



(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-1901209
Complainant:	Temasek Holdings (Private) Limited
Respondent:	Redacted to prevent the publication of a decision in favor or against Complainant
Disputed Domain Name(s) :	< temasek-sg.com >

1. The Parties and the Disputed Domain Name

The Complainant is Temasek Holdings (Private) Limited, of 60B Orchard Road, #06-18 Tower 2, The Atrium@Orchard, Singapore 238891.

The Respondent is located 93 Suhrawardy Avenue, Baridhara, Dhaka, Dhaka 1212, Bangladesh.

The Disputed Domain Name is < temasek-sg.com >, registered by Respondent with NameSilo, LLC, of 1300 E. Missouri Ave. Suite A-110, Phoenix AZ 85014, United States.

2. Procedural History

Complainant submitted electronically a Complaint to the Asian Domain Name Dispute Resolution Centre on January 3, 2019.

On January 3, 2019, the Hong Kong Office of the Asian Domain Name Dispute Resolution Centre asked the Registrar via email to provide the Centre with information about the Disputed Domain Name.

The Registrar confirmed, in accordance with Paragraph 8 of the Policy, that the Disputed Domain Name has been locked and will not be transferred to another holder or registrar during the current administrative proceeding or for a period of 15 business days after the proceeding is concluded.

The first Complaint filed by Complainant provided information about the Respondent which was different from the Whois information provided by the Registrar.

Therefore, the Asian Domain Name Dispute Resolution Centre asked Complainant to update information about the Respondent in the Complaint Form according to the Whois

information provided by the Registrar. Complainant filed the amended Complaint and annexes on January 8, 2019.

On January 10, 2019, the Hong Kong Office of the Asian Domain Name Dispute Resolution Centre sent to the Registrant by email the notification of the Complaint filed against him and informed him that he had to respond to the Complaint on or before January 30, 2019.

The Hong Kong Office did not receive a Response from the Respondent with respect to the complaint concerning the Disputed Domain Name within the required time.

3. Factual background

Complainant is the owner of various registrations for the trademark “TEMASEK” on a worldwide basis, including Singapore, China, the United States, and the European Union. The most relevant registrations to this matter are:

TRADEMARK	JURISDICTION/ TM OFFICE	REGISTRATION NUMBER	REGISTRATION DATE	IC CLASS
TEMASEK	SG / IPOS	T0507239Z	04/29/2005	35
TEMASEK	SG / IPOS	T0507240C	04/29/2005	36
TEMASEK	SG / IPOS	T0507241A	04/29/2005	41
TEMASEK	US / USPTO	3187580	12/19/2006	35, 36, 41
TEMASEK	WO / WIPO	861848	06/02/2005	35, 36, 41

Incorporated in 1974, Complainant is an investment company based in Singapore. Temasek owns and manages a portfolio of S\$308 billion as of March 31, 2018.

Temasek's investment themes center on: Transforming Economies; Growing Middle Income Populations; Deepening Comparative Advantages; and Emerging Champions. Its portfolio covers a broad spectrum of industries: financial services; telecommunications, media and technology; consumer and real estate; transportation and industrials; life sciences and agribusiness; as well as energy and natural resources.

Complainant is the owner of numerous TLDs containing its TEMASEK trademark. Complainant's primary domain name <temasek.com.sg> was registered in November 1995 and has been used continuously to promote Complainant and its products/services.

According to Alexa.com, Complainant's website is ranked number 10,635 in Singapore. Additionally, Complainant maintains a strong social media presence on Facebook, Twitter and LinkedIn. Complainant's Facebook page has over 35,000 likes, and its Twitter and LinkedIn pages have more than 25,000 and 32,000 followers, respectively.

As the Respondent did not respond to the Complaint, the Panel does not have any factual information on Respondent except for the following information: Name redacted, of 93 Suhrawardy Avenue, Baridhara, Dhaka, Dhaka 1212, BD, +1 602 492 8198, support@namesilo.com.

4. Parties' Contentions

A. Complainant

The Complainant's arguments may be summarized as follows:

- i. Complainant contends that the Disputed Domain Name is confusingly similar to its trademark TEMASEK as it incorporates the trademark in its entirety, and that Respondent has merely added the geographically descriptive term "sg" (which means Singapore) to Complainant's mark "TEMASEK", thereby making the Disputed Domain Name confusingly similar to Complainant's mark.

Complainant further argues that Respondent's use of this particular geographically descriptive term in conjunction with Complainant's trademark increases the confusing similarity between the Disputed Domain Name and Complainant's trademark, because this specific term is closely linked and associated with Complainant, as its headquarters has been located in Singapore since 1974.

Also, Complainant states that Respondent's mere addition of a hyphen does not diminish the confusing similarity between the Disputed Domain Name and Complainant's trademark.

- ii. Complainant alleges that Respondent has no rights or legitimate interests in the Disputed Domain Name. Firstly, Respondent is not affiliated with Complainant in any way, and Respondent is not licensed by Complainant to use Complainant's TEMASEK trademark, and that Respondent is not an authorized vendor, supplier, or distributor of Complainant's goods and services.

Secondly, although the Disputed Domain Name's website currently resolves to a blank page, Complainant states that Respondent sent emails from the Disputed Domain Name in a fraudulent attempt to create the impression that such emails originated from Complainant. Complainant argues that Respondent falsely used the name of Complainant's Joint Head, Corporate Development Group Head, Organization and People, Chan Wai Ching, when creating the email address <chan.w.ching@temasek-sg.com to perpetrate a phishing scam, as Respondent used this fraudulent email address, as well as other fraudulent email addresses appearing to belong to several of Complainant's senior executives, to send emails to Complainant's prospective job applicants asking them to provide their personal information and a "document processing fee".

Lastly, Respondent is not commonly known by the Disputed Domain Name. The current Whois record for the Disputed Domain Name identifies the Respondent as a name which does not resemble the Disputed Domain Name in any manner.

- iii. Complainant states that Respondent registered the domain name in bad faith and that Respondent used it in bad faith. Complainant argues that Respondent has registered and acquired the Disputed Domain Name for the purpose of launching phishing attacks posing as Complainant's employees, which demonstrates bad faith registration and use under the Policy.

Complainant argues furthermore that Respondent had employed a privacy service to hide its identity, which proves his bad faith. Respondent also provided false Whois information to the relevant registrar by using a name identical to the name of one of

Complainant's employee, Nagi Adel Hamiyeh., in an attempt to conceal Respondent's true identity. From the Complainant's point of view, these elements prove bad faith registration and use of the Disputed Domain Name.

B. Respondent

As the Hong Kong Office did not receive a response from the Respondent in respect of the Complaint within the required time, it is impossible to report Respondent's arguments.

5. Findings

Paragraph 15(a) of the Rules provides that "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". Paragraphs 10(b) and 10(d) of the Rules provide that: "In all cases, the Panel shall ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case" and that "The Panel shall determine the admissibility, relevance, materiality and weight of the evidence".

The Panel acknowledges that Respondent's failure to respond to the Complaint does not automatically result in a decision in favor of Complainant. Paragraph 4(a) of the ICANN Uniform Domain Name Dispute Resolution Policy provides that each of the following three findings must be made in order for a Complainant to prevail:

- i. Respondent's domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- ii. Respondent has no rights or legitimate interests in respect of the domain name; and
- iii. Respondent's domain name has been registered and is being used in bad faith.

A) Identical / Confusingly Similar

Complainant has established its rights to the trademark TEMASEK. Complainant is also the owner of the domain name < temasek.com.sg > since 1995.

The Disputed Domain Name fully incorporates Complainant's TEMASEK trademark with the mere addition of the geographically descriptive term "sg" (which means Singapore) to Complainant's mark "TEMASEK".

The added descriptive element "sg" does not add significant distinguishing value to the Disputed Domain Name because the terms TEMASEK and TEMASEK-SG are indistinguishable phonetically.

Furthermore, the Disputed Domain Name is confusingly similar to the one owned since 1995 by Complainant except for the two elements ".com" and "sg".

In many WIPO decisions, the Panel considered that incorporating a trademark in its entirety in a domain name may be sufficient to establish that the domain name at stake is identical or confusingly similar to the Complainant's registered trademark (WIPO Case No. D2013-0150 Swarovski Aktiengesellschaft v. mei xudong; WIPO Case No. D2010-1059, RapidShare AG, Christian Schmid v. InvisibleRegistration.com, Domain Admin).

Further, the descriptive term “sg” means “Singapore”, further misleading the public since Complainant’s headquarters are in Singapore since 1995.

Moreover, it is well established that the mere presence of a hyphen in a domain name is “insufficient to distinguish the Respondent’s domain name from the Complainant’s mark because the dominant portion of each domain name is the Complainant’s [trademark]” (WIPO Case No. D2006-0768, Kabushiki Kaisha Toshiba dba Toshiba Corporation v. WUFACAI and WIPO Case No. D2012-2001, TREDNET, Direct Distribution International Ltd (“DDI”) v. WhoisGuard Namecheap / BODYPOWER).

In addition, adding generic terms does not dispel any likelihood of confusion (WIPO Case No. D2011-0700, Merck Sharp & Dohme Corp. v. GlobalCom, Henry Bloom).

Therefore, Panel finds that TEMASEK and TEMASEK-SG are phonetically confusingly similar.

The Panel finds that the Disputed Domain Name is confusingly similar to Complainant’s trademark in accordance with Paragraph 4(a)(i) of the Policy.

B) Rights and Legitimate Interests

Complainant must first make a *prima facie* case that Respondent lacks rights and legitimate interests in the disputed domain name under Paragraph 4(a)(ii), after which the burden shifts to Respondent to show it does have such rights or legitimate interests.

In the present case, Complainant has made a *prima facie* case by demonstrating that the Respondent is not commonly known by the Disputed Domain Name in WHOIS, nor does he have any connection whatsoever with Complainant. Furthermore, Complainant states that it is clear that Respondent falsely used the name of Complainant’s Co-Head of Enterprise Development Group and Head of Industrials, Nagi Adel Hamiyeh, in order to make it appear legitimate.

Additionally, Complainant contends that Respondent is using the Disputed Domain Name to host a mail server that has been used in fraudulent matters such as phishing.

In view of Complainant’s arguments, the Panel finds that Complainant has satisfied its burden of proof. The burden shifts to Respondent to show that it does have rights or legitimate interests in the Disputed Domain Name.

Complainant has demonstrated that Respondent’s purpose was to mislead unsuspecting individuals, Complainant’s prospective job applicants, to divulge their personal information and pay a “document processing fee”.

Complainant indeed states that Respondent sent emails from the Disputed Domain Name and attempted to pass himself off as the Complainant in order to phish personal information and to steal money.

Finally, UDRP Panels have held under section 2.13.1 of WIPO Overview 3.0 that using a domain name for illegal activity (e.g., phishing, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a Respondent. Complainant has shown that the Disputed Domain Name was used for illegal and fraudulent activities by Respondent, to

the detriment of Complainant, and excludes finding that Respondent has any rights or legitimate interests in the Disputed Domain Name.

The Panel finds that Respondent registered the Disputed Domain Name to fraudulently phish personal information and money from Complainant's prospective job applicants.

Therefore, the Panel finds that Complainant has demonstrated that Respondent has no rights or legitimate interests in the Disputed Domain Name pursuant to Policy ¶ 4(a)(ii).

C) Bad Faith

Paragraph 4(a)(iii) of the Policy requires Complainant to demonstrate that the Disputed Domain Name was registered and is being used in bad faith.

A previous Panel decision in similar cases had found that Respondent had registered and used domain name at stake in bad faith. The Panel held that *"The un-opposed allegation of phishing, and the evidence submitted in support of phishing, combined with the likelihood of confusion, is sufficient evidence of bad faith. The fact that the disputed domain name was routed to an inactive website after the Complaint was filed is further evidence of bad faith usage."* (WIPO Case No. D2014-1471, Accor v. SANGHO HEO / Contact Privacy Inc., November 13, 2014).

Furthermore, using the Disputed Domain Name for purposes other than to host a website may constitute bad faith.

Complainant provided evidence that the Disputed Domain Name was used to create fake e-mail addresses, which were then used to fraudulently attract Complainant's prospective job applicants in order to phish their personal information and to extort money from them.

Therefore, in view of the above, the Panel finds that Respondent registered the Disputed Domain Name with Complainant's trademark rights in mind and that he did so with the intention of taking advantage of such rights, as shown by his subsequent use of the Disputed Domain Name.

As the Disputed Domain Name is confusingly similar to Complainant's trademarks, the Panel cannot find good faith as this would invariably allow Respondent to continue to take unfair advantage of Complainant's rights.

Respondent did not reply to the Complaint, which further contributes to the Panel's finding of bad faith registration and use of the Disputed Domain Name.

The Panel therefore finds that the overall circumstances of this case strongly suggest that Respondent was aware of Complainant's rights at the time of registration of the Disputed Domain Name and that he registered it to take advantage of such rights.

The Panel finds that Respondent has registered and used the Disputed Domain Name in bad faith.

Complainant has therefore satisfied the requirements of paragraph 4(a)(iii) of the Policy.

6. Decision

For the foregoing reasons, in accordance with paragraph 4(i) of the Policy and paragraph 15 of the Rules, the Panel orders that the Disputed Domain Name must be transferred to the Complainant.

“Nathalie Dreyfus”
Sole Panelist

A handwritten signature in black ink, consisting of a series of connected strokes that form a stylized, somewhat abstract representation of the name 'Nathalie Dreyfus'.

Dated: February 21, 2019