

Decision for dispute CAC-UDRP-104549

Case number CAC-UDRP-104549

Time of filing 2022-06-13 09:27:55

Domain names lovehoney.group

Case administrator

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

Complainant

Organization Lovehoney Group Limited

Complainant representative

Organization BRANDIT GmbH

Respondent

Name Amanda Lee

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, amongst others, of the following trademark registrations:

- International trademark registration No. 1091529 for LOVEHONEY (word mark), registered on June 27, 2011 in classes 3, 5, 10, 25, 28 and 35;
 - European trademark registration No. 003400298 for LOVEHONEY (word mark), filed on October 10, 2003 and registered on January 17, 2005, in classes 3, 5, 10, 25, 28 and 35;
 - United States trademark registration No. 3352209 for LOVEHONEY (word mark), filed on May 24, 2006 and registered on December 11, 2007 in classes 03, 05, 10, 25, 28 and 35.
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FACTUAL BACKGROUND

The Complainant, Lovehoney Group Limited, was founded in 2002 and is a British company selling sex toys, lingerie and erotic gifts on the Internet.

The Complainant employs around 300 people and its headquarters are open seven days a week, selling products to 46 countries in Europe, North America and Australasia through nine websites.

The Complainant, its website and the products the company sells have received numerous 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).

The Complainant owns, amongst others, the domain names <lovehoney.com>, registered on December 1, 1998, and <lovehoney.co.uk>, registered on December 5, 2001 both used by the Complainant to advertise and offer for sale its products under the trademark LOVEHONEY.

The disputed domain name <lovehoney.group> was registered on February 22, 2022 and is currently pointed to a registrar parking page where it is stated that the disputed domain name may be for sale. According to the screenshots submitted by the Complainant – which have not been contested by the Respondent -, the disputed domain name was previously pointed to a registrar parking page with pay-per-click links.

PARTIES CONTENTIONS

COMPLAINANT:

The Complainant contends that the disputed domain name <lovehoney.group> is identical to the trademark LOVEHONEY in which the Complainant has rights, as it reproduces the trademark in its entirety with the mere addition of the generic Top-Level Domain “.group”.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name because the disputed domain name was registered years after the Complainant first registered the trademark LOVEHONEY.

The Complainant underlines that it has never granted the Respondent any right or license to use the trademark LOVEHONEY within the disputed domain name or otherwise, nor is the Respondent affiliated with the Complainant in any form.

The Complainant further highlights that the Respondent is not commonly known by the disputed domain name, is not making a legitimate non-commercial or fair use the disputed domain name nor is it using the disputed domain name in connection with a bona fide offering of goods or services, since the disputed domain name resolves to a parking page offering the domain name for sale, whilst in March 2022, it resolved to a pay-per-click page displaying links such as “mall gift card”, and “Easy Dropshipping”.

The Complainant informs the Panel that, on April 25, 2022, it sent the Respondent a cease-and-desist letter regarding the disputed domain name and also attempted to reach the Respondent via the online form available on the Registrar's website, but in both cases the Respondent failed to respond.

With reference to the circumstances evidencing bad faith, the Complainant contends that the Respondent could not have been unaware of the Complainant at the time of registering the disputed domain name, considering that a simple online search would have in itself returned a large number of results related to the Complainant.

The Complainant highlights that it has a large online presence also on social media through its Facebook, Instagram and Twitter accounts, and contends that it is very likely that the Respondent registered the disputed domain name incorporating the trademark LOVEHONEY intentionally, to take advantage of the reputation of the trademark and of the Complainant's goodwill.

The Complainant further highlights that the use of the disputed domain name, firstly, to redirect users to third-party websites through pay-per-click links and, later, to offer the disputed domain name for sale, cannot confer any rights to the Respondent and clearly amounts to bad faith use.

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

1. The Panel finds that the Complainant has established rights over the trademark LOVEHONEY based on the trademark registrations cited above and the related trademark certificates submitted as annex to the Complaint.

The Panel finds that the disputed domain name is identical to the Complainant's trademark LOVEHONEY as it reproduces the trademark in its entirety with the mere addition of the generic Top Level Domain ".group".

Therefore, the Panel finds that the Complainant has proven that the disputed domain name is identical to a trademark in which the Complainant has established rights according to paragraph 4(a)(i) of the Policy.

2. With reference to the Respondent's rights or legitimate interests in the disputed domain name, the Panel finds that the Complainant has made a prima facie case and that the Respondent, by failing to submit a Response, has failed to provide any element from which a Respondent's right or legitimate interest in the disputed domain name could be inferred.

The Panel acknowledges that the Respondent is in no way related to the Complainant, has never been licensed in any way by the Complainant and has not been granted any authorization to use the Complainant's trademarks.

Based on the records submitted to the Panel, there is no evidence that the Respondent, identified as Amanda Lee in the Registrar's Whois records, might be commonly known by the disputed domain name.

The Panel further finds that the Respondent, by redirecting the disputed domain name to a parking page offering the disputed domain name on sale and having in the past used the same to redirect users to a website with pay-per-click links, has not made a bona fide offering of goods or services or a legitimate non-commercial or fair use of the disputed domain name. Furthermore, the disputed domain name, being identical to the Complainant's trademark, carries a high risk of implied affiliation.

Therefore, the Panel finds that the Complainant has proven that the Respondent has no rights or legitimate interests in the disputed domain name according to paragraph 4(a)(ii) of the Policy.

3. As to bad faith at the time of the registration, the Panel finds that, in light of the prior registration and use of the trademark LOVEHONEY in connection with the promotion and sale of the Complainant's products online, including via the Complainant's main website "www.lovehoney.com", and considering that a simple online search on main search engines would have revealed the existence of the Complainant and its identical trademark LOVEHONEY, the Respondent was or could have been aware of the Complainant's trademark when it registered the identical domain name <lovehoney.group>.

The Panel further notes that, since the disputed domain name, considering also the generic Top Level Domain "group", is identical to the Complainant's company name, the Respondent likely registered the disputed domain name having the Complainant in mind.

In view of the Respondent's prior use of the disputed domain name in connection with a parking page with pay-per-click links, the Panel finds that, on balance of probabilities, the Respondent intentionally attempted to attract, for commercial gain, internet users to its website, by creating a likelihood of confusion as to the source, sponsorship, affiliation or endorsement of its website, according to paragraph 4(b)(iv) of the Policy.

The Panel also finds that the current redirection of the disputed domain name to a webpage where it is offered for sale, the Respondent's failure to reply to the Complainant's cease and desist letter and its use of a privacy service to conceal its identity in the public Whois records are further circumstances evidencing the Respondent's bad faith.

Therefore, the Panel finds that the Complainant has also proven that the Respondent registered and is using the disputed domain name in bad faith according to 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. LOVEHONEY.GROUP: Transferred

PANELLISTS

Name	Luca Barbero
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DATE OF PANEL DECISION 2022-07-26

Publish the Decision
