Decision for dispute CAC-UDRP-101496

Case number	CAC-UDRP-101496
Time of filing	2017-04-18 11:46:55
Domain names	arla.tech, arla.store

Case administrator

Name	Aneta Jelenová (Case admin)

Complainant

Organization	Arla Foods Amba

Complainant representative

Organization	BrandIT GmbH

Respondent

Name	Pan Jing

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other proceedings.

IDENTIFICATION OF RIGHTS

Arla is a global dairy company and co-operative owned by 12,650 dairy farmers in seven countries. As Complainant is owned by the same farmers who produce the milk, one can be assured that Arla dairy products are based on cows' milk of a very high quality. The company has operations worldwide, including throughout the Asia Pacific region and specifically in China, where it has an office in Beijing (see www.arla.com). It targets its Chinese customers through the domain www.arla.com.cn, a Chinese language site. The company has over 19,000 employees worldwide and reached global revenue of EUR 10.3 billion in 2015. More information about the Complainant is available in the company's 2015 Annual Report online at annualreport2015.arla.com.

The Complainant is the owner of the registered trademark ARLA as a word mark and device in numerous of countries all over the world including in China where the Respondent resides as well as the word mark ARLA FOODS. See as an example the International Trademark Registration Number IR 0731917 (registered in 2000), and the Danish local trademark registration VR2000 01185 (registered in 2000), These trademark registrations predate the registration of the Disputed domain name.

Due to extensive use, advertising and revenue associated with its trademarks worldwide, the Complainant enjoys a high

degree of renown around the world, including in China where the Respondent is located. The Complainant has previously successfully challenged several ARLA domain names through UDRP processes e.g. WIPO Case no: D2016-1205 Arla Foods Amba v Frederik enghall concerning the domain <arla.one>; WIPO Case no: DMX2016-0012 Arla Foods Amba v Zhao Ke concerning the domain name <arlafoods.mx>; WIPO Case no: DAU2016-0001 Arla Foods Amba v. Graytech Hosting Pty Ltd. ABN 49106229476, Elizabeth Rose concerning the domain name <arlafoods.com.au>; WIPO Case no: DME2015-0010 Arla Foods amba v. Ye Li concerning the domain name <arlafoods.me>; and Case no. 101058 Arla Foods amba v. VistaPrint Technologies Ltd concerning the domain name <Arlaf00ds.com>.

The Complainant has also registered a number of domain names under generic Top-Level Domains ("gTLD") and country-code Top-Level Domains ("ccTLD") containing the term “Arla” and “Arla Foods”, see for example, <arla.com.cn> (created on 2002-12-16) <arlafoods.com> (created on 1999-10-01), <arla.com> (created on 1996-07-15), <arlafoods.co.uk> (created on 1999-10-01) and <arlafoods.net> (created on 2000-02-21). The Complainant is using the domain names to connect to a website through which it informs potential customers about its trademarks and its products and services.

FACTUAL BACKGROUND

The Respondent has chosen to register the Disputed domain names under various new gTLDs which are commercial TLDs and English terms, and therefore applicable to a broader audience than merely China. A more suitable TLD if only addressing the Chinese market would be the .cn extension. The Respondent has registered all Disputed domain names in bad faith to attract (namely) Chinese customers.

MULTIPLE RESPONDENTS TO BE CONSOLIDATED

The Complainant alleges that the entities which control the Disputed domain names at issue are effectively controlled by the same person and/or entity, which is operating under two or more aliases. Paragraph 3(c) of the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”) provides that a “complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.”

According to the information submitted by the three Registrars on or around April 18, 2017, in response to the "Request for Registrar Verification" from the CAC, the Disputed domain names are held under the following aliases:

1. Arla.ltd & arla.group
Registrant: xujing
haidianqu
beijing 100000
China
Phone: +86.15901241243
Email: haima.nohorse@qq.com

2. arla.club
Registrant: ma hai jian
bei jing shi
bei jing 100000
China
Phone: +86.13121465986
Email: haima.nohorse@foxmail.com

3. arla.tech & arla.store
Registrant: Pan Jing
Da Bei Jing
Bei Jing 100000
China
Phone: +86.13121465986

Email: haima.nohorse@foxmail.com

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

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 UDRP Policy).

The Disputed domain names:

Domain name - Creation date - Website associated with DN as at 30.03.17 - Registrar
Arla.tech - 08.03.2017 - PPC with related links eg “Arla Foods” - EJEE Group Holdings Ltd
Arla.club - 02.03.2017 - PPC with related links eg “Arla Foods” - eName Technology Co., Ltd
Arla.store - 08.03.2017 - PPC with related links eg “Arla Foods” - EJEE Group Holdings Ltd
Arla.ltd - 16.03.17 - Inactive Page - Ourdomains Limited
Arla.group - 16.03.17 - Inactive Page - Ourdomains Limited

(hereinafter referred to as the “Disputed domain names”), all directly and entirely incorporate the Complainant’s well-known, registered trademark ARLA. The addition of the generic Top-Level Domains (gTLD) “.tech”, “.club”, “.store”, “.ltd” and “.group”, do not add any distinctiveness to the Disputed domain names. The Disputed domain names all incorporate the ARLA trademark coupled with various relevant new gTLDs. This exaggerates the impression that the Respondent is somehow affiliated with the Complainant, and the Respondent is somehow doing business using the Complainant`s trademark. See for example WIPO Overview on Selected UDRP Questions, Second Edition ("WIPO Overview 2.0"), paragraph 1.2., as well as the International Business Machines Corporation v. Sledge, Inc. / Frank Sledge WIPO Case No. D2014-0581 where the Panel stated the following “In addition, it is generally accepted that the addition of the top-level suffix in the domain name (e.g., “.com”) is to be disregarded under the confusing similarity test”. This reasoning should apply here and the Disputed domain name should be considered as identical to the registered trademark ARLA.

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 names (within the meaning of paragraph 4(a)(ii)of UDRP Policy).

The Complainant has not found that the Respondent is commonly known by the Disputed domain names. The WHOIS information with the names “ma hai jian”, “pan jing” and “xujing” is the only evidence in the WHOIS record, which relates the Respondent to the Disputed domain names.

The Respondent has not by virtue of the content of the website, nor by its use of the Disputed domain names shown that they will be used in connection with a bona fide offering of goods or services.

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the Disputed domain names have been registered and are being used in bad faith (within the meaning of paragraph 4(a)(iii)of UDRP Policy).

It has to be highlighted that the Complainant’s trademarks predate the registration of the Disputed domain names and the Respondent has never been authorized by the Complainant to register the Disputed domain names. It is inconceivable that the unique combination of “arla” and five different gTLDs in the Disputed domain names is not a deliberate and calculated attempt to improperly benefit from the Complainant’s rights.

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.

PRINCIPAL REASONS FOR THE DECISION

1. The main issues under the Policy are whether:

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

2. The Panel reviewed carefully all documents provided by the Complainant. The Respondent did not provide the Panel with any documents or statements. The Panel also visited all available websites and public information concerning Disputed domain names, namely the WHOIS databases.

3. The Rules for Uniform Domain Name Dispute Resolution Policy clearly says in its Article 3 that any person or entity may initiate an administrative proceeding by submitting a complaint in accordance with the Policy and these Rules.

4. The Panel therefore came to the following conclusions:

a) The Complainant has clearly proven that he is a long standing and successful company in the worldwide business and in the Internet space. It is clear that his trademarks and domain name “ARLA” are well known.

Domain name to be identical or confusingly similar

b) The Complainant states that all the Disputed domain names are confusingly similar to its trademark. Indeed, the trademark is incorporated in its entirety in the Disputed domain names. The domain name redirects to official website.

The Respondent not having rights or legitimate interest with respect to the Disputed domain name

c) It has to be stressed that it was proven that there are no fair rights of the Respondent to the Disputed domain names. The Respondent is not generally known by the Disputed domain name, and has not acquired any trademark or service mark rights in the names or marks.

The Disputed domain names were registered with an intention to attract customers of another well known domain name/registered trademark holder. Therefore there cannot be seen any legitimate interest of the Respondent.

Domain names have been registered and are used in bad faith

d) From the IP Law perspective, it is clear that the Complainant's trademark and website were used by the Complainant long time before the Disputed domain names were registered and used. It is therefore concluded that the Disputed domain names were registered with an intention to attract customers of another well known domain name/registered trademark holder.

To summarize, the trademark ARLA is a well-known mark worldwide, including in China where the Respondent is located. The Respondent bears no relationship to the trademarks and the Disputed domain names have no other meaning except for referring to the Complainant's name and trademark. There is no way in which the Disputed domain names could be used legitimately by the Respondent. Inference of bad faith registration and use of the Disputed domain names is also given by the fact that the Respondent replied to the Complainant’s cease and desist letter requesting an unreasonably high price for the Disputed domain names. Further, the Disputed domain names are either being passively held or used for PPC links, an additional element of bad faith in accordance with the applicable cases described at this Complaint. Finally, the Respondent has shown a bad faith pattern of conduct through the registration of hundreds of domain names containing other well-known marks.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ARLA.TECH**: Transferred
2. **ARLA.CLUB**: Transferred
3. **ARLA.LTD**: Transferred
4. **ARLA.STORE**: Transferred
5. **ARLA.GROUP**: Transferred

PANELLISTS

Name	**Dr. Vít Horáček**

DATE OF PANEL DECISION 2017-05-26

Publish the Decision