Name suggests that the Respondent purposely registered the Domain Name.

The Third-Party Decider finds that this argument is reinforced by the fact that Respondent appears to engage in a pattern of conduct of registering domain names in which they do not have any rights or legitimate interests (Glashütter Uhrenbetrieb GmbH / Zhao Ke, CEPANI Case [No. 44421](#) and Boehringer Ingelheim Pharma GmbH & Co KG / Zhao Ke, CEPANI Case [No. 444121](#)). As such, the Respondent has registered multiple trademark-abusive domain names corresponding to the distinct trademark of the Complainant. The Respondent also has a history of bad faith domain name registrations targeting various well-known trademarks.

Moreover, the Third-Party Decider finds that the evidence shows that the Domain Name was acquired primarily for the purpose of selling the Domain Name for a price that exceeds the Respondent's costs related to the registration of the Domain Name. The Respondent has indeed used the Domain Name to redirect Internet users to a website where the Domain Name was put up for sale for 8,500 EUR.

Furthermore, the Respondent tried to sell the Domain Name and other domain names incorporating the WOLFSPEED trademarks (<wolfspeed.tw> and <wolfspeed.hk>) to the Complainant for the substantial amounts of 6,500 USD each.

Finally, the Respondent failed to reply to the Complaint and therefore failed to demonstrate its good faith in registering or using the Domain Name.

The Third-Party Decider therefore concludes that the Respondent has both registered and used the Domain Name in bad faith.

7. Decision

Consequently, in accordance with Article 10 (e) of the Policy, the Third-Party Decider hereby orders the Domain Name "**wolfspeed.be**" to be transferred to the Complainant.

Brussels, 20 April 2023.

Geert Glas

The Third-Party Decider