

Decision for dispute CAC-UDRP-104052

Case number	CAC-UDRP-104052
Time of filing	2021-10-01 08:55:30
Domain names	Lovehojey.com, lovehoneh.com

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 Privacy Services LTD
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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 names.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of various trade mark registrations for LOVEHONEY, including United States trademark registration No. 3350209 for LOVEHONEY registered on December 11, 2007 and European Union trademark registration No. 003400298 for LOVEHONEY, registered on January 17, 2005.

FACTUAL BACKGROUND

Founded in 2002 in the United Kingdom, the Complainant sells sex toys, lingerie and erotic gifts on the Internet as a retailer, manufacturer and distributor. It has over 400 own brand products in addition to licensed products and sells its goods in 46 countries in Europe, North America and Australasia through nine web-sites.

The Complainant also enjoys a strong online presence via its official websites and social media channels and operates websites at various domain names including <lovehoney.com>, <lovehoney.eu>, <lovehoneygroup.com> and <lovehoney.co.uk> and owns numerous other domain name registrations containing its LOVEHONEY mark, including <lovehoneygroup.com> and <lovehoney.ca>. 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.

The disputed domain names initially resolve to a blank page before being automatically redirected to the Complainant's website at <lovehoney.com>. Following an abuse report by the Complainant with the relevant registrar, the registrar parked the disputed domain names on September 20, 2021 and thereafter they resolved to pay-per -click advertising pages until the date of filing of this Complaint.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain names are 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 names (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 names have been registered and are 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 Complainant has demonstrated that it owns registered trade mark rights for its LOVEHONEY mark including United States trademark registration No. 3350209 for LOVEHONEY registered on December 11, 2007 and European Union trademark registration No. 003400298 for LOVEHONEY, registered on January 17, 2005.

Each of the disputed domain names incorporate the Complainant's LOVEHONEY in its entirety but include a typographical change by merely replacing one letter as follows:

<Lovehojey.com> – the letter “n” is replaced by the letter “j”, which letters are located adjacent to each other on the keyboard;
<lovehoneh.com> – the letter “y” is replaced by the letter “h”, which letters are located right next to each other on the keyboard.

This is a classic example of typosquatting and the Panel finds that each of the disputed domain names is confusingly similar to the Complainant's LOVEHONEY trade mark and that the Complaint succeeds in relation to each of the disputed domain names under paragraph 4(a)(i) of the Policy.

The disputed domain names were created on 25 and 27 November, 2020 respectively many years after the registration of the Complainant's LOVEHONEY trade marks. The Complainant has submitted that it never granted the Respondent any right or licence to use the LOVEHONEY trade mark within the disputed domain names and that it is not affiliated to the Complainant in any form and has not endorsed or sponsored the Respondent or the Respondent's website. It says further that there is no evidence that the Respondent is known by either of the disputed domain names or that it owns any corresponding registered trade mark including the terms “Lovehojey” or “lovehoneh”:

Further, the Complainant submits that when searching for the terms “Lovehojey”, “lovehoneh” or “lovehojey.com”, “lovehoneh.com” in popular Internet search engines like the one at <Google.com>, the vast majority of the results relate to

Complainant's official websites, its social media account or to third party websites that directly refer to the Complainant and its products. However, it notes that when conducting searches on online trademark databases, no information is found in relation to trade marks corresponding to "Lovehojey" or "lovehoneh".

Although the disputed domain names were initially used by the Respondent to divert to a blank page that then re-directed to the Complainant's website, such re-direction does not confer rights or legitimate interests in a disputed domain name and rather reinforces the view that the Respondent has not made a bona fide offering of goods or services under each of the disputed domain names (see FXCM Global Services LLC v. WhoisGuard Protected, Whoisguard Inc. / Jenny Sohia, WIPO Case No. D2018-1111 and Carrefour v. WhoisGuard, Inc., WhoisGuard Protected / Robert Jurek, Katrin Kafut, Purchasing clerk, Starship Tapes & Records, WIPO Case No. D2017-2533).

The Panel finds that the Complainant has made out a prima facie case that the Respondent has no rights or legitimate interests in each of the disputed domain names. As the Respondent has failed to rebut this case and also for the reasons set out below in relation to bad faith, the Panel finds that the Complaint under paragraph 4(a)(ii) of the Policy also succeeds.

The disputed domain names were registered respectively on 25 and 27 November, 2020 many years after the registration of the Complainant's trade marks. The Complainant's LOVEHONEY trade mark is a coined term made up of two common English words that are not usually found together and is as a result very distinctive and it is therefore extremely unlikely that the Respondent created them independently. It is apparent that each of the disputed domain names incorporate a typographical error of the LOVEHONEY mark and as noted earlier that this is a classic and blatant case of typosquatting based upon the Complainant's mark. In any event the fact that the Respondent initially re-directed each domain name to the Complainant's website indicates that it was well aware of the LOVEHONEY mark. Also, considering the Complainant's substantial internet and social media presence by the date of registration of the disputed domain names and the degree of repute attaching to the LOVEHONEY mark, it seems extremely unlikely that the Respondent was not aware of the Complainant and its LOVEHONEY mark when it chose to register each of the disputed domain names.

The blatant typosquatting of reputed domain names, such as the disputed domain names in this case, has been found previously to be evidence of bad faith. The Panel notes that according to evidence filed by the Complainant, the Respondent in this case, a privacy service, has been engaged in numerous domain name disputes in the past and has been involved in a series of cases concerning the registration of typosquatted domain names or of the re-direction of domain names to third-party websites. In the circumstances that the Registrar has failed to verify details of the real registrant (presumably on instructions from the real registrant) and in spite of its obligations to do so, the Panel will look to the conduct of the disclosed privacy service Respondent as being that of the real registrant. This amounts to a pattern of bad faith conduct which in the circumstances of the typosquatted domain names in this case is also evidence of registration and use in bad faith in terms of paragraph 4(b) (ii) of the Policy.

Further, the Respondent's subsequent use of each of the disputed domain names after the Complainant's abuse complaint, to redirect Internet users to pay-per-click advertising pages amounts to intentionally attracting, for commercial gain, Internet users to an online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website in terms of paragraph 4(b)(iv) of the Policy.

Finally, the Panel notes that the disputed domain names have been listed for sale by the Respondent on Go Daddy. Although no indicative price has been mentioned, it seems likely that the Respondent's intention is to sell them at a substantial commercial gain. This reinforces the Panel's view of the Respondent's bad faith.

In view of the above, the Panel finds that the Respondent registered and used the disputed domain names in bad faith and that the Complaint succeeds under 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. **LOVEHOJEY.COM**: Transferred
2. **LOVEHONEH.COM**: Transferred

PANELLISTS

Name	Alistair Payne
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DATE OF PANEL DECISION	2021-11-22
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Publish the Decision
