

Decision for dispute CAC-UDRP-104014

Case number	CAC-UDRP-104014
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Time of filing	2021-09-09 09:33:05
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Domain names	Lovehkney.com
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Case administrator

Organization	Denisa Bilík (CAC) (Case admin)
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Complainant

Organization	Lovehoney Group Limited
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Complainant representative

Organization	BRANDIT GmbH
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Respondent

Organization	Fundacion Comercio Electronico
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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 proven to be the owner of the LOVEHONEY trademark.

The Complainant is, inter alia, the owner of the following trademarks:

- US trademark registration No. 3350209 LOVEHONEY registered on December 11, 2007;
- International trademark registration No. 1091529 LOVEHONEY registered on June 27, 2011 designating Australia, Switzerland, China, Iceland, Japan, Norway, New Zealand, Russian Federation and Singapore; and
- EU trademark registration No. 003400298 LOVEHONEY, registered on January 17, 2005.

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 "LOVEHONEY", for example, <lovehoney.com> (created on December 1, 1998), <lovehoneygroup.com> (created on March 14, 2012), <lovehoney.co.uk> (created on April 30, 2006), <lovehoney.ca> (created on September 9, 2008), and others.

The Complainant uses these domain names to connect to websites through which it informs potential customers about its LOVEHONEY mark and its products and services.

FACTUAL BACKGROUND

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

The Complainant, LOVEHONEY Group Limited (hereinafter “Lovehoney” or “the Complainant”), is the owner of the LOVEHONEY trademarks.

Founded in 2002, Lovehoney is the largest British company selling sex toys, lingerie and erotic gifts on the Internet, and continues to grow rapidly across the world as a retailer, manufacturer and distributor. Lovehoney has over 400 own-brand products and possesses exclusive licenses to design, manufacture and sell featured adult pleasure products. Lovehoney employs around 300 people and is open seven days a week, selling products to 46 countries in Europe, North America and Australasia through nine websites. Lovehoney focuses on exceptional customer service, product innovation, website usability and creative marketing so as to always be at the forefront of developments in sexual wellbeing and ecommerce.

Lovehoney’s company, website and products have received numerous awards (<https://www.lovehoney.co.uk/>) including the Best Customer Service Award for online retailers at the eCommerce Awards for Excellence, Queen’s Award for Enterprise in International Trade (2021), Best Online Retailer (2020), International Pleasure Products Company of The Year (2020), and many others. Lovehoney is also rated as ‘Excellent’ in over 80,000 customer reviews on Trustpilot, the renowned independent review website.

The Complainant also enjoys a strong online presence via its official websites and social media. Due to extensive use and advertising, Lovehoney’s on-line shops are easily recognized by consumers.

The disputed domain name <lovehkney.com> was registered on March 5, 2021 and at the time the amended complaint was filed, the disputed domain name redirected to a rotating series of third-party websites, e.g. to <https://euro-times.org> with warning of being fraudulent.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:

The Complainant contends that:

- the disputed domain name <lovehkney.com> is almost identical to the Complainant's LOVEHONEY trademark,
- the Respondent lacks rights or legitimate interests in the disputed domain name, and that
- the Respondent has registered and is using the disputed domain name in bad faith.

RESPONDENT:

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

A) Confusing similarity

The Panel agrees with the Complainant's assertions that the disputed domain name is a typo of the Complainant's trademark LOVEHONEY, and that that the disputed domain name contains sufficiently recognizable aspects of the LOVEHONEY trademark.

It is the Panel's view that a domain name which consists of an obvious misspelling of a trademark with no other meaning in context should be considered confusingly similar to the relevant mark for the purposes of the first element.

In this case, the replacement in the disputed domain name of a single letter, i.e. the letter "O" with the letter "K", does not affect the attractive power of the trademark, nor is it sufficient to distinguish the disputed domain name from the Complainant's LOVEHONEY trademark.

B) Lack of legitimate rights or interests

The disputed domain name is a distinctive, non-descriptive name. It is unlikely that the Respondent registered the disputed domain name without having the Complainant in mind. In addition, the Respondent's use of the disputed domain name fails to amount to any bona fide offering of goods or services under Policy 4(c)(i), or a legitimate non-commercial or fair use under Policy 4(c)(iii). The Complainant's assertions that the Respondent is not commonly known by the disputed domain name and is not affiliated with nor authorized by the Complainant are sufficient to constitute a prima facie demonstration of absence of rights or legitimate interest in the disputed domain name on the part of the Respondent. The burden of evidence therefore shifts to the Respondent to show, using tangible evidence, that it does in fact have rights or legitimate interests in the disputed domain name. The Respondent has made no attempt to do so.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

C) Registered or Used in Bad Faith

The Complainant gives sound bases for its contention that the disputed domain name was registered and has been used in bad faith.

Firstly, owing to the distinctiveness of the Complainant's trademarks and reputation, it is reasonable to infer that the Respondent registered the disputed domain name with full knowledge of the Complainant's trademarks, and so the Panel finds on the balance of probabilities that the Respondent was aware of the Complainant's trademarks when registering the disputed domain name.

Secondly, the Panel accepts the Complainant's unchallenged assertion that the Respondent registered the disputed domain name with the aim of creating a likelihood of confusion with the Complainant's trademark, and also to profit from this confusion for its own commercial gain.

Thirdly, the disputed domain name redirected to a rotating series of third-party websites, e.g. to <https://euro-times.org> with warning of being fraudulent; to <https://worldoftanks.eu>, etc.

Fourthly, this appears to be a case of typo-squatting, and, as such, it constitutes another inference of bad-faith registration and use.

Fifthly, further inference of bad-faith registration and use of the disputed domain name is given by the fact that the Respondent deliberately chose to conceal its identity by means of a privacy protection service.

Sixth, the Respondent chose not to reply to the cease-and-desist letter sent by the Complainant which also infers bad faith.

Lastly, it appears that the Respondent Fundacion Comercio Electronico has been engaged in numerous domain name disputes in the past, and has been acting in a similar way regarding the registration and use of disputed domain names (e.g. registration of domain names composed by typo of a trademark, redirecting the domain names to third-party websites).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **LOVEHKNEY.COM**: Transferred

PANELLISTS

Name	Dr. Fabrizio Bedarida
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DATE OF PANEL DECISION	2021-10-18
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Publish the Decision
