

Decision for dispute CAC-UDRP-104181

Case number CAC-UDRP-104181

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Domain names lurpak.promo

Case administrator

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

Complainant

Organization Arla Foods Amba

Complainant representative

Organization BRANDIT GmbH

Respondent

Name Ismatullaev Sarvarkhon

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 adduced evidence accepted by the Panel establishing that it is the registered owner of several trademarks for LURPAK including the following:

- International trademark for LURPAK ESTD 1901 No. 1322106, registered with the World Intellectual Property Organisation ("WIPO") on June 20, 2016 designating, among other countries, Uzbekistan;
 - International trademark for LURPAK ESTD 1901 No. 1606712, registered with WIPO on May 11, 2021 designating, among other countries, Uzbekistan;
 - International registration LURPAK No. 1167472 registered with WIPO on October 30, 2012.
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FACTUAL BACKGROUND

The Complainant is a prominent Danish dairy company with an extensive international business. In particular, it is famous for the manufacture and sale of its well known LURPAK brand of butter and related products.

The Complainant has a large portfolio of registered trademarks referred to above and including:

- (a) the International trademark for LURPAK ESTD 1901, No 1322106 registered on June 20, 2016 which includes a designation for Uzbekistan where the Respondent is domiciled);
 - (b) International trademark LURPAK ESTD 1901 No. 1606712 registered on May 11, 2021, also designating Uzbekistan;
 - (c) International registration LURPAK No. 1167472 registered on October 30, 2012,
- (collectively "the LURPAK trademark").

Complainant also owns a portfolio of domain names that it uses in its business and which contain the LURPAK trademark and which resolve to websites that carry that well known trademark and also the Complainant's logo and colour scheme.

It has recently come to the notice of the Complainant that on September 13, 2021, the Respondent registered the disputed domain name <lurpak.promo> (" the Disputed Domain Name") which includes the LURPAK trademark in its entirety. The Respondent lives in Taskent in Uzbekistan. The Disputed Domain Name has been subsequently used to support a website that poses a very concerning threat to the Complainant's business and the LURPAK trademark and brand. That is so because the website is a clear copy from the Complainant's official website and makes extensive use of the contents of that site. In particular, the offending website carries and uses the LURPAK trademark without the permission or authority of the Complainant and carries extensive content that is clearly designed to convey the impression that it is either the website of the Complainant or that it functions with the knowledge or approval of the Complainant, neither of which is true. Moreover, as the text on the website is expressed in the Uzbek language, the website is a transparent attempt to give the false impression that its deals with the legitimate activities of the Complainant in promoting its products under the LURPAK trademark and brand in Uzbekistan.

Clearly, the Complainant does not wish to have such a situation to continue and it has therefore requested the Respondent to transfer the Disputed Domain Name to the Complainant, but the Respondent has failed and refused to comply with that request.

The Complainant has therefore brought this proceeding to obtain a transfer of the Disputed Domain Name and the cessation of the highly improper use to which the Respondent has put it.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:

The Complainant made the following contentions.

- (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 LURPAK that were registered many years before the Disputed Domain Name was created on September 13, 2021.

The Disputed Domain Name <lurpak.promo> incorporates, in its second-level portion, the Complainant's trademark LURPAK in its entirety.

The generic Top-Level Domain “.promo” in the second-level portion of the domain name is a standard registration requirement and should be disregarded when assessing whether a disputed domain name is identical or confusingly similar to the trademark in which the Complainant has rights.

Accordingly, apart from its generic Top Level Domain “.promo”, the Disputed Domain Name consists of nothing but the word LURPAK.

The Disputed Domain Name is therefore identical to the Complainant’s trademark LURPAK.

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

The Disputed Domain Name was registered on September 13, 2021 - many years after the first registrations of the Complainant’s LURPAK trademark.

The Complainant has not licensed or authorized the Respondent to register or use the Disputed Domain Name. Nor is the Respondent affiliated to the Complainant in any form and nor has the Complainant endorsed or sponsored the Respondent or its website.

There is no evidence that the Respondent is known by the Disputed Domain Name or owns any corresponding registered trademark including the terms “lurpak.promo”.

When conducting searches on online trademark databases, no information was found by the Complainant in relation to trademarks corresponding to the terms “lurpak.promo” or any trademarks registered in the name of the Respondent Ismatullaev Sarvarkhon. When conducting a search of the term “lurpak.promo” or “lurpak” on popular Internet search engines such as www.google.com, there were no relevant results produced that would indicate that the Respondent is known by the Disputed Domain Name. When conducting a search with the name of the Respondent - Ismatullaev Sarvarkhon along with the term “lurpak.promo” or “lurpak promo” there were no relevant results produced that show that the Respondent is known by the Disputed Domain Name. Nor were there any relevant returned results produced when searching for the Disputed Domain Name and the e-mail address of the Respondent.

Moreover, the Respondent’s identity is not disclosed on the publicly available Registrar’s WHOIS regarding the Disputed Domain Name. The Respondent is using a privacy shield and, hence, is most likely to be aiming at hiding its identity rather than being known by the Disputed Domain Name.

At the time the Complainant discovered the Dispute Domain Name and at the time of filling this Complaint the Disputed Domain Name resolved to an active web-page available in the Uzbek and Russian language, displaying the Complainant's trademark and product bearing the Complainant’s LURPAK trademark in the dominant position on the website and purporting to announce a promotional campaign featuring the LURPAK butter product. The Complainant did not authorize the Respondent to use its trademark in the Disputed Domain Name or at all.

The Respondent is using the Disputed Domain Name to attract internet users to its website where it is using the Complainant’s trademark without any previous authorization. Complainant’s registered trademark appears prominently on the top central position of the website and strongly suggests that there is a connection with the Complainant, which there is not. Thus, consumers may be falsely led to believe that the web-site associated with the Disputed Domain Name is managed or endorsed by the Complainant. Such a use of the Disputed Domain Name cannot constitute legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

Prior UDRP panels have found that domain names that are identical to a complainant’s trademark carry a high risk of implied affiliation with that trademark.

Respondent has been using the Disputed Domain Name to resolve to a website which is almost identical to the look and feel of Complainant's website. Moreover, Respondent has incorporated the exact figurative trademark of Complainant on its website.

Furthermore, the website associated with the Disputed Domain Name does not disclose any information on any relationship with the trademark holder, the Complainant. There is no disclaimer of any type, but rather, the website gives the false impression of endorsement by displaying products bearing the Complainant's trademark.

In addition, the Complainant tried to reach the Respondent by sending a cease and desist letter on October 26, 2021 by sending the e-mail to the Registrar's abuse contact. There was no response from the Respondent. The Complainant further sent a reminder on November 16, 2021. In response, the Complainant received a response from the Registrar revealing the e-mail address of the Respondent. The Complainant then sent the Cease and Desist Letter to the e-mail address provided, but there was no response from the Respondent. The Respondent was therefore granted an opportunity to present some compelling arguments that it has rights or legitimate interests in the Disputed Domain Name but has failed to do so.

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

Registration of the Disputed Domain Name in bad faith

The Respondent registered the Disputed Domain Name many years after the first registration of the Complainant's LURPAK® trademark. The LURPAK® trademark is registered in many countries – including Uzbekistan where the Respondent seems to be located and the Complainant enjoys a strong online presence. The Complainant is also very active on social media, namely Facebook, Twitter and Instagram in promoting its mark, products and services. The Complainant is followed by 1,122,179 people on Facebook and 25,9K people on Twitter and 12.K people on Instagram.

By conducting a simple online search regarding the terms "lurpak" or "lurpak.promo", the Respondent would have inevitably learnt about the Complainant, its trademark and business as all top results from such a search point to the Complainant.

The Respondent must have had the Complainant and its trademark in mind at the time it registered the Disputed Domain Name. The inclusion of the Complainant's trademark reflects the Respondent's clear intention to create an association, and a subsequent likelihood of confusion, with the Complainant's trademark in Internet users' minds.

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."

First, the Disputed Domain Name incorporates, in its second-level portion, the Complainant's trademark LURPAK entirely.

In addition, panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a trademark, particularly a domain name comprising typos or incorporating the mark plus a descriptive term being added to a famous or widely-known trademark by an unaffiliated entity, can by itself create a presumption of bad faith.

The website associated with the Disputed Domain Name displays the Complainant's trademark and products bearing the Complainant's trademarks LURPAK in the prominent position without any authorization. The website does not disclose any information on a relationship with the trademark holder – the Complainant. There is no disclaimer of any type, but rather, the

website gives a false impression of endorsement by the Complainant by displaying products bearing Complainant's trademarks.

Thus, the website associated with the Disputed Domain Name has a "look and feel" of the official website of the Complainant by displaying the trademarks and products bearing the Complainant's trademark. The website is available in the Uzbek and Russian language which may lead consumers to believe that the Respondent is an affiliate of the Complainant in Uzbekistan. Thus, such a use is misleading consumers by encouraging them falsely to believe that the website is authorized or endorsed by the Complainant and, in the absence of any clear disclaimer on the contrary, constitutes impersonation.

Furthermore, to enhance the look and feel of the official web-site of the Complainant, the web-site associated with the Disputed Domain Name also displays copyrighted images taken from the official web-site of the Complainant, www.lurpak.com. The Complainant did not authorize the Respondent to use such copyrighted images.

The Respondent intentionally created a likelihood of confusion with the Complainant with the purpose of attracting Internet users to its website for commercial gain.

Moreover, the Complainant tried to contact the Respondent through a cease-and-desist letter. In the cease-and-desist letter, the Complainant advised the Respondent that the unauthorized use of its trademarks in the Disputed Domain Name violated its trademark rights and requested a voluntary transfer of the Disputed Domain Name. The Complainant also sent a reminder of this letter. The Respondent did not reply to the cease and desist letter sent by the Complainant which infers bad faith.

Furthermore, the WHOIS associated with the Disputed Domain Name <lurpak.promo> shows the use of a Privacy shield hiding the registrant's contact details. It is therefore very likely that the Respondent tried to conceal its identity which is further evidence of bad faith.

The Complainant supported all of the foregoing contentions by documentary evidence and by reference to previously decided UDRP decisions.

RESPONDENT:

The Respondent did not file a Response in this proceeding.

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

This is a mandatory administrative proceeding pursuant to Paragraph 4 of the Uniform Domain Name Dispute Resolution Policy (the "Policy" or "UDRP") of the Internet Corporation for Assigned Names and Numbers ("ICANN"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules"), and the CAC Supplemental Rules.

A. Administrative deficiency

By notification dated December 6, 2021 and in accordance with paragraph 4 (b) of the Rules, the CAC notified the Complainant that the Complaint was administratively deficient in that it had not sufficiently identified the Respondent. The Complainant was invited to see the Registrar's verification available in the online case file in the form of a non-standard communication regarding the appropriate identification of the domain name holder.

On December 16, 2021 the Complainant filed an Amended Complaint and the CAC determined that the Complaint should be admitted to proceed further in the Administrative Proceeding.

The Panel has reviewed all of the above matters and makes a finding that within the meaning of paragraph 4(b) of the Rules, the administrative deficiencies have been corrected and that this matter has proceeded properly to the Panel in accordance with the Policy and the Rules.

B. Substantive matters

Paragraph 15 of the Rules provides that the Panel is to decide the complaint on the basis of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

In that regard, the Panel also notes that the onus is on the complainant to make out its case and past UDRP panels have consistently said that a complainant must show that all three elements of the Policy have been made out before any order can be made to transfer a domain name.

The Panel therefore turns to discuss the various issues that arise for decision on the facts as they are known.

For the complainant to succeed it must prove, within the meaning of paragraph 4(a) of the Policy, that:

- (i) The domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- (ii) The respondent has no rights or legitimate interests in respect of the domain name; and
- (iii) The domain name has been registered and is being used in bad faith.

The Panel will therefore deal with each of these requirements in turn.

A. Identical or Confusingly Similar

The Complainant has adduced evidence that the Panel accepts that it is the registered owner of the LURPAK trademark, particulars of which have been set out earlier in this decision and as such it has established its trademark rights in that trademark.

The Panel next finds that the Disputed Domain Name <lurpak.promo> is identical to the LURPAK trademark for the following reasons.

First, the Disputed Domain Name includes the entirety of the LURPAK trademark and that word is by far the dominant part of the domain name. Indeed, it is the only word in the domain name for all practical purposes, as the ".promo" top level domain is not taken into account for the purpose of the exercise now under consideration. Accordingly, the attention of the internet user would naturally be drawn to the use of the word LURPAK in the Disputed Domain Name which would inculcate in the mind of the user the idea that it was an official domain name of the Complainant which it is not.

Secondly, taken as a whole, the Disputed Domain Name would convey to the objective bystander that it related to the activities of the Complainant and that it would lead to a website dealing with the activities of the Complainant and the products made and sold under its famous LURPAK mark.

Thirdly, the essential part of the Disputed Domain Name has the same sound and feel as the Complainant's LURPAK trademark.

Accordingly, the Disputed Domain Name is identical to the Complainant's trademark and the Complainant has thus shown the first of the three elements that it must establish.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, the Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name.

But by virtue of paragraph 4(c) of the Policy, it is open to a respondent to establish its rights or legitimate interests in a domain name, among other circumstances, by showing any of the following elements:

- (i) before any notice to you [respondent] of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or
- (ii) you [respondent] (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or
- (iii) you [respondent] are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

Thus, if a respondent proves any of these elements or indeed anything else that shows that it has a right or legitimate interest in the domain name, the complainant will have failed to discharge its onus and the complaint will fail.

It is also well-established that a complainant is required to make out a prima facie case that the respondent lacks rights or legitimate interests and that when such a prima facie case is made, the respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the respondent cannot do so, a complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

The Panel, after considering all of the evidence in the Complaint, finds that the Complainant has made out a prima facie case that the Respondent has no rights or legitimate interests in the Disputed Domain Name. The case is made the stronger by the Complainant's adducing of relevant documentary evidence which the Panel accepts in all cases and by the Complainant's citation and discussion of previously decided UDRP cases which verify all of its contentions.

The Panel therefore accepts and agreed with all of the Complainant's contentions set out above. It is not necessary to repeat all of them here but the salient ones are as follows.

The Disputed Domain Name was registered on September 13, 2021 - many years after the first registrations of the Complainant's LURPAK trademark. Accordingly, the starting point must be that the intention of the Respondent must have been to seize on the well and long established LURPAK trademark, concoct a copy of it, create a completely false website and by that means actively mislead the commercial and consuming public, no doubt to the financial advantage of the Respondent. The whole basis of the activities of the Respondent was therefore false and misleading and of course illegal on any test. Thus, there is no way that any of its activities could give rise to a right or legitimate interest in the Disputed Domain Name.

Next, the Complainant did not license or authorize the Respondent to register or use the Disputed Domain Name. Nor was the Respondent affiliated to the Complainant in any form and the Complainant has not endorsed or sponsored the Respondent or its website.

There is no evidence that the Respondent is commonly known by the Disputed Domain Name or that it owns any corresponding registered trademark including the terms "lurpak.promo".

The Respondent clearly did not conduct any searches, online or anywhere else, to see if what it was proposing to do would be contrary to any trademark interest. It did not do that because it must have already known the answer, as it clearly intended to compromise the Complainant's trademark and do damage to its business. In other words, it did not conduct any searches because it already intended to act in the brazen manner that has since been revealed. Such conduct could not conceivably give rise to a right or interest on the part of the Respondent in the Disputed Domain Name.

Moreover, the Respondent's identity was not disclosed on the publicly available Registrar's WHOIS regarding the Disputed Domain Name. The Respondent used a privacy shield to hide its identity rather than be known by the Disputed Domain Name.

As the Complainant correctly submitted, the fact that the Respondent's active web-page was expressed in the Uzbek and Russian language shows that the intention of the Respondent was to give the false impression to the public that its website related to the legitimate activities of the Complainant regarding its LURPAK products in Uzbekistan and /or Russia. This was false and could not give rise to a right or legitimate interest in the Disputed Domain Name.

The Complainant also submitted that the Respondent was using the Disputed Domain Name to attract internet users to its website where the Respondent was using the Complainant's trademark without any previous authorization. Thus, consumers might be falsely led to believe that the web-site associated with the Disputed Domain Name was managed or endorsed by the Complainant. The Panel agrees.

The Complainant submitted that the Respondent had been using the Disputed Domain Name to resolve to a website which is almost identical to the look and feel of Complainant's website and that the Respondent had incorporated the exact figurative trademark of the Complainant on its website.

Finally, the Complainant tried to reach the Respondent by sending a cease and desist letter on October 26, 2021 and a reminder, but the Respondent has failed to comply with the Complainant's reasonable request.

All of these factors show that the Respondent could not have had or acquired a right or legitimate interest in the Disputed Domain Name.

The Complainant has therefore made out the second of the three elements that it must establish.

C. Registered and Used in Bad Faith

The Complainant must prove on the balance of probabilities both that the disputed domain name was registered in bad faith and that it is being used in bad faith: *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. D2000-0003.

Paragraph 4(b) of the Policy sets out four circumstances, any one of which is evidence of the registration and use of a domain name in bad faith, although other circumstances may also be relied on, as the four circumstances are not exclusive. The four specified circumstances are:

(i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or

(ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or

(iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to the respondent's website or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on the site or location.

The Panel finds that the Complainant has shown that the Respondent registered and used the Disputed Domain Name in bad faith both in general and in particular because the Respondent's conduct puts the case squarely within paragraph 4(b) (iv) of the Policy and probably within other provisions of paragraph 4 (b).

That is so for the following reasons.

With respect to registration in bad faith, it may be said, first, that the Respondent registered the Disputed Domain Name only recently and therefore many years after the first registration of the Complainant's LURPAK trademark. The LURPAK trademark is registered in many countries – including in Uzbekistan where the Respondent seems to be located and the Complainant enjoys a strong online presence. The Complainant is also very active on social media, namely Facebook, Twitter and Instagram in promoting its mark, products and services. The word LURPAK itself is well known in view of the Lurpak brand of butter that the Complainant makes and sells. Accordingly the Panel finds that that the Respondent was aware of the name and brand at the time it registered the Dispute Domain Name. Knowing of the trademark shows that the Respondent must also have known that it had no right to take the trademark and use it, especially when the Respondent neither asked for or obtained permission or authority to use it, and especially in a domain name.

Secondly, the Respondent could have conducted searches of any trademark rights in the LURPAK name before it registered the Disputed Domain Name but did not do so. Rather, it registered the Disputed Domain Name secretly and with the clear intention of using it to mislead internet users. That clearly amounts to bad faith registration.

Thirdly, the inclusion of the Complainant's trademark in the domain name reflects the Respondent's clear intention to create an association in the minds of internet users, and a subsequent likelihood of confusion, between the domain name and the Complainant's trademark. Again, it must be concluded that the Respondent knew the Complainant's trademark at the time it registered the Disputed Domain Name and therefore registered it in bad faith.

With respect to bad faith use, it should be noted that some guidance in assessing bad faith use is to be found in paragraph 4(b) of the Policy which 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."

Thus, the first point to be made is that the Disputed Domain Name incorporates, in its second-level portion, the Complainant's trademark LURPAK entirely. Prior UDRP panels have consistently found that the registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark such as LURPAK by an unaffiliated entity such as the Respondent can by itself create a presumption of bad faith. In the present case the Panel finds in all the circumstances the Respondent registered and used its domain name with the clear intention of copying the Complainant and misleading internet users as to the relationship between the Disputed Domain Name and the Complainant. The fact that it did so constitutes bad faith use of the Disputed Domain Name as well as bad faith registration.

Secondly, the Complainant correctly submits that the website associated with the Disputed Domain Name displays the Complainant's trademark and products bearing the Complainant's trademark LURPAK in a prominent position without any authorization. This gives a false impression of endorsement by the Complainant by displaying products bearing the Complainant's trademark. That also amounts to bad faith use.

Thirdly, such use is misleading to consumers by making them falsely believe that the website is authorized or endorsed by the Complainant. In the absence of any clear disclaimer on the contrary, that conduct constitutes impersonation of the Complainant. That conduct brings the case clearly within paragraph 4(b)(iv) of the Policy as there was in the opinion of the Panel a clear intention to attract Internet users to its website for commercial gain.

Moreover, the web-site associated with the Disputed Domain Name displays copyrighted images taken from the Complainant's official web-site www.lurpak.com. The Complainant did not authorize the Respondent to use such copyrighted images, again making it abundantly clear that the Respondent used the Disputed Domain Name in bad faith.

The Respondent also did not reply to the cease and desist letter sent by the Complainant which also infers bad faith. The Respondent had plenty of opportunity to justify its conduct if it wished to, but it did not avail itself of that opportunity.

Furthermore, as the Complainant submits, the WHOIS associated with the Disputed Domain Name shows the use of a Privacy shield hiding the registrant's contact details. It is therefore very likely that the Respondent tried to conceal its identity which is further evidence of bad faith.

In view of the above, the Complainant 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. Accordingly, the Complainant has shown the third of the three elements that it must establish.

In conclusion on all of the issues, the Panel finds that the Complainant has made out its case and is entitled to the relief it seeks.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. LURPAK.PROMO: Transferred

PANELLISTS

Name	The Hon. Neil Brown, QC
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DATE OF PANEL DECISION 2022-01-11

Publish the Decision
