



## URS DEFAULT DETERMINATION

3S-Smart Software Solutions v. Cao Wei

Claim Number: FA1906001849963

### DOMAIN NAME

<codesys.tech>

### PARTIES

Complainant: 3S-Smart Software Solutions of Kempten, Germany.

Complainant Representative: VKK Patentanwälte of Kempten, Germany.

Respondent: Cao Wei of Lian Yun Gang Shi, Jiang Su, International, CN.

Respondent Representative: None.

### REGISTRIES and REGISTRARS

Registries: Personals TLD Inc.

Registrars: Chengdu West Dimension Digital Technology Co., Ltd.

### EXAMINER

The undersigned certifies that he or she has acted independently and impartially and to the best of his or her knowledge has no known conflict in serving as Examiner in this proceeding.

David L. Kreider, as Examiner.

### PROCEDURAL HISTORY

Complainant submitted: June 27, 2019

Commencement: June 27, 2019

Default Date: July 12, 2019

Having reviewed the communications records, the Examiner finds that the FORUM has discharged its responsibility under URS Procedure Paragraphs 3 and 4 and Rule 4 of the Rules for the Uniform Rapid Suspension System (the "Rules").

## **RELIEF SOUGHT**

Complainant requests that the domain name be suspended for the life of the registration.

## **STANDARD OF REVIEW**

Clear and convincing evidence.

## **FINDINGS and DISCUSSION**

Even though the Respondent has defaulted, URS Procedure 1.2.6, requires Complainant to make a *prima facie* case, proven by clear and convincing evidence, for each of the following three elements to obtain an order that a domain name should be suspended.

### **Determined: Finding for Complainant**

[URS 1.2.6.1] The registered domain name(s) is/are identical or confusingly similar to a word mark:

- (i) for which the Complainant holds a valid national or regional registration and that is in current use; or
- (ii) that has been validated through court proceedings; or
- (iii) that is specifically protected by a statute or treaty in effect at the time the URS complaint is filed.

The Claimant's evidence shows, and this Examiner finds, that Claimant

registered its CODESYS trademark in Germany on February 11, 2003, and subsequently registered the Mark in numerous other countries.

With the exception of the addition of the gTLD “.tech”, which is of no relevance for purposes of determining “confusing similarity” under the present circumstances, the Disputed Domain Name is identical to Complainant's registered international trademark <CODESYS>.

**Determined: Finding for Complainant**

[URS 1.2.6.2] Registrant has no legitimate right or interest to the domain name.

Complainant has established, *prima facie*, that the Respondent has no right or legitimate interest in the Disputed Domain Name. The Complainant did not license the Respondent to use the domain name and there is nothing to suggest that the Respondent is commonly known by that name.

**Determined: Finding for Complainant**

[URS 1.2.6.3] The domain name was registered and is being used in bad faith.

In addition to Complainant's English language website, [www.codesys.com](http://www.codesys.com), the Complainant also hosts a Chinese website at the URL: [www.codesys.cn](http://www.codesys.cn). Absent gross negligence (or bad faith), the Complainant alleges, even by a cursory inquiry the Respondent would have been aware of the Complainant's prior interest in and to the CODESYS mark prior to registering the Disputed Domain Name.

The Examiner accepts the Complainant's assertions that the new TLD ".tech" is intended for hosting second level domains providing contents related to computing and software. The Complainant argues that its mark, CODESYS, which is registered in a number of jurisdictions for industrial automation software or software for controllers, *is a distinctive, coined term that has no generally accepted or understood meaning in conjunction with automation or software.*

The Examiner considers that the Respondent could not have registered the Disputed Domain Name, comprising the Complainant's registered mark CODESYS in combination with the gTDL ".tech", except under circumstances where *the Respondent knew of the Complainant's registered mark and its accepted and understood meaning in conjunction with automation processes and software.*

Further, the Examiner notes evidence provided by the Complainant in the form of a screenshot of the Respondent's website at the URL: [www.codesys.tech](http://www.codesys.tech), offering the Disputed Domain Name for sale to the public for USD 3,699.00.

The Complainant alleges, and the Examiner finds, that the Disputed Domain Name was registered and is being used in bad faith, in that the Respondent registered the Disputed Domain Name primarily for the purpose of selling, renting or otherwise transferring the domain name registration to the Complainant for valuable consideration in excess of the Respondent's out-of-pocket costs directly related to the domain name.

## **DETERMINATION**

After reviewing the Complainant's submissions, the Examiner determines that the Complainant has demonstrated all three elements of the URS by a standard of clear and convincing evidence; the Examiner hereby Orders the following

domain names be SUSPENDED for the duration of the registration.

<codesys.tech>



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David L. Kreider, Esq.  
Panelist

David L. Kreider, Examiner

Dated: July 12, 2019