

Decision for dispute CAC-UDRP-105234

Case number	CAC-UDRP-105234
Time of filing	2023-03-02 11:04:40
Domain names	lyonclellbasell.com, LYONDLLEBASELL.COM

Case administrator

Name	Olga Dvořáková (Case admin)
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Complainant

Organization	LyondellBasell Industries Holdings B.V.
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Complainant representative

Organization	Barzanò & Zanardo Milano S.p.A.
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Respondents

Name	Stef Pati
Organization	IMI CRITICAL

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 has evidenced to be the registered owner of several trademarks relating to its company name and brand "LyondellBasell", inter alia, the following:

- Word mark LYONDELLBASELL, United States Patent and Trademark Office (USPTO), registration No.: 3634012, registration date: June 9, 2009, status: active;

- Word mark LYONDELLBASELL, European Union Intellectual Property Organization (EUIPO), registration No.: 006943518, registration date: January 21, 2009, status: active.

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 Respondents 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

As a procedural comment, given that both domain names (1) have been composed in a very similar way by including the Complainant's LYONDELLBASELL trademark in a misspelled/typo-squatted version, (2) have been registered in a limited time-frame of several weeks through the same registrar, and (3) are both passively held, it is reasonable to argue that the disputed domain names are subject to common control which is why it is fair and equitable to all parties that this Complaint is consolidated against multiple respondents at the same time.

Now, therefore, the Panel finds that the disputed domain names both are confusingly similar to the LYONDELLBASELL trademark in which the Complainant has rights. The disputed domain names both incorporate the Complainant's LYONDELLBASELL trademark almost entirely, with slight variations only due to an obvious intentional misspelling/typo-squatting. Numerous UDRP panels have recognized that incorporating a trademark in its entirety can be sufficient to establish that the disputed domain name is at least confusingly similar to a registered trademark. Moreover, it has been held in many UDRP decisions and has meanwhile become a consensus view among UDRP panels that a domain name which consists of a common, obvious or intentional misspelling of the complainant's trademark (i.e. a typo-squatting) is still considered to be confusingly similar to the relevant trademark for purposes of the first element under the UDRP. Accordingly, the fact that the disputed domain names obviously both include an intentional misspelling/typo-squatting of the Complainant's LYONDELLBASELL trademark is not at all inconsistent with the finding of confusing similarity, especially given the fact that the Complainant's LYONDELLBASELL trademark is still at least recognizable within the disputed domain names.

Therefore, the Complainant has satisfied paragraph 4(a)(i) and, thus, the first element of the Policy.

Moreover, the Complainant contends, and the Respondents have not objected to these contentions, that the Respondents have neither made use, or demonstrable preparations to use, the disputed domain names in connection with a bona fide offering of goods or services, nor are the Respondents making a legitimate noncommercial or fair use of the disputed domain names, nor are the Respondents commonly known thereunder. The Respondents have not been authorized to use Complainant's LYONDELLBASELL trademark, either as a domain name or in any other way. Also, there is no reason to believe that the Respondents' names somehow correspond with the disputed domain names and the Respondents do not appear to have any trademark rights associated with the terms "Lyondell" and/or "Basell" whatsoever. Finally, by the time of the rendering of this decision, both disputed domain names do not resolve to any valid content on the Internet (so-called "passive holding"); however, many UDRP panels have recognized that the mere registration of a domain name, even one that is comprised of a confirmed dictionary word or phrase, may not of itself confer rights or legitimate interests in a disputed domain name. Accordingly, the Panel has no difficulty in finding that the Respondents have no rights or legitimate interests in respect of the disputed domain names.

Therefore, the Complainant has also satisfied paragraph 4(a)(ii) and, thus, the second element of the Policy.

The Panel finally holds that the disputed domain names were registered and are being used by the Respondents in bad faith. The way in which the disputed domain names have been composed (e.g. comprising the Complainant's LYONDELLBASELL trademark

almost entirely, with slight variations only due to an obvious intentional misspelling/typo-squatting) clearly indicates that the Respondents had knowledge of the Complainant's undisputedly well-reputed LYONDELLBASELL trademark at the time of the registration of the disputed domain names and leaves little, if no doubt that both disputed domain names aim at targeting this very trademark. Also, there is a consensus view among UDRP panelists that a passive holding of a disputed domain name may, in appropriate circumstances, be consistent with the finding of bad faith, in particular in circumstances in which, for example, there is no conceivable use that could be made of the disputed domain name(s) and would not amount to an infringement of the complainant's trademark's rights. In the case at hand, in the absence of any other reasonable explanation as to why the Respondents should rely on the disputed domain names and given that the Respondents have brought forward nothing in substance relating to the intended use of the disputed domain names that would have allowed the Panel to hold for the Respondents, the Panel finds that the Respondents have registered and are making use of the disputed domain names in a manner which at least takes unjustified and unfair advantage of the Complainant's LYONDELLBASELL trademark and related reputation and must, therefore, be considered as registered and being used in bad faith within the meaning of the Policy.

Therefore, the Complainant has also satisfied paragraph 4(a)(iii) and, thus, the third element of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. lyonclellbasell.com: Transferred
2. LYONDLLEBASELL.COM: Transferred

PANELLISTS

Name	Stephanie Hartung
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DATE OF PANEL DECISION 2023-03-30

Publish the Decision
