

Decision for dispute CAC-UDRP-105097

Case number	CAC-UDRP-105097
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Time of filing	2023-01-02 09:48:01
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Domain names	arlamanager.com
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Case administrator

Name	Olga Dvořáková (Case admin)
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Complainant

Organization	Arla Food amba
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Complainant representative

Organization	BRANDIT GmbH
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Respondent

Name	Seth Aikens
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Respondent representative

Organization	Arla Group LLC
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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 Complaint has sufficiently demonstrated that it has been carrying on its business activities under the trade and company name Arla Foods since 2000.

It has also demonstrated to own several trademark registrations containing the term "arla", among which:

- the Danish trademark ARLA FOODS (word) No. VR 2000 01185, registered since 6 March 2000 in classes 1, 5, 29, 30, 31 and 32;
- the International trademark ARLA (word) No. 731917, registered since 20 March 2000 in classes 1, 5, 29, 30, 31 and 32, designating, among the others, the US;
- the US trademark ARLA (word) No. 3325019, registered since 30 October 2007 in classes 1, 5, 29 and 30;

- the International trademark ARLA (device) No. 990596, registered since 8 September 2008 in classes 1, 5, 29, 30, 31 and 32, designating, among the others, the US;
- the EU trademark registration ARLA (word) No. 018031231, registered since 6 September 2019 in classes 1, 5, 9, 16, 29, 30, 32, 35, 39, 41, 42, 43, 44 and 45.

The Complainant also owns a large portfolio of domain names, all incorporating the term "arla", such as <arla.com>, registered since 15 July 1996, <arla.eu>, registered since 1 June 2006, <arlafoods.com> and <arlafoods.co.uk>, both registered since 1 October 1999, and <arlafoods.ca>, registered since 29 November 2000. The Complainant's domain names are used in connection with websites promoting its business.

The afore-mentioned rights are hereinafter collectively referred to as the ARLA Trademark.

FACTUAL BACKGROUND

The Complainant is the fifth-largest dairy company in the world and a cooperative owned by more than 12,500 dairy farmers. Founded in 2000 by the merger of the largest Danish dairy cooperative MD Foods with its Swedish counterpart Arla ekonomisk Förening. The Complainant employs 119,190 people across 105 countries and generated a global revenue of EUR 11,2 billion in 2021. It sells its milk-based products under several brands, including ARLA, LURPAK, CASTELLO and APETINA. The Complainant has a strong presence also on the US market (where the Respondent is located), operating through its subsidiary Arla Foods Inc. Its products in the US are produced by its own dairy plant with over 100 employees. The Complainant enjoys a strong online presence through its official websites and social media accounts. The Complainant's website <arlausa.com> is dedicated to consumers in the US. Due to the extensive use, advertising and revenue associated with its ARLA Trademark worldwide, the Complainant enjoys a high degree of renown around the world.

The disputed domain name <arlamanager.com> was registered with privacy / proxy service on 22 June 2022. It resolves to a pay-per-click (PPC) page displaying links related to the Complainant's business.

The Complainant sent a cease and desist letter to the Respondent without obtaining response.

The Complainant contends that the disputed domain name is confusingly similar to its trademark, since the ARLA Trademark is reproduced in its entirety, and the addition of the descriptive term "manager" does not prevent the likelihood of confusion between the disputed domain name and the Complainant's trademark.

The Complainant also contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. Neither license nor authorization has been granted to the Respondent to make any use of the Complainant's trademark, or apply for registration of the disputed domain name by the Complainant. There is no evidence that the Respondent has been commonly known by the disputed domain name or has acquired any rights in a trademark or trade name corresponding to the disputed domain name. Considered that the disputed domain name resolves to a PPC page with links related to the Complainant's business, the Complainant contends that such use neither constitutes a bona fide offering of goods or services, nor a legitimate noncommercial or fair use without intent for commercial gain to misleadingly divert consumers or to tarnish the ARLA Trademark.

Finally, the Complainant contends that the registration of disputed domain name confusingly similar to the Complainant's well-known trademark and, thus, the constructive knowledge on behalf of the Respondent of the Complainant's potential rights, as well as the use of the privacy shield and the redirection of the disputed domain name to a PCC page with links related to Complainant's business clearly shows the Respondent's bad faith in the registration and use of the disputed domain name.

Therefore, the Complainant requests the transfer of the disputed domain name.

The Respondent is an individual residing in the US.

The Respondent asserts that the disputed domain name is being used for internal management purposes and the access to the associated website is blocked by a login wall with a username and password and restricted to authorized personnel when operational. The Respondent contends that the website was expected to be launched on 15 January 2023 and until such date the Respondent did not intend to connect the disputed domain name to the Internet. The Respondent claims that it has no control over the PPC page and has not profited from any ad displayed on the website to which the disputed domain name resolves.

The Respondent contends that the disputed domain name, which is not being used in any commercial activity, is not confusingly similar to the ARLA Trademark. The Respondent claims that the disputed domain name is not indexed on Google. It does not appear in Google's search results for any query, which means that it is not being actively searched for by Internet users. Therefore, according to the Respondent the consumers are unlikely to come across the disputed domain name through a search on Google, and therefore it is unlikely that they will be confused by it.

The Respondent contends to have rights or legitimate interests to the disputed domain name. The Respondent asserts to make legitimate use of the disputed domain name for internal management purposes and not for offering goods and service to the public. The Respondent claims to act in good faith and to have explained its legitimate activity with the use of the term "arla" or "early girl" in an email sent to the Complainant in 2020 in response to the Complainant's cease and desist letter concerning 7 other domain names.

The Respondent contends to have chosen the word "arla" because of its meaning "early girl", which is related to his daughters' names,

and not with malicious or exploitative intent directed towards the Complainant.

Moreover, the Respondent contends that the use of a privacy service is a common practice, and it is not a crime or a presumption that he is attempting to hide from the Complainant.

Therefore, the Complainant requests the rejection of the Complaint with prejudice.

Moreover, the Respondent has made contentions that the Complaint was brought in bad faith and to harass the Respondent and, thus, he requests the finding of reverse domain name hijacking (RDNH).

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.

LANGUAGE OF THE PROCEEDING

Pursuant to paragraph 11(a) of the UDRP Rules, unless otherwise agreed by the parties, the language of the administrative proceeding is the language of the registration agreement, subject to the authority of the panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

The Complaint was submitted in English. Upon the CAC's request for registrar verification, the registrar of the disputed domain name confirmed that the language of the registration agreement was English.

Considered the above-mentioned provision of the UDRP Rules, the principle that the administrative proceeding shall be conducted with due expedition while ensuring that the parties are treated with equality, as well as the fact that the Respondent is residing in the US and has submitted his Response in English, which clearly evidences that he understands the language of the Complaint and has been given a fair opportunity to present its case, the Panel determines that the language of the present administrative proceeding shall be English.

PARTIES' UNSOLICITED SUPPLEMENTAL FILINGS

The UDRP Rules in principle provide only for a single round of pleadings, and do not contemplate discovery as such. Paragraphs 3(b)(ix) and (xiv) provide that the complaint shall describe the grounds on which the complaint is made and annex any documentary or other evidence upon which the complainant relies. At the same pace, paragraphs 5(c)(i) and (ix) provide that the response, including any annexes, shall respond specifically to the statements and allegations contained in the complaint, include any and all bases for the respondent to retain registration and use of the disputed domain name, and annex any documentary or other evidence upon which the respondent relies. The parties are, thus, required to include specific evidence supporting their assertions in the complaint and the response. A panel's assessment will normally be made on the basis of the evidence presented in the complaint and any filed response. Conclusory statements unsupported by evidence will normally be insufficient to prove a party's case.

Noting that the UDRP normally provides for a single round of pleadings without opportunity for discovery, panels have expressed an expectation that a complainant should anticipate and address likely plausible respondent defenses with supporting arguments and evidence in its complaint. To the extent a response raises defenses that could not reasonably have been anticipated, a complainant may request that the panel provide an opportunity to address such unanticipated defenses in a supplemental filing, which may also include a rebuttal opportunity for the respondent (paragraph 3.1 of WIPO Overview 3.0).

Paragraph 12 of the UDRP Rules expressly provides that it is for the panel to request, in its sole discretion, any further statements or documents from the parties it may deem necessary to decide the case. Unsolicited supplemental filings are generally discouraged, unless specifically requested by the panel. Panels have also repeatedly affirmed that the party submitting or requesting to submit an unsolicited supplemental filing should clearly show its relevance to the case and why it was unable to provide the information contained therein in its complaint or response (e.g., owing to some “exceptional” circumstance) (paragraph 4.6 of WIPO Overview 3.0).

In the present case, the Complainant has submitted an unsolicited supplemental filing commenting the Response and, in particular the Respondent's assertion that the parties had exchanged email correspondence and, therefore, the Complainant was aware of the Respondent's identity and his rights and legitimate interests in the disputed domain name. While the Respondent has not provided any documentary evidence to support this assertion, the Complainant, in its supplemental filing, has submitted the email correspondence exchanged with the Respondent in 2020 (two years before the registration of the disputed domain name) concerning other domain names, all incorporating the term “arla” plus generic or descriptive terms. The Complainant has also argued that, due to the privacy shield, it was unaware that the Respondent was the underlying registrant of the disputed domain name at the time of filing of the Complaint. The Panel considers that the material in the Complainant's supplemental filing is relevant to the determination of this matter and, given that the Respondent has commented on this filing with an unsolicited supplemental filing, the Panel admit both parties' supplemental filings. The relevance, materiality and weight of the parties' assertions and evidence (or lack of evidence) supporting such assertions will be discussed below.

PRINCIPAL REASONS FOR THE DECISION

Under paragraph 4(a) of the Policy, the Complainant is required to prove each of the following three elements to succeed in the administrative proceeding:

- i. the Respondent's domain name is identical or confusingly similar to a trade mark 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 Respondent's domain name has been registered and is being used in bad faith.

I. CONFUSING SIMILARITY OF THE DISPUTED DOMAIN NAME TO THE COMPLAINANT'S MARK

In UDRP disputes the test for identity or confusing similarity involves a reasoned but relatively straightforward comparison between the complainant's trademark and the disputed domain name. This test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name. While each case is judged on its own merits, in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing (paragraph 1.7 WIPO Overview 3.0).

Panels have consistently found that the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) to the relevant trademark, recognizable within the disputed domain name, would not prevent a finding of confusing similarity under the first element (paragraph 1.8 of WIPO Overview 3.0).

Panels also agree that the TLD is to be ignored for the purpose of determination of confusing similarity between the disputed domain name and the complainant's trademark, as it is a technical requirement of registration (paragraph 1.11.1 WIPO Overview 3.0).

The Complainant has established that it has rights in the ARLA Trademark since 2000.

The disputed domain name incorporates the entirety of the Complainant's ARLA Trademark or at least its dominant element (i.e., the term “arla”), and differs from such mark by merely adding the generic and descriptive term “manager” as well as the TLD “.com”. The addition of such generic and descriptive term to the Complainant's mark neither affects the attractive power of such trademark, nor is sufficient to distinguish the disputed domain name from the Complainant's mark.

Hence, this Panel finds that the Complainant has proven the first element of the paragraph 4(a) of the Policy and the disputed domain name is confusingly similar to the Complainant's mark.

II. THE RESPONDENT'S LACK OF RIGHTS OR LEGITIMATE INTERESTS IN RESPECT OF THE DISPUTED DOMAIN NAME

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. If a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name.

But by virtue of paragraph 4(c) of the Policy, any of the following circumstances, in particular but without limitation, if found by the panel to be proved based on its evaluation of all evidence presented, shall demonstrate the respondent's rights or legitimate interests to the domain name:

- i. before any notice to the respondent of the dispute, the respondent's 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. the respondent (as an individual, business, or other organization) has been commonly known by the domain name, even if it has acquired no trademark or service mark rights; or
- iii. the respondent is 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

In the present dispute, the Complainant has submitted that:

- it has to no relationship with the Respondent whatsoever;
- the Respondent has never received any approval of the Complainant, expressed or implied, to use the Complainant's ARLA Trademark or to register the disputed domain name;
- there is no evidence that the Respondent has been commonly known by the disputed domain name or has acquired any rights in a trademark or trade name corresponding to the disputed domain name;
- there is no evidence that the Respondent has engaged in any activity that demonstrates a legitimate interest in the disputed domain name;
- the disputed domain name resolves to a PPC page displaying links related to the Complainant's business.

The Respondent has submitted that:

- the disputed domain name is not intended to be used in connection with any offering of goods and services and he is making a legitimate noncommercial or fair use, without intent for commercial gain to misleadingly divert consumers or to tarnish the ARLA Trademark ("the <ArlaManager.com> is not being used to promote any products or services, and it is not associated with any business on a public front, this means that it is not being used in any commercial activity, and it is not being used to compete with your trademarks "ARLA" and "ARLA FOODS" in any way. In addition to the previous response, we would like to further clarify that the disputed domain name <ArlaManager.com> is being used for internal management purposes and offers no public services. It is simply used as an easy way for us to connect and share information internally. Furthermore, the access to the website is blocked by a login wall with a username and password and is only accessible to authorized personnel when operational. The website was expected to launch on the 15th of January 2023, and it was not intended for public use");
- he has chosen the word "arla" because of its meaning of "early girl", which is related to his daughters' names;
- he has no control over the parking page to which the disputed domain name resolves ("we have no control over what Namecheap did with its main domain name server while the server and application were being built. We did not profit from any ads that were displayed on the disputed domain name during that time. Namecheap is responsible for the management of the domain name server and any actions taken on it. Therefore, your issue should arise with them and not a blaming us for creating PPC which we never did" and "we made no attempt to put sponsored links or any other commercial content on the disputed domain name, and we did not intend for it to be connected to the internet until January 2023, when our internal project was ready to be launched. Furthermore, we had no knowledge that the domain name was being used to display sponsored links, and we did not authorize Namecheap to do so").

The Panel observes that while the Complaint has made out a prima facie case that the Respondent lacks rights or legitimate interests, the Respondent has not provided documentary evidence to support any of his claims. The Respondent's conclusory statements on its use or preparations to use the disputed domain name unsupported by relevant evidence are insufficient to prove his case.

It is well established that a respondent's use of a domain name will not be considered "fair" if it falsely suggests affiliation with the trademark owner. Panels have largely held that the composition of domain names consisting of a trademark plus an additional term cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner (paragraph 2.5.1 of WIPO Overview 3.0). Beyond looking at the domain name and the nature of any additional terms appended to it (whether descriptive, laudatory, derogatory, etc.), panels assess whether the overall facts and circumstances of the case support a claimed fair use. To facilitate this assessment, panels have found the following factors illustrative: (i) whether the domain name has been registered and is being used for legitimate purposes and not as a pretext for commercial gain or other such purposes inhering to the respondent's benefit, (ii) whether the respondent reasonably believes its use (whether referential, or for praise or criticism) to be truthful and well-founded, (iii) whether it is clear to Internet users visiting the respondent's website that it is not operated by the complainant, (iv) whether the respondent has refrained from engaging in a pattern of registering domain names corresponding to marks held by the complainant or third parties, (v) where appropriate, whether a prominent link (including with explanatory text) is provided to the relevant trademark owner's website, (vi) whether senders of email intended for the complainant but (because of user confusion) directed to the respondent are alerted that their message has been misdirected, (vii) whether there is an actual connection between the complainant's trademark in the disputed domain name and the corresponding website content, and not to a competitor, or an entire industry, group, or individual, and (viii) whether the domain name registration and use by the respondent is consistent with a pattern of bona fide activity (whether online or offline) (paragraph 2.5.2 of WIPO Overview 3.0).

Moreover, panels have recognized that merely registering a domain name comprised of a dictionary word or phrase does not by itself automatically confer rights or legitimate interests on the respondent; panels have held that mere arguments that a domain name corresponds to a dictionary term/phrase will not necessarily suffice. In order to find rights or legitimate interests in a domain name based on its dictionary meaning, the domain name should be genuinely used, or at least demonstrably intended for such use, in connection with the relied-upon dictionary meaning and not to trade off third-party trademark rights (paragraph 2.10.1 of WIPO Overview 3.0).

In the present case, although the word "arla" in Swedish means early, the Respondent has not demonstrated that the disputed domain

name is genuinely used for purposes coming within the ordinary meaning of the word and not to copy or trade off the Complainant's trademark and not being used to target or do damage to the Complainant. Thus, the Respondent's claim that the word "arla" is related to its daughters' names appears pretextual.

Finally, applying UDRP paragraph 4(c), panels have found that the use of a domain name to host a parked page comprising PPC links does not represent a bona fide offering where such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users. Panels have recognized that the use of a domain name to host a page comprising PPC links would be permissible – and therefore consistent with respondent rights or legitimate interests under the UDRP – where the domain name consists of an actual dictionary word(s) or phrase and is used to host PPC links genuinely related to the dictionary meaning of the word(s) or phrase comprising the domain name, and not to trade off the complainant's (or its competitor's) trademark. Particularly with respect to “automatically” generated PPC links, panels have held that a respondent cannot disclaim responsibility for content appearing on the website associated with its domain name (nor would such links ipso facto vest the respondent with rights or legitimate interests) (paragraph 2.5.2 of WIPO Overview 3.0).

In the present case, the Complainant has proved that the Respondent has used the disputed domain name in relation to a parking page containing PPC links related to the Complainant's business. The Panel notes that the Respondent is ultimately responsible for the website content associated with the disputed domain name and cannot disclaim responsibility for the content (ads) appearing on that site.

Having considered the above circumstances, in absence of any relevant evidence proving the Respondent's rights or legitimate interests in respect of the disputed domain name, the Panel finds the Respondent's explanation for having registered and used the disputed domain name in bona fide without intent for commercial gain to misleadingly divert consumers or to tarnish the ARLA Trademark to be highly improbable and concludes, on the balance of probabilities, that the Respondent is more likely to have registered the disputed domain name in order to target the Complainant's widely-known trademark. Therefore, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

III. REGISTRATION AND USE OF THE DISPUTED DOMAIN NAME IN BAD FAITH

The disputed domain name has been registered and is being used in bad faith for the following cumulative reasons.

The Respondent has used a privacy or proxy service when registering the disputed domain name. Although the use of such service is not in and of itself an indication of bad faith, the circumstances and the manner in which such service is used may however impact the Panel's assessment of bad faith (paragraph 3.6 of WIPO Overview 3.0).

The Respondent has registered the disputed domain name which is to be considered confusingly similar to the ARLA Trademark, since it incorporates such mark in its entirety and differs from it merely by adding the non-distinctive and descriptive term “manager” and the TLD “.com” (which is disregarded for the purpose of determination of confusing similarity between the disputed domain name and the trademarks of the Complainant as it is a technical requirement of registration).

Given the distinctiveness of the Complainant's prior mark, confirmed by several UDRP decisions (see, among others, *Arla Foods Amba v. Fredrik Enghall*, WIPO Case No. D2016-1205M; *Arla Foods Amba v. Nashan*, CAC Case No. 101486), the Respondent's choice to add a non-distinctive and generic term to the ARLA Trademark could not have been for a mere chance without actual knowledge of the Complainant's rights in such mark and the intention to exploit its reputation by diverting traffic away from the Complainant's website.

The Respondent had indeed knowledge of the Complainant's rights when it registered the disputed domain name, because the parties exchanged email correspondence concerning other domain names (all of them incorporating the term “arla”) two years before such registration.

The Complainant has shown that the disputed domain name is used in relation to a website containing PPC links related to its business. Neither the fact that such links are generated by a third party such as the registrar, nor the fact that the Respondent himself may not have directly profited, would by itself prevent a finding of bad faith (paragraph 3.5 of WIPO Overview 3.0).

Therefore, in absence of any relevant evidence of good faith use of the disputed domain name, the Panel finds that the Respondent, by registering and using the disputed domain name, has intentionally attempted to attract, for commercial gain, Internet users to his web site or other on-line location, by creating a likelihood of confusion with the ARLA Trademark as to the source, sponsorship, affiliation, or endorsement of his web site or location or of a product or service on his web site or location (paragraph 4(b)(iv) of the Policy).

Finally, the Respondent has admitted to have registered various domain names, all incorporating the term “arla”. However, neither in response to the Complainant's cease and desist letter, nor during this administrative proceeding has the Respondent provided any evidence corroborating his claim to good faith use of such domain names. Therefore, the Panel finds that the Respondent is engaged in a pattern of conduct and have registered the disputed domain name in order to prevent the Complainant from reflecting its mark in a corresponding domain name (paragraph 4(b)(ii) of the Policy).

Looking at the totality of the circumstances the present case, the Panel finds that the Complainant has discharged the burden of proof to show that the disputed domain name has been registered and is being used in bad faith, and the Respondent has not demonstrated any conceivable good faith use (paragraph 4(a)(iii) of the Policy). The disputed domain name is, therefore, to be transferred to the Complainant.

IV. NO FINDING OF REVERSE DOMAIN NAME HIJACKING (RDNH)

The Respondent requests for a finding of RDNH. In particular, the Respondent contends that the Complainant has not provided any

evidence to support its claims that the disputed domain name is causing harm to it or it has any legitimate rights to the disputed domain name. The Respondent also claims that the Complainant engaged in bad faith conduct during this administrative proceeding. The Respondent finally contends that the Complainant's request appears to be nothing more than an attempt to harass and intimidate the Respondent into surrendering the disputed domain name without any legal justification.

The Panel finds that the request of the Respondent is unfounded and is to be rejected for the following reasons.

Paragraph 15(e) of the UDRP Rules provides that, if “after considering the submissions the panel finds that the complaint was brought in bad faith, for example in an attempt at Reverse Domain Name Hijacking or was brought primarily to harass the domain-name holder, the panel shall declare in its decision that the complaint was brought in bad faith and constitutes an abuse of the administrative proceeding”. RDNH is furthermore defined under the UDRP Rules as “using the UDRP in bad faith to attempt to deprive a registered domain-name holder of a domain name”.

Reasons articulated by panels for finding RDNH include:

- i. facts which demonstrate that the complainant knew it could not succeed as to any of the required three elements – such as the complainant’s lack of relevant trademark rights, clear knowledge of respondent rights or legitimate interests, or clear knowledge of a lack of respondent bad faith, such as registration of the disputed domain name well before the complainant acquired trademark rights;
- ii. facts which demonstrate that the complainant clearly ought to have known it could not succeed under any fair interpretation of facts reasonably available prior to the filing of the complaint, including relevant facts on the website at the disputed domain name or readily available public sources such as the WhoIs database;
- iii. unreasonably ignoring established UDRP precedent;
- iv. the provision of false evidence, or otherwise attempting to mislead the panel;
- v. the provision of intentionally incomplete material evidence;
- vi. the complainant’s failure to disclose that a case is a UDRP refiling;
- vii. filing the complaint after an unsuccessful attempt to acquire the disputed domain name from the respondent without a plausible legal basis;
- viii. basing a complaint on only the barest of allegations without any supporting evidence.

Neither any of the above circumstances occurred in the present dispute, nor anything else shows that the Complaint has been filed in bad faith or that that Complainant is engaged in RDNH. While the Complainant has proved its case by providing relevant evidence supporting its allegations, the Respondent, although he had the opportunity and the obligation to do so under paragraph 5(c)(ix) of the UDRP Rules, has made statements without providing evidence of its assertions.

Therefore, the Panel denies the Respondent's request for a finding of RDNH.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. **arlamanager.com**: Transferred

PANELLISTS

Name Ivett Paulovics

DATE OF PANEL DECISION 2023-02-21

Publish the Decision