

**Decision for dispute CAC-UDRP-103856**

Case number	<b>CAC-UDRP-103856</b>
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Time of filing	<b>2021-06-11 09:57:46</b>
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Domain names	<b>lyondellterminal.com</b>
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**Case administrator**

Organization	<b>Iveta Špiclová (Czech Arbitration Court) (Case admin)</b>
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**Complainant**

Organization	<b>LyondellBasell Industries Holdings B.V.</b>
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**Complainant representative**

Organization	<b>Barzanò &amp; Zanardo Milano S.p.A.</b>
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**Respondent**

Name	<b>Danny Mauricio Cevallos Mosquera</b>
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## OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

## IDENTIFICATION OF RIGHTS

The Complainant has provided extensive evidence of ownership of trademark rights on the terms LYONDELL and LYONDELLBASELL, uncluding the following:

- European trademark LYONDELL registered under No. 001001866 with an application date of 26 November 1998;
- United States trademark LYONDELLBASELL registered under No. 3634012 with an application date of 7 May 2008;
- European trademark LYONDELLBASELL registered under No. 006943518 with an application date of 16 May 2009.

## FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

FACTUAL GROUNDS

## a) The Complainant

LyondellBasell Group (referred to as LyondellBasell) is a multinational chemical company with European and American roots going back to 1953-54 when the predecessor company scientists Professor Karl Ziegler and Giulio Natta (jointly awarded the Nobel Prize in Chemistry in 1963) made their discoveries in the creation of polyethylene (PE) and polypropylene (PP); ever since, LyondellBasell has become the third largest plastics, chemicals and refining company and the largest licensor of polyethylene and polypropylene technologies in the world. The Complainant has over 13,000 employees around the globe and manufactures at 55 sites in 17 countries. Its products are sold into approximately 100 countries.

LyondellBasell manages its operations through five operating segments:

- Olefins and Polyolefins-Americas: produces and markets olefins and co-products, polyethylene and polypropylene.
- Olefins and Polyolefins-Europe, Asia, International: produces and markets olefins and co-products, polyethylene, and polypropylene, including polypropylene compounds.
- Intermediates and Derivatives: produces and markets propylene oxide and its derivatives, oxyfuels and related products and intermediate chemicals, such as styrene monomer, acetyls, ethylene oxide and ethylene glycol.
- Refining: refines heavy, high-sulfur crude oil and other crude oils of varied types and sources available on the U.S. Gulf Coast into refined products including gasoline and distillates.
- Technology: develops and licenses chemical and polyolefin process technologies and manufactures and sells polyolefin catalysts.

According to the 2020 annual report LyondellBasell generated \$1.4 billion in income from continuing operations, EBITDA of \$3.9 billion and \$4.24 diluted earnings per share.

LyondellBasell is listed on the New York Stock Exchange since 2010.

On December 20, 2017 the company celebrated the 10year anniversary of the merger of Lyondell Chemical Company and Basell AF SCA, a transaction that created one of the largest plastics, chemicals and refining companies in the world.

LyondellBasell Group is formed of various affiliated companies, all of them under the ultimate control of LyondellBasell Industries N.V., headquartered in The Netherlands:

1. LyondellBasell Industries Holdings B.V., owner of several trademarks including the wording "LYONDELLBASELL", such as:
  - US trademark no. 3634012 - serial no. of the application 77467965 (word) "LYONDELLBASELL" since May 7, 2008 in classes 1, 4, 17, 35, 42;
  - US trademark no. 5096173 - serial no. of the application 86555801 (device) "LYONDELLBASELL" in classes 1, 4, 17, 42, 45;
  - European Union Trademark (EUTM) no. 006943518 (word) "LYONDELLBASELL" since May 16, 2008 in classes 1, 4, 17, 42, 45;
  - EUTM no. 013804091 (device) "LYONDELLBASELL" since March 6, 2015 in classes 1, 4, 17, 42, 45, together referred to as "LYONDELLBASELL Trademark"; and

- International registration no. 972681 (WORD) “LYONDELLBASELL” since May 5, 2008, designating also Iceland.

2. Lyondell Chemical Company, owner of a large portfolio of trademarks including the wording “LYONDELL” in several countries, such as:

- EUTM no. 001001866 (word) “LYONDELL” since Nov 26, 1998 in classes 1, 4, 12, 17, 20, 25, 42; together referred to as “LYONDELL Trademark”.

LyondellBasell Industries N.V. owns multiple domain names consisting in, inter alia, the wordings “LYONDELLBASELL” and “LYONDELL”, such as <lyondellbasell.com> used as main website of LyondellBasell since October 23, 2007 and <lyondell.com> registered on February 21, 1997.

The Complainant is also widely promoted on most popular social media with channels and pages specifically dedicated to it, i.a. on Twitter (<https://twitter.com/>) and Facebook (<https://www.facebook.com/>) used also for promotional and advertising purposes.

Due to its longstanding use and the huge promotional and advertising investments, the LYONDELL trademark is certainly well-known. Previous panelists in other UDRP procedures have recognized that “the word lyondell is highly distinctive as it is a fanciful term” (e.g., LyondellBasell Industries Holdings B.V. v. Williams Wales - lyondell terminal, Case n. 102018).

## B) The Respondent

The disputed domain name <lyondellterminals.com> was registered on October 1, 2020 by the Respondent, a subject named Danny Mauricio Cevallos Mosquera that it is prima facie based in Madrid, Spain.

Please note that on the related website are provided prima facie false and misleading contact data and absolutely no connection with Mosquera and Madrid; the disputed domain name resolves in fact to a website dedicated to a company named “Lyondell Terminal/Lyondell Europoort Terminal” which apparently offers storage and transshipment of crude oil and its derivatives at the Port of Rotterdam.

In the about page it is indicated as operated by Ozburn-Hessey Terminal B.V Rotterdam in conjunction with M.I.L BV.

Please however consider that there is no entity registered in The Netherlands with the trade / business name “lyondell terminal” or “Lyondell Europoort Terminal”.

Moreover, a subject named Lyondell Europoort Terminal has been recognized as involved in storage spoofing / phishing and has been blacklisted by the Port of Rotterdam Authority; Ozburn-Hessy Terminal B.V. is also blacklisted by the Port of Rotterdam.

Storage spoofing (also known as terminal spoofing) is a specific form of phishing: it covers all varieties of the sale of non-existent storage capacities and stocks of resources and materials at port terminals. The target for this kind of fraud are national and multinational companies that either operate or are looking for storage facilities in the port area, as well as all potential buyers of the goods stored at these terminals. These goods are offered under false pretences but turn out to be non-existent. The phenomenon is described in details at the website of the Port of Rotterdam Authority, <https://ferm-rotterdam.nl>.

Also, both <lyondellterminal.com> and Ozburn-Hessy Terminal B.V. are both indicated on different sources online as subject operating in a known scam (see for example <https://www.stop419scams.com/> and <https://419advancefeefraud.blogspot.com/>).

Interestingly, on the homepage of <https://www.lyondellterminal.com> there is also a disclaimer about possible scam using their brand and requesting to verify any offer via the e-mail address [verify@lyondellterminal.nl](mailto:verify@lyondellterminal.nl), but the corresponding domain name

<lyondellterminal.nl> it is not currently registered and therefore verify@lyondellterminal.nl it's a not existing e-mail address; finally, the logo "Lyondell Terminal" used at the website to which the domain name resolves is confusingly similar to the well-known LYONDELLBASELL Trademark used, inter alia, at LyondellBasell's main website [www.lyondellbasell.com](http://www.lyondellbasell.com) and to the figurative logo already used by previously identified scammers linked to the domain name <lyondellterminals.com> (reassigned through the Arbitration procedure LyondellBasell Industries Holdings B.V. v. Williams Wales - lyondell terminal, Case n. 102018).

Therefore, Internet users might likely believe that the disputed domain name is related to LyondellBasell.

## LEGAL GROUNDS

### A. PRELIMINARY PROCEDURAL QUESTIONS

LyondellBasell Industries N.V., LyondellBasell Industries Holdings B.V. and Lyondell Chemical Company are related companies belonging to the same group and having right in the relevant marks on which this Complaint is based. According to the UDRP jurisprudence any one party of multiple related parties, on behalf of the other interested parties, may bring a Complaint and is to be considered to have standing in dispute (see paragraph 1.4.2 of WIPO Overview 3.0 and the decisions mentioned thereto).

The Complainant of this administrative proceeding is LyondellBasell Industries Holdings B.V., filer of this Complaint also on behalf of the other interested parties (LyondellBasell Industries N.V. and Lyondell Chemical Company). The transfer decision is to be directed to the Complainant.

### B. MERITS

#### I. IDENTITY OR CONFUSING SIMILARITY

Under the first UDRP element, the straightforward side-by-side comparison of the disputed domain name and the textual components of the marks on which this Complaint is based makes it evident that the LYONDELL BASELL Trademark and (in particular) the LYONDELL Trademark are recognizable within the disputed domain name and, thus, the disputed domain name is confusingly similar to the marks in which the Complainant has rights.

The disputed domain name, in fact, entirely incorporates LYONDELL trademarks. It is a well-established principle that domain names that wholly incorporate a trademark are found to be confusingly similar for purposes of the Policy, despite the fact that they may also contain misspelling, descriptive or generic terms. As to the decisions addressing situations where generic terms are used in combination with trademarks, see, among others, Fry's Electronics, Inc. v. Whois ID Theft Protection, WIPO Case No.D2006-1435; Kabushiki Kaisha Toshiba d/b/a Toshiba Corporation v. Marko Tusla d/b/a/ Toshiba-Club.com WIPO Case No. D2004-1066.

Furthermore, in the present case, the terms selected by Respondent for his domain name registrations are particularly apt to increase the likelihood of confusion and to induce Internet users to believe that there is an association between the Domain Names and Complainant. In fact, comparing the disputed domain name and the LYONDELL Trademarks the only difference is the addition of the generic, non-distinctive and descriptive word "terminals" to the LYONDELL Trademark; In case of the LYONDELLBASELL Trademark the Respondent has used this generic term instead of the part "BASELL" of the trademark.

Such addition neither effects the attractive power of such trademark, nor is sufficient to prevent the finding of confusing similarity between the disputed domain name and such marks, but even enhances the likelihood of confusion, as the disputed domain name and the corresponding website may be interpreted as a particular service or container terminal of LyondellBasell Industries Holdings B.V..

The disputed domain name is also confusingly similar to the corporate name of Lyondell Chemical Company and to the domain

name <lyondell.com>.

Finally, as consistently found in several decisions, including *Telecom Personal, S.A., v. NAMEZERO.COM, Inc.*, WIPO Case No.D2001-0015 and *Société Générale and Fimat International Banque v. Lebanon Index/La France DN and Elie Khouri*, WIPO Case No.D2002-0760, the top level “.com” is merely instrumental to the use of the Internet so the Domain Names remain confusingly similar despite their inclusion.

The content of the website associated with the domain name is usually disregarded by UDRP panels when assessing confusing similarity under the first element. In some instances, panels have however taken note of the content of the website associated with a domain name to confirm confusing similarity whereby it appears *prima facie* that the respondent seeks to target a trademark through the disputed domain name (see paragraph 1.9 of WIPO Overview 3.0 and the decisions mentioned thereto).

In the dispute at hand, considering the following circumstances:

- LyondellBasell is a well-known chemical company, one of the world’s largest producers of polymers, operating refineries worldwide;
- LyondellBasell is present at the Port of Rotterdam at the address Moezelweg 145, which coincides with the address provided by the Respondent as its contact information in the bottom of the home page of the website corresponding to the domain name <lyondellterminal.com>;
- the Respondent’s website is offering storage and transshipment of crude oil and its derivatives at the Port of Rotterdam;
- the Respondent uses a logo on its website that is confusingly similar to the well-known LYONDELLBASELL Trademark, makes it clear that the Respondent had in his mind LyondellBasell, its activities and its trademarks and intended to create confusion with such Group its activities and its marks by registering the disputed domain name.

The similarity of the disputed domain name to the LYONDELLBASELL and LYONDELL Trademarks, the corporate name Lyondell Chemical Company and the domain name <lyondell.com> is likely to lead to confusion and/or association for the Internet users and the first requirement under para. 4 (a)(i) of the Policy and of para. 3(b), (viii), (b)(ix)(1) of the Rules is satisfied.

## II. NO RIGHTS OR LEGITIMATE INTERESTS

According to paragraph 4(a) of the Policy, the burden of proving the absence of the Respondent’s rights or legitimate interests in respect of the disputed domain name lies with Complainant. It is nevertheless a well-settled principle that satisfying this burden is unduly onerous, since proving a negative fact is logically less feasible than establishing a positive. Accordingly, it is sufficient for Complainant to produce a *prima facie* evidence in order to shift the burden of production to Respondent. See paragraph 2.1 of WIPO Overview 3.0 and, e.g., *Document Technologies, Inc. v. International Electronic Communications Inc.*, WIPO Case No. D2000-0270; *Belupo d.d. v. WACHEM d.o.o.*, WIPO Case No. D2004-0110.

In the present case, the Complainant denies that the Respondent is an authorized dealer, agent, distributor, wholesaler or retailer. In fact, the Complainant has never authorized any company based in Iceland to include its well-known trademark in the disputed domain name, nor to make any other use of its trademark online in any manner whatsoever. Complainant also confirms that it is not in possession of, nor aware of the existence of, any evidence tending to demonstrate that the Respondent is commonly known by the disputed domain name, as individual, business, or other organization. As stated i.e. in WIPO Case No. D2000-0134 *Pharmacia & Upjohn Company v. Moreonline*, “the mere registration, or earlier registration, does not establish rights or legitimate interests in the disputed domain name”.

In light of these considerations, the Complainant excludes that the Respondent is commonly known by the disputed domain name under Art. 4(c)(ii) of the Policy.

The fact that LYONDELL is a fanciful word, strengthens the assumption that the disputed domain name was registered for the sole scope of misleading potential consumers, to tarnish the Complainant's trademark and to prevent the Complainant from reflecting its trademark in a corresponding domain name. This is even truer considering that the disputed domain name differs from trademark LYONDELL only for the word TERMINAL that could easily be linked to its business reality (for example it could indicate one of its points of arrival).

Moreover, considering that the domain name entirely reproduces the Complainant's trademarks, it is very difficult to conceive any possible right or legitimate interest which the Respondent could have in the disputed domain name (see also DHL International GmbH v. Diversified Home Loans, WIPO Case D2010-0097).

Please also consider that Respondent prima facie uses false data on the website associated to such domain name: it is in fact dedicated to a company based in Rotterdam and named "Lyondell terminal" or "Europoort Terminal". However, there is no legal entity registered in The Netherlands with such trade / business names.

Finally, a subject operating with the name "Lyondell Europoort Terminal" has been found involved in phishing activities (storage spoofing) and blacklisted by the Port of Rotterdam Authority, as well as the entity named Ozburn-Hessey Terminal B.V. Rotterdam, indicate as operating with Lyondell Terminal on the about page of the website corresponding to the disputed domain name.

Such use of the domain name is clearly not a bona fide, legitimate or fair use under the UDRP Policy.

For all reasons mentioned above the Complainant deems to have sufficiently proved that the Respondent lacks rights and legitimate interests in respect of the disputed domain name.

### III. REGISTRATION AND USE IN BAD FAITH

In accordance with paragraph 4(a)(iii) of the Policy in order to succeed in a UDRP Proceeding, the Complainant must prove, as a third and last requirement, that the Respondent registered and used the disputed domain name in bad faith.

As far as registration in bad faith is concerned, the Respondent registered domain name contains a well-known third party's trademark without authorization. The Respondent could not ignore the existence of the LYONDELL and LYONDELL BASELL trademarks at the time of the registration of the disputed domain name, because LYONDELL is a well-known trademark, and because LYONDELL is a fanciful word, therefore it is not conceivable a use of the domain name not related to the Complainant's activities. This assumption is further proved by the fact that the disputed domain name entirely contains Complainant's trademark and its used to publishing content in the same fields of activities of LyondellBasell Industries Holdings B.V..

The misappropriation of a well-known trademark as domain name by itself constitutes bad faith registration for the purposes of the Policy. See, inter alia, Aktiebolaget Electrolux v. Domain ID Shield Service Co., LTD / Dorian Cosentino, Planeta Servidor, WIPO Case No. D2010-1277; Volvo Trademark Holding AB v. Unasi, Inc., WIPO Case No. D2005-0556.

In light above, it is inconceivable that Respondent was not well aware of Complainant's trademark rights at the time of the registration of the disputed domain name. Indeed, Respondent's purpose in registering the disputed domain name, incorporating LYONDELL, was probably to capitalize on the reputation of Complainant's trademark by diverting Internet users seeking information about this distinctive sign to its own website. See Hoffmann-La Roche Inc. v. Doroven, WIPO Case No. D2010-1196. Furthermore, the disputed domain name has been registered long after the filing/registration of the Complainant's trademarks.

A finding of Bad Faith is also supported by the content of the website associated with the domain name i.e. the Respondent offers storage and transshipment of crude oil and its derivatives at the Port of Rotterdam and uses a logo confusingly similar to the well-known LYONDELL and LYONDELLBASELL Trademarks and to the logo used by previously identified scammers linked to the domain name <lyondellterminals.com> (reassigned through the Arbitration procedure LyondellBasell Industries Holdings B.V. v. Williams Wales - lyondell terminal, Case n. 102018).

Moreover - as described in the factual section - the Respondent publish false data on the website associated to such domain name: it is in fact indicated as administrated by a company named "Lyondell Terminal" or "Lyondell Europoort Terminal" which apparently offers storage and transshipment of crude oil at the Port of Rotterdam and that is operated by Ozburn-Hessey Terminal B.V Rotterdam. Please however consider that there is no entity registered in The Netherlands with the trade / business name "Lyondell terminal" or "Lyondell Europoort Terminal".

Moreover, both Lyondell Europoort Terminal and Ozburn-Hessy Terminal B.V. have been recognized as subjects involved in storage spoofing / phishing and has been blacklisted by the Port of Rotterdam Authority. Carrying out unlawful and illicit activities through the disputed domain name is to be considered evidence of the registration and use of the disputed domain name in bad faith.

Finally, the address provided in the bottom of the homepage of the website to which the domain name at issue is redirect (Moezelweg 145) coincides with the Complainant's address at the Port of Rotterdam. Hiding the Respondent himself behind false identity is certainly an indicia of bad faith registration and use.

In light of the above, Complainant respectfully submits that the disputed domain name was registered and is being used in bad faith in full satisfaction of paragraph 4(a)(iii) of the Policy.

Having satisfied the three requirements of paragraph 4(a) of the UDRP Policy, the Complainant requests that the domain name <lyondellterminal.com> be transferred to the Complainant, LyondellBasell Industries Holdings B.V..

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#### PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

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#### RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

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#### NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

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#### BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

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#### PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

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#### PRINCIPAL REASONS FOR THE DECISION

Notwithstanding the fact that no Response has been filed, the Panel shall consider the issues present in the case based on the statements and documents submitted by the Complainant.

Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following elements:

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

#### A. Identical or Confusingly Similar

The Complainant must establish that it has a trademark or service mark and that the disputed domain name is identical or confusingly similar to that trademark or service mark for the Complainant to succeed.

The Complainant is a multinational chemical company present on a variety of countries globally. The Complainant has provided evidence of ownership of the marks "LYONDELL" and "LYONDELLBASELL":

As regards the question of identity or confusing similarity for the purpose of the Policy, it requires a comparison of the disputed domain name with the trademarks in which the Complainant holds rights. According to section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), "this test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name".

Also, according to section 1.7 of the WIPO Overview 3.0, "in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing".

The disputed domain name wholly incorporates the Complainant's trademarks "LYONDELL" in addition to the generic term "terminal", as well as a hyphen. This addition does not prevent a finding of confusing similarity with the Complainant's trademarks. The fact that a domain name wholly incorporates a complainant's trademark is sufficient to establish identity or confusing similarity for the purpose of the Policy, despite the addition of other words to such marks. The Panel accepts the Complainant's statement that the term "terminal" is very likely to be perceived as a reference to the shipment of the Complainant's goods, or its presence in a harbour terminal.

It is well accepted by UDRP panels that a generic Top-Level Domain ("gTLD"), such as ".com", is typically ignored when assessing whether a domain name is identical or confusingly similar to a trademark.

This Panel concludes that the disputed domain name is confusingly similar to the Complainant's trademark and therefore finds that the requirement of paragraph 4(a)(i) of the Policy is satisfied.

#### B. Rights or Legitimate Interests

Under paragraph 4(c) of the Policy, any of the following circumstances, if found by the Panel, may demonstrate the Respondent's rights or legitimate interests in the disputed domain name:

- (i) before any notice to it of the dispute, the Respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a bona fide offering of goods or services; or
- (ii) the Respondent has been commonly known by the disputed domain name, even if it has acquired no trademark or service mark rights; or

(iii) the Respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The consensus view of UDRP panels on the burden of proof under paragraph 4(a)(ii) of the Policy is summarized in section 2.1 of the WIPO Overview 3.0, which states: “[...] where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.”

The evidence on record does not show that the Respondent was commonly known, as an individual or an organization, by the disputed domain name.

The Panel also finds, in the absence of a rebuttal from the Respondent, that the Respondent uses the Complainant's trademarks in the disputed domain name without authorization from the Complainant.

Equally, the Panel accepts that the Respondent has not made a legitimate noncommercial or fair use of the disputed domain name. To the contrary, the record contains extensive evidence that the disputed domain name was used in such way as to defraud Internet users of average attention by offering inexistent services via e-mail. The use of an active website depicting a logo similar to that of the Complainant and containing the actual contact details of the Complainant can in no way justify a potential legitimate use of the domain name.

Therefore, the Panel concludes that the Respondent has no right or legitimate interests in the disputed domain name and therefore finds that the requirement of paragraph 4(a)(ii) of the Policy is satisfied.

### C. Registration and Use in Bad faith

For the purpose of Paragraph 4(a) (iii) of the Policy, the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of the disputed domain name in bad faith:

(i) circumstances indicating that the Respondent has registered or has acquired the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the disputed domain name registration to the Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of the holders documented out-of-pocket costs directly related to the disputed domain name; or

(ii) the Respondent has registered the disputed domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the holder has engaged in a pattern of such conduct; or

(iii) the Respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Respondent's website or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on the holder's website or location.

The Panel finds the third and fourth element of Paragraph 4(b) of the Policy applicable in the present case. The evidence on the record shows that the Respondent was certainly aware of the existence of the Complainant and of the rights of the Complainant, and that the Respondent, by registering and using the disputed domain name has intentionally attracted internet users by creating a likelihood of confusion with the Complainant's trademark.

The use of an active website displaying the Complainant's trademark in connection with the disputed domain name is further evidence of bad faith use on the part of the Respondent.

Additionally, the use of an active website depicting a logo similar to that of the Complainant and containing the actual contact details of the Complainant can only be regarded as a use of the disputed domain name in bad faith.

The Panel concludes that the Respondent has registered and is using the disputed domain name in bad faith, and therefore finds that the requirements of paragraph 4(a)(iii) of the Policy is satisfied.

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FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **LYONDELLTERMINAL.COM**: Transferred

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## PANELLISTS

Name	<b>Arthur Fouré</b>
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DATE OF PANEL DECISION	2021-07-20
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Publish the Decision

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