



September 24, 2021

By email: [info@adr.eu](mailto:info@adr.eu), [rihova@adr.eu](mailto:rihova@adr.eu)

Ms. Denisa Rihova  
Case Administrator  
Czech Arbitration Court  
Vladislavova 17, 110 00 Prague 1,  
Czech Republic.

Dear Ms. Rihova:

**Administrative Proceeding No. 103981**

Please find below correspondence with regards to the above subject matter.

Please submit this communication to the appropriate person or authority of the CAC to resolve a dispute regarding a matter related to 4(a) of the Uniform Domain Name Dispute Resolution Policy.

Yours truly,

HEWAGE LAW GROUP

Neville Hewage  
Senior Partner

**ADR Center of the Czech Arbitration Court (CAC)**

**International Truth and Justice Project**

Claimant

VS

**Edward Ferdinand**

Respondent

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**SUBMISSION**

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**(A) LACK OF JURISDICTION**

01. We are in a position that the ADR Center of the Czech Arbitration Court (CAC) has no jurisdiction to investigate the complaint submitted by the Complainant due to the following reasons:

**(a) Not comply with rules of definitions "Registrar."**

02. The complaint does not comply with the Rules of Uniform Domain Name Dispute Resolution Policy (Rule) as approved by the International Corporation for Assigned Names and Numbers (ICANN).

03. Definition of the **"Registrar" as described in** Rule (1) of Uniform Domain Name Dispute Resolution Policy is "the entity with which the Respondent has registered a domain name that is the subject of a complaint."

04. The Complainant named the **Rebel.ca corp** as the registrar of the disputed domain.

05. Respondent Mr. Ferdinand no longer owns the disputed domain, and **Rebel.ca corp** is no longer the registrar of the disputed domain. Therefore, the complaint is deficient in facts to continue the proceedings, and CAC has no jurisdiction or complaint has no legal standing since parties are not correctly named as per Rule (1) definition on "Registrar."

**(b) Not related to CAC mandate**

06. Also, Complainant claims that they are working on human rights and accountability issues in Sri Lanka. However, the project objectives and goals are not the issue before the CAC and CAC has no jurisdiction to investigate the Claimant's objectives associated with the disputed domain.

**(B) ANALYSIS OF ISSUES RELATED TO PARAGRAPH 4 (a) OF THE UNIFORM DISPUTE RESOLUTION POLICY**

**07. Policy**

In accordance with Paragraph 4 (a) of the Uniform Dispute Resolution Policy in an administrative proceeding, the Complainant must prove that:

- (i) the domain name registered by the Respondent is identical or confusingly similar to a trademark or service mark in which the Complainant has rights,
- (ii) the Respondent has no right or legitimate interests in respect of the Domain Name, and
- (iii) the Domain Name has been registered and is being used in bad faith.

**Issues**

**Issue (i): Is the domain name registered by the Respondent identical or confusingly similar to a trademark or service mark in which the Complainant has rights?**

08. The Complainant operates the website [www.itjpsl.com](http://www.itjpsl.com)

09. The trademark logo is published as follows. I have inserted the logo/trademark of the website below.



**Figure 1:** itjpsl.com trademark or logo

10. The Claimant states that the domain, itjp represents the **International Truth and Justice Project**, and **sl** represents **Sri Lanka**. However, there is no reference to **sl** on the logo to **Sri Lanka**. The logo or trademark registered by the Complainant contains only **International Truth and Justice Project**. Please refer to Claimant's submission **Exhibit A**.

11. Therefore, **sl** is subjected to interpretation and can be concluded as no definite trademark rights on logo associated with **sl**.

12. Further, the logo/trademark contained black stripes, and they are horizontal.

13. The disputed domain **itjpsl.org** logo was displayed as follows:



**Figure 2:** itjpsl.org trademark or logo

14. The above logo can be differentiated, and no confusion in finding both websites. The logo displays the Liberation Tigers of Tamil Eelam (LTTE) Tamil terrorist group's child soldiers.

15. The logo contained white stripes, and they are vertical.

16. The itjpsl.org, **itjp** represents **International Truth and Justice Project** and **sl** represents **sandilipay library**.

17. A **sandilipay** is a town in the Northern part of Sri Lanka, and LTTE Tamil terrorists had operated and trained over 7,000 child soldiers. The **itjpsl.org** documents child soldier recruitments by LTTE Tamil terrorist group and group's activities against Sri Lanka.

**Note:** The LTTE Tamil terrorist group was banned in UK, European Union, India, Sri Lanka, Canada and USA.

18. The complainant domain **itjpsl.com** website is working on human rights issues in Sri Lanka.



19. In contrast, the **itjpsl.org** website documents LTTE activities and child soldier recruitment and operations in a town called *sandilipay*.

20. Both itjpsl.com and itjp.org trademarks (logos) are not similar at all. The itjpsl.org trademark consists of LTTE Tamil terrorist child soldiers.

21. I would like to reiterate that **sl** is subjected to interpretation and have no trademark rights on the logo associated with it.

Please see below a summary of the comparison.

**Table 1:** Comparison of both websites itjpsl.com and itjpsl.org

<b>Itjpsl.com</b>	<b>Itjpsl.org</b>
<b>Name</b> International Truth and Justice Project Sri Lanka	<b>Name</b> International Truth and Justice Project Sandilipay Library
<b>Logo / Trademark</b> 	<b>Logo / Trademark</b> 
<b>Objective</b> Working on Human Rights and accountability issues in Sri Lanka	<b>Objective</b> Collecting information on LTTE Tamil terrorist activities and child soldiers recruitment
<b>SL</b> Represents Sri Lanka	<b>SL</b> Represents Sandilipay Library
<b>Contents</b> Human Rights and accountability issues on Sri Lanka	<b>Content</b> Collecting information of LTTE child soldiers and LTTE terrorist activities
<b>Stripes Colour</b> Black	<b>Stripes Colour</b> White
<b>No of stripes and position</b> 6, horizontals	<b>No of Stripes and position</b> 10, vertical
<b>Photograph</b> No photograph	<b>Photograph</b> A coloured photograph of LTTE Child soldiers

### **Registration of the Claimant's Trademark**

22. Also, Claimant admitted that they registered the trademark on July 13, 2021. But itjpsl.org domain was registered on September 13, 2020, 10 months before registering the Complainant's trademark.

23. Therefore, it is reasonable to believe that Claimant has been aware of the itjpsl.org domain before registering its trademark.

24. Soon after the Claimant registered the trademark, the complaint was filed with CAC on August 12, 2021, just one month after the registration.

25. Therefore, the claimant allegation is bold and has no valid reason to claim against the Respondent. It is also can be concluded that the Claimant has filed the complaint in bad faith.

26. It can also be concluded that Claimant had maliciously attempted to transfer the itjpsl.org domain using CAC administrative proceedings.

27. Therefore, the **domain name registered by the Respondent is not identical nor confusingly similar to a trademark or service mark in which the Complainant has rights.** Therefore, the first element of the test has failed.

### **Issue (ii): Has the Respondent no right or legitimate interests in respect of the Domain Name?**

28. The Respondent had a legitimate interest in disclosing information of recruitments of LTTE child soldiers as it is a war crime to recruit children for military purposes. The Claimant has no right to limit the Respondent's right to speech.

29. LTTE Tamil terrorists had recruited over 7,000 child soldiers during 30 years of armed insurgency against Sri Lanka.

30. The Claimant has ascertained that there is no evidence of bona fide offering or using the disputed domain. However, the Claimant has failed to explain why and how Respondent has no

bona fide offering or use. The Respondent has a legitimate interest in discussing issues in Sri Lanka due to his heritage. The allegations are simply bold and should be rejected.

31. Therefore, the second element of the test has failed.

**Issue (iii): Has Domain Name been registered and is being used in bad faith?**

32. Respondent has a legitimate interest in exposing child soldier recruitments by LTTE and proxy groups. Respondent is also collecting LTTE Tamil terrorist activities and publishing them to let the world see how LTTE and their proxies behave during the armed conflict in Sri Lanka.

33. Respondent was maintaining online google documents to collect information. It indicates that Respondent has a legitimate interest in it. Respondent used data to analyze LTTE Tamil terrorists' activities, and published information can not be labelled bad faith.

34. The Itjpsl.org website operates with the public interest to save child soldiers and create a terrorism-free world. LTTE Tamil terrorists have attacked civilians and civilian centres. They have carried out 343 suicide attacks against civilians in Sri Lanka. LTTE mainly used child soldiers and women as suicide bombers. Exposing of this information was done in good faith.

35. The Claimant has failed to prove Respondent operates the itjpsl.org website in bad faith.

36. Therefore, the third element of the test also failed.

**(C) FUNDAMENTAL DEFICIENCIES OF THE CLAIM**

**(a) No legitimate reason**

37. The Claimant has no right to limit Respondent's freedom of expression. The Respondent believes the Claimant has attempted to stop exercising his legitimate right to expression by filing this claim.

38. It is plain and obvious that the Claimant has no legitimate reason to file the complaint. The facts pleaded in the claim are patently ridiculous and manifestly incapable of being proven.

Accordingly, the Claimant has failed the legal test in proving Respondent has violated he 4(a) of the policy.

**(b) Abuse of process and conflict of interest**

39. Yasmin Sooka, the executive director of the International Truth and Justice Project (as claimed by the Claimant), prepared the Darusman report and acted as an investigator on the Sri Lankan conflict. Later Ms. Sooka worked with Claimant and filed reports against Sri Lanka and Sri Lankan armed forces.

40. In our view, the investigators must be impartial and not associated with any party to the conflict.

41. However, our view is that Claimant's reports discuss issues of one side of the conflict. It is a textbook example of conflict of interest.

42. Furthermore, the historical pattern of abuse of process and conflict of interest can be seen in the current case. A representative of the Claimant, Ms. Victoria McEvedy, serves as a Panellist of the CAC on UDPR matters. Ms. McEvedy is also representative of the Claimant.

43. It is reasonable to believe that by acting as a panellist in CAC on UDPR matters, the Claimant's representative, Ms. McEvedy, may have associated with other panellists could lead to a conflict of interest. Accordingly, it is disrepute to the administration of justice.

**(c ) No bad faith**

44. Many organizations, businesses, and individuals are doing similar activities on the web and are looking for a domain to match their work. They may come up with a similar domain with others doing similar work and can not be considered operating in bad faith.

45. Please note that there are millions of similar domains available on the web. However, they are not confusing and have no difficulty in differentiating. E.g., <http://policy-research.ca/> and <http://www.policyresearch.ca/>



46. In the current case, there is no confusion to identify itjpsl.com and itjpsl.org since both websites are not identical and discuss two different views of the armed conflict in Sri Lanka.

**(D) CONCLUSION**

47. In order to meet the legal test of 4(a) of the policy, **all three elements** must be satisfied.

48. In accordance with Paragraph 4 (a) of the Uniform Dispute Resolution Policy, in an administrative proceeding, the Complainant **must prove** that

(i) the domain name registered by the Respondent is identical or confusingly similar to a trademark or service mark in which the Complainant has rights,

(ii) the Respondent has no right or legitimate interests in respect of the Domain Name,  
**and**

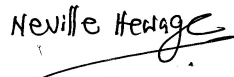
(iii) the Domain Name has been registered and is being used in bad faith.

49. If the Claimant failed to establish any element of the paragraph of 4(a) of Uniform Dispute Resolution Policy, their application must be rejected.

50. The current case, the Claimant has failed to establish all three elements, and the claim should be dismissed.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED**

**HEWAGE LAW GROUP**



Neville Hewage  
Representative of the Respondent

**Mailing Address**

2581 River Mist Road  
Ottawa, ON K2J 6G1  
**CANADA**

Email: [neville.hewage@hewagelaw.com](mailto:neville.hewage@hewagelaw.com)  
Tel: + 1 613 612 7615