Decision for dispute CAC-UDRP-103469

Case number	CAC-UDRP-103469
Time of filing	2021-01-22 10:10:28
Domain names	arlagreenkitchen.com

Case administrator

Organization	Denisa Bilík (CAC) (Case admin)

Complainant

Organization	Arla Foods Amba

Complainant representative

Organization	BRANDIT GmbH

Respondent

Name	hakki kazan

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 is the owner of several trademark registrations for the wordings ARLA, ARLA FOODS and ARLA GREEN KITCHEN since 2000.

The Complainant also owns many domain names, such as <arla.com>, since 1996.

FACTUAL BACKGROUND

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

The Complainant is a worldwide well-known dairy company which carry out its business activity (also) through the trademark ARLO, subject of many national and international trademark registrations all over the world.

The Respondent has registered the disputed domain name <arlagreenkitchen.com> on March 16, 2020, the very same date Complainant's EUTM No. 018211579 ARLA GREEN KITCHEN was filed.

The Complainant provided evidence demonstrating that the disputed domain name previously resolved to SEDO selling platform, in which <arlagreenkitchen.com> was offered for sale for USD 988.

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 Panel finds that the disputed domain name is identical to the trademarks ARLA, since it exactly reproduces such distinctive sign, with the mere addition of wordings "green" and "kitchen", which are rather descriptive and directly related to the Complainant’s business activity.

Prior UDRP decisions confirmed this caselaw in similar scenarios (see Minerva S.A. v. Domain Administrator, Fast Serv Inc. d.b.a. QHoster.com, WIPO Case No. D2019-2767 and Bouygues Travaux Publics v. Christian Gazaignes, CAC Case No. 101690).

<arlagreenkitchen.com> is also identical to the trademark ARLA GREEN KITCHEN.

2. NO RIGHTS OR LEGITIMATE INTERESTS IN RESPECT OF THE DISPUTED DOMAIN NAME

According to the information provided by the Complainant, the Respondent is not affiliated nor authorized by the Complainant in any way. Likewise, the Complainant neither licensed nor authorized the Respondent to make any use of its trademarks ARLA, ARLA FOODS and ARLA GREEN KITCHEN, or to apply for registration of the disputed domain name on behalf of the Complainant. The Complainant does not carry out any activity for, nor has any business with the Respondent. The Complainant also affirms that the Respondent is not commonly known by the disputed domain name.

It is undeniable that the Complainant is only required to make out a prima facie case that the Respondent lacks rights or legitimate interests in respect of the disputed domain name. Once such prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the disputed domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a) (ii) of the Policy.

Given all the above, the Panel accepts the contentions of the Complainant that the Respondent has no such rights or

legitimate interests in the disputed domain name.

3. THE DISPUTED DOMAIN NAME HAS BEEN REGISTERED AND IS BEING USED IN BAD FAITH

The Panel finds that the Complainant successfully submitted prima facie evidence that the Respondent has made no use of, or demonstrable preparations to use, neither of 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.

As a matter of fact, the disputed domain name was offered for sale through the SEDO platform for USD 988 and such circumstance clearly indicates that the Respondent has registered <arlagreenkitchen.com> for the purpose of selling it to the Complainant - legitimate owner of the relative trademark - for valuable consideration in excess of the Respondent's documented out-of-pocket costs directly related to the domain name itself.

As demonstrated by the Complainant, the trademark "ARLO" is deemed well-known and highly distinctive. In this regard, it is hard to believe that the Respondent was not aware of the registration and the use of the Complainant´s trademarks before the registration of the disputed domain name.

Also, the fact that <arlagreenkitchen.com> has been registered the very same date Complainant's EUTM No. 018211579 ARLA GREEN KITCHEN was filed is very suspicious and a common domain grabber malpractice.

In the absence of a response from the Respondent and given the reputation of the Complainant and its trademarks, the Panel infers that the Respondent had the Complainant's trademarks in mind when registering the disputed domain name. Consequently, the Panel believes that the same was registered and is being used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ARLAGREENKITCHEN.COM**: Transferred

PANELLISTS

Name	**Tommaso La Scala**

DATE OF PANEL DECISION 2021-03-08

Publish the Decision