

## Decision for dispute CAC-UDRP-105325

Case number **CAC-UDRP-105325**

Time of filing **2023-04-13 09:22:53**

Domain names **arlapromena.com**

### Case administrator

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

### Complainant

Organization **Arla Foods Amba**

### Complainant representative

Organization **BRANDIT GmbH**

### Respondent

Name **Prodigiworx Inc**

#### 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

"ARLA" trademark:

- International trademark ARLA No. 731917, registered on March 20, 2000 designating US;
- EU TM Arla Pro No. 018686542 registered on August 27, 2022;
- International trademark ARLA No. 990596, registered on September 8, 2008;
- EU TM ARLA No. 018031231 registered on September 6, 2019;
- Denmark trademark ARLA FOODS No. VR 2000 01185, registered on March 6, 2000;
- US trademark Registration ARLA (figurative) No. 3325019 registered on October 30, 2007.

#### FACTUAL BACKGROUND

Arla Foods is a global dairy company ranked as the fifth-largest in the world. It operates as a cooperative owned by more than 12,500 dairy farmers. Formed in 2000 through a merger between Danish cooperative MD Foods and Swedish counterpart Arla ekonomisk Förening, Arla Foods Amba employs approximately 20,900 full-time employees. In 2022, the company generated a global revenue of EUR 13.8 billion. Arla Foods is renowned for its milk-based products and brands, including ARLA®, LURPAK®, CASTELLO®, and APETINA®. It has a strong presence in the Middle East, with a regional office in Dubai, where the respondent is located. The company also has a subsidiary in the UAE called Arla NFCP in Sharjah. Arla Foods has a significant online presence through its official website

and social media accounts. It holds numerous trademark registrations for ARLA, both internationally and within specific jurisdictions. Additionally, Arla Foods owns various domain names that incorporate the ARLA trademark and uses them to direct users to its official websites, providing information about its products and services.

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#### PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

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#### 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).

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#### 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).

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#### 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).

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#### 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.

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#### PRINCIPAL REASONS FOR THE DECISION

##### FIRST CONDITION

Regarding the first condition, the Complainant has multiple trademarks for "ARLA." The disputed domain name incorporates this mark, with the addition of the term "promena." The Complainant explains that the term "promena" refers to its activity in the Middle East and North Africa (MENA) region.

The Panel considers that it does not need to inquire into the potential meaning of the added term "promena," as it is sufficient to observe that the mark is fully reproduced in the domain name and occupies a prominent position as it constitutes the beginning of the domain name.

It is indeed well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for 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.

##### SECOND CONDITION

The Complainant explains, without being contradicted, that it did not authorize the registered domain name holder and has had no contact of any kind with the holder. The Complainant adds that it is unlikely that the holder could have been unaware of its existence, as a search on major search engines using the terms "arla" and "arlapromena" immediately brings up the Complainant's official sites in the top results.

These uncontradicted pieces of information tend to establish the second condition, especially considering that:

- The Complainant sent a cease-and-desist letter to the holder, who did not respond. Therefore, the holder missed an important opportunity to explain the legitimate interest it intends to pursue.
- Based on the available appearances and the provided and uncontradicted evidence, the legitimate interest seems doubtful as the disputed domain name contains no information other than paid links to other sites, some of which are related to food and dairy products, i.e., the complainant's activity.

Applying UDRP (Uniform Domain Name Dispute Resolution Policy) paragraph 4(c), panels have found that the use of a domain name to host a parked page comprising PPC (Pay-Per-Click) links does not represent a bona fide offering when such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users.

### THIRD CONDITION

WIPO Jurisprudential Overview 3.0., paragraph 3.1.4 states: "Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith."

In addition, the Complainant tried to contact the Respondent on March 7, 2023 through a cease-and-desist letter regarding the disputed domain name. The Respondent chose not to reply to the cease-and-desist letters sent by the Complainant which infers bad faith (see International Business Machines Corporation v. Adam Stevenson, Global Domain Services, WIPO case No. D2016-1695; Carrefour v. PERFECT PRIVACY, LLC / Milen Radumilo, WIPO Case No. D2018-2201).

Furthermore, it is likely that the Respondent is trying to conceal its identity regarding the ownership of the disputed domain name – as his name and contact details are covered by a privacy shield in the corresponding WhoIs record – which is further evidence of bad faith (Instagram, LLC v. Registration Private, Domains By Proxy, LLC / Murat Sander, WIPO Case No. D2021-0526).

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FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **arlapromena.com**: Transferred

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## PANELLISTS

Name	<b>Mr. Etienne Wéry</b>
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DATE OF PANEL DECISION	2023-05-12
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Publish the Decision

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