Decision for dispute CAC-UDRP-101737

Case number	CAC-UDRP-101737
Time of filing	2017-10-18 10:07:21
Domain names	arlafoodss.com

Case administrator

Name	Aneta Jelenová (Case admin)

Complainant

Organization	Arla Foods Amba

Complainant representative

Organization	BrandIT GmbH

Respondent

Name	Peter Woeener

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 owns the following trademarks:

- EU trademark 001520899 ARLA, registered on February 24, 2000, for goods and services in classes 1, 5, 29, 30, 31, 32;
- EU trademark 001902592 ARLA (figurative), registered on October 13, 2000, for goods and services in classes 1, 5, 29, 30, 31, 32;
- EU trademark 009012981 ARLA (figurative), registered on April 8, 2010, for goods and services in classes 1, 5, 29, 30, 31, 32;
- Danish trademark VR 2000 01185 ARLA FOODS, registered on March 6, 2000, for goods and services in classes 1, 5, 29, 30, 31, 32;
- US trademark 3325019 ARLA, registered on October 30, 2007, for goods and services in classes 1 and 29;
- International Registration 731917 ARLA, registered March 20, 2000, for goods and services in classes 1, 5, 29, 30, 31, 32.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT

The Complainant is a global dairy company and co-operative owned by 12,650 dairy farmers in seven countries. The company has operations worldwide and over 19,000 employees worldwide and reached a global revenue of EUR 10.3 billion in 2015.

The disputed domain name was registered on September 9, 2017, and resolved to a pay-per-click website where Internet visitors can find links related to the Complainant's products and trademarks.

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 the Policy).

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).

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).

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

The Respondent did not reply to the Complainant's contentions. However, the consensus view of UDRP panels is that the Respondent's default does not automatically result in a decision in favour of the Complainant. The Complainant must still establish each of the three elements required by paragraph 4(a) of the Policy. Although the Panel may draw appropriate inferences from a respondent's default, paragraph 4 of the Policy requires the Complainant to support its assertions with actual evidence in order to succeed in these proceedings. Paragraph 14(b) of the Rules provides that, in the absence of exceptional circumstances, the Panel shall draw such inferences as it considers appropriate from a failure of a party to comply with a provision or requirement of the Rules. The Panel finds that in this case there are not such exceptional circumstances.

The Panel finds that the disputed domain name is confusingly similar to the ARLA FOODS trademarks identified above, as the disputed domain name contains the trademark in its entirety with the addition of an "s", which is insignificant to the overall impression.

The Panel also finds that the Complainant successfully submitted prima facie evidence that the Respondent has made neither use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services, nor is making a legitimate non-commercial or fair use of the disputed domain name. This prima facie evidence was not challenged by the Respondent.

The Complaint showed that the disputed domain name is used to operate a pay-per-click parking website, showing links to the Complainant's trademarks identified above and at least one competitor of the Complainant. In the absence of a Response, this is a clear evidence of use of the disputed domain name in bad faith. The Panel further infers from this use which immediately followed the registration of the disputed domain name, that the Respondent must have had the ARLA

FOODS trademark (which is not a word found in dictionaries and is used by the Complainant for its activities and products) in mind when he registered the disputed domain name. The Panel therefore concludes the disputed domain name was registered in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ARLAFOODSS.COM**: Transferred

PANELLISTS

Name	**Alfred Meijboom**

DATE OF PANEL DECISION 2017-11-28

Publish the Decision