

Decision for dispute CAC-UDRP-104427

Case number	CAC-UDRP-104427
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Time of filing	2022-03-31 09:45:53
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Domain names	lovehoney.life
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Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (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

Name	abcd abcd
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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 (the "Domain Name").

IDENTIFICATION OF RIGHTS

- (i) European Union trade mark registration no 003400298, registered on 17 January 2005, for LOVEHONEY as a word mark in classes 3, 5, 10, 25, 28, 35 designating and proceeding to registration in a number of different jurisdictions.
- (ii) International trade mark registration no 1091529 registered on 27 June 2011 for LOVEHONEY as a word mark in classes 3, 5, 10, 25, 28, 35 designating and proceeding to registration in a number of different jurisdictions.
- (iii) United States registered trade mark no 3352209 registered on 11 December 2007 for LOVEHONEY as a standard character mark in classes 3, 5, 10, 25, 28, 35.

Marks (i) and (ii) above appear to be registered in the name of Lovehoney Group Limited. Mark (iii) above appears to be registered in the name of Lovehoney Limited.

FACTUAL BACKGROUND

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

Founded in 2002, the Complainant, Lovehoney is the largest British company selling sex toys, lingerie and erotic gifts on the

Internet continuing to grow rapidly across the world as a retailer, manufacturer and distributor. Lovehoney's has over 400 own brand products and exclusive licenses to design, manufacture and sell featured adult pleasure products. Lovehoney employs around 300 people and their headquarters are open seven days a week selling products to 46 countries in Europe, North America and Australasia through nine web-sites. Lovehoney's focuses on exceptional customer service, product innovation, website usability and creative marketing to always be at the forefront of developments in sexual wellbeing and ecommerce.

Lovehoney's company, website and the products the company sells have received numerous awards (<https://www.lovehoney.co.uk/help/awards/>), 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 other. Lovehoney is also rated as 'Excellent' in over 80,000 customer reviews on Trustpilot, the renown independent review website.

The Complainant also enjoys a strong online presence via its official websites and social medias. Due to extensive use and advertising, Lovehoney's on-line shops are easily recognized by the consumers. Here is non-exhaustive list of the official pages of Lovehoney:

lovehoney.com <https://www.lovehoney.com/>
lovehoney.eu <https://www.lovehoney.eu/>
lovehoneygroup.com <https://www.lovehoneygroup.com/>
lovehoney.co.uk <https://www.lovehoney.co.uk/>

The Complainant has 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.

The Domain Name was registered on August 15, 2021, many years after the registrations of the Complainant's LOVEHONEY trademarks.

At the time of filing of this complaint the Domain Name resolves to an active page Pay Per Click Page containing the links to third party's websites. Such links vary depending on the location and display links like: "Vibrating Massagers", "String Thongs" and others. By clicking on such links the web-site further redirects to e-commerce marketplaces such as Amazon or third parties' web-sites like <searchlobby.com> where the customer can buy goods similar to the ones offered by the Complainant (lingerie, vibrating massagers, etc.).

The Complainant tried to contact the Respondent on December October 15, 2021 through a cease-and-desist letter. In the cease-and-desist letter sent via Registrar, the Complainant advised the Respondent that the unauthorised use of their trade marks within the Domain Name violated their trade mark rights and the Complainant requested a voluntary transfer of the Domain Name. The Complainant also tried to reach out by sending on-line form provided by the Registrar to contact the registrant. The Respondent chose not to reply to the cease and desist letter sent by the Complainant.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the 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 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 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

The Panel notes that one of the trade marks relied upon by the Complainant is not registered in the name of the Complainant, but a company with a similar name. The Panel suspects that these are related companies, but this is not explained in the Complaint. However, the Panel is satisfied that the Complainant is the owner of the remaining two marks for LOVEHONEY.

The Domain Name takes the form “lovehoney” combined with the “.life” new generic top level domain. The Complainant has, therefore, satisfied the Panel that the Domain Name is confusingly similar to trade marks in which it has rights and has thereby made out the requirements of paragraph 4(a)(i) of the Policy.

The Domain Name takes the form <[trade mark].[gTLD]>. The trade mark takes the form of two ordinary English words but in an unusual combination and the gTLD is not one that immediately signals a lack of connection with the trade mark owner. Accordingly the Domain Name, is problematic in that it inherently impersonates the Complainant’s mark. The way that the Domain Name has been used since registration to display links associated with the Complainant’s business and marks, also suggests that this impersonation is deliberate.

There is no right or legitimate interest in holding such a domain name and the registration and holding of such a domain name is registration and use in bad faith (see sections 2.5.1 and 3.2.1 of the WIPO Overview 3.0). Further, the Panel accepts that the pay-per-click use made of the Domain Name falls within the scope of the example of circumstances indicating bad faith set out in paragraph 4(b)(iv) of the Policy. The Complainant has, therefore, has made out the requirements of paragraph 4(a)(ii) and (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. **LOVEHONEY.LIFE:** Transferred
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PANELLISTS

Name	Matthew Harris
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DATE OF PANEL DECISION	2022-05-02
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Publish the Decision
