

Decision for dispute CAC-UDRP-105400

Case number	CAC-UDRP-105400
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Time of filing	2023-04-27 09:37:11
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Domain names	fr-latcalis.com
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Case administrator

Name	Olga Dvořáková (Case admin)
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Complainant

Organization	Groupe Lactalis
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Complainant representative

Organization	NAMESHIELD S.A.S.
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Respondent

Organization	Rheoxtech 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 Complainant relies amongst others on European Union trademark <LACTALIS> number 1529833 registered on 28 February 2000 for goods and services in classes 1, 5, 10, 13, 16, 31, 33, 34, 40 and 42. This mark has been duly renewed and is in force.

FACTUAL BACKGROUND

The Respondent registered the disputed domain name on 3 April 2023.

According to the undisputed allegations and evidence provided by the Complainant, the disputed domain name resolves to a parking page with commercial links. Additionally, MX servers are configured.

PARTIES CONTENTIONS

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 disputed domain name is confusingly similar to the Complainant's trademark.

The trademark "LACTALIS" remains readily identifiable within the disputed domain name.

The fact that the trademark is slightly distorted by inverting the letters "CT" into "TC" does not add any distinctive matter so as to distinguish the disputed domain name from Complainant's trademark. It is rather an common and obvious misspelling of the registered trademark.

Finally, the addition of the element "fr-" will be commonly understood as a geographical reference to France, where the Complainant is located, which cannot exclude confusing similarity between the disputed domain name and the Complainant's registered mark.

2.

In the absence of any Response, or any other information from the Respondent indicating the contrary, the Panel further holds that the Complainant successfully presented its *prima facie* case and that the Respondent has no rights or legitimate interests in respect of the disputed domain name pursuant to paragraph 4(a)(ii) of the Policy.

In particular, the Panel notes that there is no evidence in the record that could lead the Panel to conclude that the Respondent might be commonly known by the disputed domain name in the sense of paragraph 4(c)(ii) of the Policy.

In addition, it results from the Complainant's uncontested evidence that the Respondent has no connection or affiliation with the Complainant who has not granted the Respondent any license or consent, express or implied, to use the Complainant's trademark in domain names or in any other manner.

Furthermore, use of the disputed domain name for a parking page with commercial content excludes any noncommercial use in the sense of paragraph 4(c)(iii) of the Policy from the outset.

Finally, said use for commercial web content does - in the Panel's view - not represent a *bona fide* offering (pursuant to paragraph 4(c)(i) of the Policy). This use rather capitalizes on the goodwill of the Complainant's marks.

3.

Finally, the Panel finds that the disputed domain name has been registered and is being used in bad faith according to paragraph 4(a)(iii) of the Policy.

It is the view of this Panel that the Respondent has registered and is using the disputed domain name, which fully includes the

Complainant’s trademark in almost identical form, in order to intentionally attempt to attract, for commercial gain, Internet users to a web site, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of his web site (par. 4(b)(iv) of the Policy). In the Panel's view, the fact that the disputed domain name almost identically includes that trademark and the additional two letter Code for France, where the Complainant is located, suggests the Respondent’s awareness of the trademark.

Additionally, the Panel also considered the following factors as supporting these findings of bad faith registration and use:

- (i) the high degree of intrinsic distinctiveness of the Complainant’s mark and the fact that the oldest mark, on which the Complainant relies, has been existing for more than 20 years,
- (ii) the failure of the Respondent to submit a response or to provide any evidence of actual or contemplated good faith use,
- (iii) the Respondent hiding his identity behind a privacy shield,
- (iv) the fact that Respondent configured MX-servers and
- (v) the implausibility of any good faith uses to which the disputed domain name may be put.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. **fr-latcalis.com**: Transferred

PANELLISTS

Name	Tobias Malte Müller
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DATE OF PANEL DECISION 2023-06-05

Publish the Decision