Decision for dispute CAC-UDRP-103067

Case number	CAC-UDRP-103067
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Domain names	arlafarmers.com

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization	Arla Foods Amba

Complainant representative

Organization	BRANDIT GmbH

Respondent

Organization	Carolina Rodrigues, Fundacion Comercio Electronico

OTHER LEGAL PROCEEDINGS

The Panel is unaware of any pending or decided legal proceeding related to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant owns numerous trademark registrations for ARLA and ARLA FOODS (thereafter the “Complainant’s trademarks”), such as but not limited to:

- International trademark ARLA No. 731917, registered on March 20, 2000 designating US;
- International trademark ARLA No. 990596, registered on September 8, 2008 designating US;
- International trademark ARLA NATURA No. 1172732, registered May 3, 2013;
- International trademark BUKO No. 794425, registered on December 12, 2002, designating US;
- Denmark trademark ARLA FOOD No. VR 2000 01185, registered on March 6, 2000.

The Complainant also enjoys a strong online presence via its official website and social medias.

FACTUAL BACKGROUND

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

II. The Parties

A. The Complainant

The Complainant in this administrative proceeding is Arla Foods Amba (thereafter “the Complainant”).

The Complainant’s authorized representative in this administrative proceeding is BRANDIT GmbH.

B. The Respondent

According to the Registrar’s verification (hereinafter – “Registrar”) dated May 15, 2020, the registrant in the present case is Carolina Rodriques (thereafter “the Respondent”).

III. The disputed domain name and Registrar

This dispute concerns the domain name identified below (thereafter “the Disputed Domain Name”), registered with GoDaddy LLC., Registrar’s URL www.godaddy.com:

<arlafarmers.com>

IV. Language of Proceedings

According to the verification from the Registrar the language of the Registration Agreement is English. The language of the proceeding should therefore be English.

In accordance with Paragraph 11 of the UDRP Rules, unless otherwise agreed by the parties, the language of the proceeding is the language of the registration agreement, subject to the authority of the panel to determine otherwise, exercising its “discretion in the spirit of fairness to both parties, which pursuant to paragraph 10(b) of the Rules have to be treated with equality, taking into account all relevant circumstances of the case, including matters such as the parties’ ability to understand and use the proposed language, time and costs” (see Carrefour v. Contact Privacy Inc. Customer 1242379769 / Le Berre, WIPO Case No. D2018-1552).

Should the Respondent request the language of the Registration Agreement be different from English, the Complainant requested that the language of the present administrative proceeding be English based on the following reasons:

- the Disputed Domain Name is composed of the brand name “ARLA” along with English term “farmers” which is common noun in English language which proves that the Respondent understands English well. Moreover, the choice of registering and using a domain name with English terms (“farmers”) shows that the Respondent’s intention is to target Internet users who understand English;

- the Complainant is a global company, originally founded in Denmark, having its website at <arla.com> or <arlafoods.com> displayed in the English language, and it appears that the Respondent is located in the United States. The English language, being commonly used internationally, would be considered as neutral for both parties in the present case. It would therefore be fair to the Parties that the language of the present proceeding be English (See Intesa Sanpaolo S.p.A. v. Ida Ekkert, CAC Case No. 102263);

- Moreover, should the language of the Registration Agreement be different from English, a translation of the Complaint in such a language would entail significant additional costs for the Complainant and delay in the proceedings.

The Complainant therefore requested the Panel to exercise its discretion and allow the language of the proceeding to be

English.

V. Factual and Legal Grounds

A. Factual background

Arla Foods Amba is a globally well-known company cooperatively owned by 9,759 farmers, producing and commercializing dairy products. Arla Foods Amba was constituted in 2000, when the largest Danish dairy cooperative MD Foods merged with its Swedish counterpart Arla ekonomisk Förening. Arla Foods is the fourth largest dairy company in the world, based on milk intake and the world's largest organic dairy producer; it sells its products in 151 countries. Arla Foods Amba employs around 19,190 people across 105 countries (2018) and reached a global revenue of EUR 10,5 billion for the year 2019.

Arla Food's products are easily recognized by the consumers all over the world due to the significant investments of the company in promoting its products and brands and offering high quality products. It sells its milk-based products under its famous brands ARLA®, LURPAK®, CASTELLO®, BUKO®, APETINA® and others.

The Complainant also enjoys a strong online presence via its official website and social medias. Due to extensive use, advertising and revenue associated with its trademarks worldwide, Complainant enjoys a high degree of renown around the world.

The Complainant owns numerous trademark registrations for ARLA trademarks (thereafter the "Complainant's trademarks"), such as but not limited to:

- International trademark ARLA No. 731917, registered on March 20, 2000;
- International trademark ARLA No. 990596, registered on September 8, 2008;
- International trademark ARLA NATURA No. 1172732, registered May 3, 2013;
- International trademark BUKO No. 794425, registered on December 12, 2002;
- Denmark trademark ARLA FOODS No. VR 2000 01185, registered on March 6, 2000.

It has been established in previous WIPO decisions that ARLA is a well-known trademark, see for example: Arla Foods Amba v. Graytech Hosting Pty Ltd. ABN 49106229476, Elizabeth Rose WIPO Case No. DAU2016-0001; Arla Foods Amba v. Fredrik Enghall, WIPO Case No. D2016-1205; Arla Foods Amba v. Nashan, CAC Case No. 101486.

The Complainant also owns numerous domain names containing the trademark ARLA, among them: <arla.com> (registered on July 15, 1996), <arla.eu> (registered on June 1, 2006), <arlausa.com> registered on August 2, 2006, <arlafoods.eu> (registered on April 23, 2006), <arlafoods.com> (registered on October 1, 1999), <arlafoods.co.uk> (registered on October 1, 1999), <arlafoods.ca> (registered on November 29, 2000), <arlafoods.us> (registered on April 29, 2002), <arlafarmer.com> (recovered by the Decision of CAC as of December 18, 2017).

B. Legal grounds

In accordance with Paragraph 4(a)(i) of the Uniform Dispute Resolution Policy (the "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.

(i) The Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;

The Complainant owns numerous trademarks for ARLA registered many years before the Disputed Domain Name <arlafarmers.com> was created - September 30, 2019.

The Disputed Domain Name incorporates, in its second-level portion, Complainant's well-known trademark ARLA in its entirety along with the descriptive term "farmers".

Namely, the ARLA trademark is incorporated entirely along with the term "farmers"- descriptive term that is closely connected to the Complainant's business. As mentioned earlier, the Complainant is a global dairy company cooperatively owned by 9,759 farmers. The ARLA trademark is clearly recognizable in the Disputed Domain Name. Previous UDRP panels have constantly held that the mere addition of a descriptive term would not prevent a finding of confusing similarity to a trademark (see WhatsApp Inc. v. Gil David, WIPO Case No. D2019-1284; Novartis AG v. Black Roses, CAC No. 102137).

Also, previously in similar cases panels ruled: This Panel finds that <ansellcondoms.com> is confusingly similar to the trademark "ANSELL". The addition of the generic name "condoms" does not avoid confusion. In fact, since the term describes the Complainant's products, the addition of "condoms" is more likely to increase confusion. The incorporation of a Complainant's well-known trademark in the registered domain name is considered sufficient to find the domain name confusingly similar to the Complainant's trademark: see Quixtar Investments, Inc. v. Smithberger and QUIXTAR-IBO, Case No. D2000-0138 (WIPO, April 19, 2000) (finding that because the domain name <quixter-sign-up.com> incorporates in its entirety the Complainant's distinctive mark, QUIXTER, the domain name is confusingly similar); Hewlett-Packard Company v. Posch Software, Case No. FA95322 (Nat. Arb. Forum, Sept. 12, 2000). See Ansell Healthcare Products Inc. v Australian Therapeutics Supplies Pty, Ltd. WIPO Case No. D2001-0110.

WIPO Overview 3.0 para. 1.8 states: Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. The nature of such additional term(s) may however bear on assessment of the second and third elements.

The generic Top-Level Domain ".com" in the second-level portion is a standard registration requirement and should be disregarded when assessing whether a disputed domain name is confusingly similar to the trademark in which the Complainant has rights (see, Arcelormittal S.A v. James, supra and Credit Mutuel Arkea v. Domain Administration, CAC Case No. 102345).

The Disputed Domain Name is therefore confusingly similar to the Complainant's trademarks ARLA.

(ii) The Respondent has no rights or legitimate interests in respect of the Disputed Domain Name;

The Disputed Domain Name was registered on September 30, 2019, many years after the first registrations of the Complainant's ARLA trademarks.

The Complainant has not licensed or authorized the Respondent to register or use the Disputed Domain Name.

There is no evidence that the Respondent is known by the Disputed Domain Name or owns any corresponding registered trademarks including the terms "arlafarmers.com".

When conducting the search regarding the term "arlafarmers.com" on popular Internet search engines such as "Google.com" and "Yahoo.com", the vast majority of the results relate to the Complainant's official websites such as <arla.com>, <arlafoods.de>, <arla.se>, <arlafoods.co.uk>, <arlafoodforhealth.com>, <arlafoodsingredients.com>, <arlausa.com> and other.

When conducting searches on online trademark databases, no information is found in relation with trademarks corresponding to the terms "arlafarmers.com", "arlafarmers" or "arla farmers" (the latter results in showing trademarks of

the Complainant) nor any trademarks are found in the name of the Respondent's name or Respondent's organization.

The Disputed Domain Name <arlafarmers.com> redirects to website containing pay-per-click links. The pay-per-click website to which the Disputed Domain Name redirects (http://ww1.arlafarmers.com/ displays a link to "ARLA" and "BUKO" reflecting the trademarks of the Complainant.

These references to the Complainant's ARLA® and BUKO® trademarks (in the Disputed Domain Name (ARLA®) as well as on the website to which it redirects) catch the Internet users' attention and infer that the website to which the Disputed Domain Name redirects is connected to, or managed by, the Complainant. Such use of the aforesaid Disputed Domain Name creates a likelihood of confusion in Internet users' mind and may lead them to click on sponsored links displayed on the PPC page, action which generates revenues for the Respondent. Previous UDRP panels have held that "the presence of pay-per-click advertising on the website at the disputed domain name, including in a way that appears to relate to the Complainant, points towards bad faith" (see Vivendi v. James H Park, CAC Case No. 102073 and Boehringer Ingelheim Pharma GmbH & CO.KG v. Ruthann Halay, CAC Case No. 101200).

Also, in similar circumstances panels have stated "The Respondent's use of the Domain Name for a parking page displaying sponsored links for a variety of goods and services, including for goods and services for which the Complainant's trademarks have been registered, cannot constitute a bona fide offering of goods or services nor a legitimate noncommercial or fair use of the Domain Name, as the Respondent is unduly profiting from the trademark value attached to the Complainant's trademarks. Indeed, prior panels deciding under the Policy have held that pay-per-click ("PPC") parking pages built around a trademark (as opposed to PPC pages built around a dictionary word and used only in connection with the generic or merely descriptive meaning of the word) do not constitute a bona fide offering of goods or services pursuant to paragraph 4(c)(i) of the Policy, nor do they constitute a legitimate noncommercial or fair use pursuant to paragraph 4(c)(iii). See Ustream.TV, Inc. v. Vertical Axis, Inc, WIPO Case No. D2008-0598. See also paragraph 2.6 of the WIPO Overview 2.0." Please see Fontem Holdings 4, B.V. v. J- B-, Limestar Inc., WIPO case No. D2016-0344.

The Complainant sent a cease and desist letter to the Respondent on November 12, 2019 at the e-mail address available in the WHOIS records at the time of sending <arlafarmers.com@domainsbyproxy>. The Complainant further sent 2 reminders on November 20, 2019 and on December 12, 2019. The Respondent has been granted several opportunities to present some compelling arguments that it has rights or legitimate interests in the Disputed Domain Name but has failed to do so. This behaviour coupled with the absence of use of the Domain Name in connection with a bona fide offering of goods and services further demonstrate the Respondent's absence of rights or legitimate interests in respect of the Disputed Domain Name.

The Respondent has therefore no rights or legitimate interests in respect of the Disputed Domain Name.

(iii) The Disputed Domain Name was registered and is being used in bad faith;

1) Registration of the Disputed Domain Name in bad faith

The Respondent registered the Disputed Domain Name many years after the first registrations of the Complainant's ARLA trademarks. The ARLA trademark is widely known trademark as previously held by UDRP panels. The Complainant is very active on social media (Facebook and Twitter) to promote its mark, products and services. The Complainant is followed by 1,195,982 people on Facebook, the US account of Complainant on Instagram followed by 2,677 followers, Twitter accounts are also popular among consumers. (See, Laboratoires M&L v. Zhaoxingming, CAC Case No. 102277).

By conducting a simple online search regarding the terms "arla" and "arlafarmers.com", the Respondent would have inevitably learnt about the Complainant, its trademarks and business (see Intesa Sanpaolo S.p.A. v. Abayomi Ajileye, CAC Case No. 102396). Moreover, as stated above, when searching for the term "arlafarmers.com" online, the vast majority of the results relate to the Complainant's domain names.

Moreover, the Disputed Domain Name incorporates ARLA trademark entirely along with the term “farmers” - descriptive term that is closely connected to the Complainant’s business. As mentioned earlier, the Complainant is a global dairy company cooperatively owned by 9,759 farmers. It is inconceivable that the unique combination of terms “ARLA” and “FARMERS” in the Disputed Domain Name is not a deliberate and calculated attempt to improperly benefit from the Complainant’s rights.

Therefore, the Respondent knew the Complainant’s trademark at the time it registered the Domain Name in bad faith.

2) Use of the Disputed Domain Name in bad faith

Paragraph 4(b) of the Policy identifies, in particular but without limitation, four circumstances which shall be evidence of the registration and use of a domain name in bad faith. Among those circumstances Paragraph 4(b)(iv) of the Policy reads: “by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your 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 your website or location.”

Firstly, ARLA trademark is incorporated entirely in Disputed Domain Name along with the term “farmers”- descriptive term that is closely connected to the Complainant’s business. WIPO Overview 3.0 para. 3.1.4 states that “Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith.”

Secondly, as noted previously, the Disputed Domain Name <arlafarmers.com> redirects to website containing pay-per-click links. The pay-per-click website to which the Disputed Domain Name redirects displays links “ARLA” and “BUKO” reflecting Complainant’s trademarks. These references to the Complainant’s ARLA® and BUKO® trademarks (in the Disputed Domain Name as well as on the website to which it redirects) catch the Internet users’ attention and infer that the website to which the Disputed Domain Name redirects is connected to, or managed by, the Complainant. As mentioned, such use of the aforesaid Disputed Domain Name creates a likelihood of confusion in Internet users’ mind and may lead them to click on sponsored links displayed on the PPC page, action which generates revenues for the Respondent.

In similar circumstances panels stated the following “[t]hrough either displaying a PPC parking page or using a dynamic redirection scheme on the website at the disputed domain name …” it has been held that the “Respondent is likely to have made substantive commercial gain by ‘freeriding’ on the reputation of Complainant and its trademarks, which is indicative of Respondent’s bad faith use of the disputed domain name” (See BASF SE v. Zhang Xiao, WIPO Case No. D2017-2200).

Moreover, the Complainant tried to contact the Respondent on November 12, 2019 through a cease-and-desist letter. In the cease-and-desist letter, the Complainant advised the Respondent that the unauthorized use of their trademarks within the Disputed Domain Name violated their trademark rights and the Complainant requested a voluntary transfer of the Disputed Domain Name. Further reminders were sent (Annexes 10, 10-1). The Respondent chose not to reply to the cease and desist letters sent by the Complainant which infers bad faith (see International Business Machines Corporation v. Adam Stevenson, Global Domain Services, WIPO case No. D2016-1695; Carrefour v. PERFECT PRIVACY, LLC / Milen Radumilo, WIPO Case No. D2018-2201).

Furthermore, the WHOIS associated with the Disputed Domain Name <arlafarmers.com> at the time of sending cease and desist letter and filling the complaint used to show Privacy shield hiding the registrant’s identity and contact details. It is very likely that the Respondent was trying to conceal its identity which is further evidence of bad faith (see Avast Software s.r.o. v. Victor Chernyshov, CAC Case No. 101962).

Moreover, by making Reverse WHOIS search corresponding to the name of Respondent “Carolina Rodrigues” it is evident that Respondent has engaged in a pattern of trademark-abusive domain name registrations. The results show 513 domain names associated with the name of the Respondent, among the domain names clear misspelling versions of other known brands and trademarks are identified, for example: <yahho.com.tw>, <yaoo.com.tw> misspelling version of known search

engine “yahoo” and corresponding trademark YAHOO®; or <yspotify.com> misspelling version of the well-known music and media provider SPOTIFY® operating under web-site spotify.com; or misspelling versions of CHECKFELIX® – Austrian independent travel engine searching for cheap flights (checkfelix.com) - <chechfelix.at>, <wwwcheckfelix.at>, <ceckfelix.at>; or domain name <nissanpartdeals.com> reflecting the famous automotive brand NISSAN®.

Searching by the Respondent’s organization “Fundacion Comercio Electronico” the Reverse WHOIS results show 1,289 domain names among which misspelling of famous brands are also clearly recognized: <insnstagram.com>, <marriottbvacationclub.com>, <marriottvacartionclub.com> and others.

Finally, the Respondent - Carolina Rodrigues Fundacion Comercio Electronico has been respondent in many other domain name dispute disputes, for example: The British United Provident Association Limited (“Bupa”) v. Registration Private, Domains By Proxy, LLC, DomainsByProxy.com/ Carolina Rodrigues, Fundacion Comercio Electronico, WIPO Case No. D2018-117; Amazon Technologies, Inc. v. Carolina Rodrigues/Fundacion Comercio Electronico Claim Number: FA1811001819070 of ADR Forum; ZB, N.A. v. Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico, WIPO Case No.D2018-1959 and others.

This clearly indicates on pattern of trademark-abusive domain name registrations by the Respondent.

In addition, Complainant has previously successfully challenged the domain name <arlafarmer.com>, Czech Arbitration Court Case No. 101764.

In view of the above, the Registrant registered and used the Disputed Domain Name in bad faith and its conduct falls within the meaning of Paragraph 4(a)(iii) of the Policy.

SUMMARY

(i) In conclusion, Arla Foods Amba is a well-known dairy producer and owns the widely-know trademarks ARLA which were registered long before the Disputed Domain Name;

(ii) The Disputed Domain Name contains the well-known trademark ARLA in its entirety along with the descriptive term “farmers” closely related to the Complainant’s business. The mere addition of a descriptive term would not prevent a finding of confusing similarity to a trademark. The Disputed Domain Name is therefore confusingly similar to the Complainant’s trademarks ARLA;

(iii) The Respondent bears no relationship to the Complainant or its ARLA trademarks and is not commonly known by the Disputed Domain Name;

(iv) It is inconceivable that the unique combination of terms “ARLA” and “FARMERS” in the Disputed Domain Name is not a deliberate and calculated attempt to improperly benefit from the Complainant’s rights, therefore the Dispute Domain Name was registered in bad faith;

(v) The Disputed Domain Name redirects to the pay-per-click website displaying links to “ARLA” and “BUKO” reflecting the trademarks of the Complainant. Such use of the Disputed Domain Name creates a likelihood of confusion in Internet users’ mind and may lead them to click on sponsored links displayed on the PPC page, action which generates revenues for the Respondent. The Disputed Domain Name is therefore used in bad faith;

(vi) The Respondent has been engaged in a pattern of trademark-abusive domain name registrations.

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

1. Identical or confusingly similar

The Complainant contends that the Disputed Domain Name <www.arlafarmers.com> is confusingly similar to the Complainant's trademark ARLA. The ARLA trademark is owned by Arla Foods Amba, a globally well-known company producing and commercializing dairy products. The Complainant owns numerous trademarks for ARLA registered many years before the Disputed Domain Name <arlafarmers.com> was created, and also enjoys a strong online presence via its official website and social medias.

As the Complainant suggested, if the relevant trademark is recognizable within the Disputed Domain Name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not generally prevent a finding of confusing similarity under the first element. This principle has been well recognized in numerous UDRP cases (WIPO Case No. D2000-0138, Nat. Arb. Forum, Sept. 12, 2000, WIPO Case No. D2001-0110) as well as the WIPO Overview 3.0 (para. 1.8).

In this case, the Disputed Domain Name incorporated the ARLA trademark entirely, along with the term "farmers"- a common descriptive term in the English language that is closely connected to the Complainant's business. Since ARLA specialized in producing diary products, the affix "farmers" may give rise to certain assumptions that the domain name is associated with the ARLA brand. The generic Top-Level Domain ".com" in the second-level portion is a standard registration requirement and should be disregarded when assessing whether a domain name is confusingly similar to the trademark. Usually, a domain name wholly incorporates a complainant's registered trademark is sufficient to establish identify or confusing similarity within the meaning of the Policy, and the Complainant has cited numerous cases to buttress its argument.

The Panel therefore concludes that the Disputed Domain Name is confusingly similar to a trademark in which the Complainant has rights within the meaning of paragraph 4(a)(i) of the Policy.

2. No rights or legitimate interests

Although the Respondent did not file an administratively compliant (or any) response, the Complainant is still required to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such prima facie case is made, a respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the respondent fails to do so, the complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

The Complainant has not licensed or authorized the Respondent to register or use the Disputed Domain Name. There is no evidence that the Respondent is known by the Disputed Domain Name or owns any corresponding registered trademarks

including the terms “arlafarmers.com”. The Disputed Domain Name <arlafarmers.com> redirects to website containing pay-per-click links, to which the Disputed Domain Name redirects (http://ww1.arlafarmers.com/ displays a link to “ARLA” and “BUKO” reflecting the trademarks of the Complainant. On surface of these, the Panel has failed to find any evidence which suggests that the Respondent and/or its entity is in anyway associated with the ARLA trademark or the “arlafarmers” brand name.

In this case, because the Respondent has used a proxy service in registering the Disputed Domain Name, additional information of the Respondent identity is unavailable. The Complainant sent a cease and desist letter to the Respondent on November 12, 2019 at the e-mail address available in the WHOIS records arlafarmers.com@domainsbyproxy, followed up with 2 reminders, but have not been able to get a hold of the Respondent. The Complainant contends that no evidence suggests that the Respondent has been known in any way by the Disputed Domain Name or by the distinctive part “ARLA”. The Complainant did not grant any license or authorization to the Respondent to register or use the Disputed Domain Name, nor the use of the Complainant’s trademark on every page of the disputed website. Before the dispute, the Respondent also has not used the Disputed Domain Name or a name corresponding to the Disputed Domain Name in connection with a bona fide offering of goods or services.

On the basis of preponderance of evidence, and in the absence of any evidence to the contrary or any administratively compliant response being put forward by the Respondent, the Panel finds that the Respondent does not have rights or legitimate interests in the Disputed Domain Name within the meaning of paragraph 4(a)(ii) of the Policy.

3. Bad faith

By trying to establish the bad faith element of paragraph 4(a) of the Policy, the Complainant has primarily attempted to rely on paragraph 4(b)(iv) of the Policy.

First of all, the Complainant tried to establish that the Registration of the Disputed Domain Name was in bad faith. The Respondent registered the Disputed Domain Name many years after the first registrations of the Complainant’s ARLA trademarks. The ARLA trademark is generally widely known and especially online. The Complainant is of the opinion that it is unlikely that the Registrant was without the knowledge of the ARLA trademark when registering the disputed domain name, and intentionally incorporated the ARLA trademark in its domain name.

Secondly, the Complainant tried to establish that the Use of the disputed domain name was in bad faith. The Disputed Domain Name <arlafarmers.com> redirects to website containing pay-per-click directly displays links “ARLA” and “BUKO” reflecting Complainant’s trademarks, which may lead ARLA consumers to click on sponsored links and generates unjustifiable revenues for the Respondent. It has been held that the “Respondent is likely to have made substantive commercial gain by ‘freeriding’ on the reputation of Complainant is indicative of Respondent’s bad faith use of the disputed domain name (WIPO Case No. D2017-2200). Moreover, the Respondent failed to properly respond to the Complainant’s several cease-and-desist letters, giving rises to assumptions that the Respondent’s use of the Disputed Domain Name was in bad faith (WIPO case No. D2016-1695, WIPO Case No. D2018-2201).

The Panel agreed with above analyses. Many instances have collected point to the conclusion that the Disputed Domain Name has been registered and is being used in bad faith. Like the Complainant contended here, the Respondent was expected to be aware of the existence of the Complainant’s brand at the time of registering the Disputed Domain Name, has no bona fide business establishments related to the contents of the website, tries to use the Complainant’s readily established trademark to derive unjust commercial gains for itself, etc.

Therefore, in the absence of any evidence to the contrary (or any administratively compliant response) being put forward by the Respondent, the Panel determines that the Disputed Domain Name was registered and is being used in bad faith within the meaning of paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ARLAFARMERS.COM**: Transferred

PANELLISTS

Name	**Carrie Shang**

DATE OF PANEL DECISION 2020-06-25

Publish the Decision