

Decision for dispute CAC-UDRP-105847

Case number	CAC-UDRP-105847
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Time of filing	2023-10-05 09:40:57
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Domain names	lactalismx.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	Domain Administration
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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 is the owner of the following trademarks:

- The European trademark LACTALIS n° 1529833 registered on February 28th, 2000;
- The International trademark LACTALIS n° 900154 registered on July 27th, 2006;
- The Mexican trademark LACTALIS n° 1343096 registered since September 19th, 2012;
- The International trademark LACTALIS n° 1135514 registered on September 20th, 2012;
- The International trademark LACTALIS EXPERIENCE n° 1544498 registered on May 26, 2020 and designated Mexico.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

The Complainant is a well-established French multi-national group, engaged in the food industry, particularly the dairy sector, with over 85,500 employees, 270 production sites, and a presence in over 51 different countries.

Since 2015, the Complainant and its brand LACTALIS is present in San Miguel de Allende, Mexico.

The Complainant is the owner of several trademarks containing the term “LACTALIS”, previously registered in different countries, including Mexico.

Furthermore, the Complainant owns an important domain names portfolio containing the wording “LACTALIS”, such as:

- <lactalis.com> registered on January 9th, 1999;
- <lactalis.net> registered on December 28th, 2011;
- <lactalis.mx> registered since June 8th, 2011 ;
- <lactalis.com.mx> registered since May 31st, 2011.

The disputed domain name <lactalismx.com> was registered on July 14th, 2023 and resolves to a parking page.

PARTIES CONTENTIONS

COMPLAINANT:

The Complainant is the owner of several trademarks containing the term “LACTALIS”, such as the Mexican trademark n° 1343096 LACTALIS and the International registration of a trademark “LACTALIS” n° 1135514, both registered since December 2012.

The Complainant states that the disputed domain name is confusingly similar to the Complainant’s trademark LACTALIS since the trademark is included in its entirety in the disputed domain name. Moreover, the suffix “-MX” placed at the end of the disputed domain name makes a reference to Mexico, where the Complainant business also operates and where its trademark “LACTALIS” is also in protected. Finally, the Complainant contends that the addition of the generic Top-Level Domain suffix “.COM” does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademark and its domain names associated.

Furthermore, the Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that is not related in any way with the Complainant. The Complainant does not carry out any activity for, nor has any business with the Respondent.

Neither license nor authorization has been granted to the Respondent to make any use of the Complainant’s trademark LACTALIS or apply for registration of the disputed domain name by the Complainant.

Moreover, this disputed domain name resolves to a parking page and the Respondent offers the disputed domain name to sale, which is, in view of the Complainant, a sign of the Respondent’s lack of any legitimate interest in the disputed domain name and of the Respondent’s bad faith in its registration and use. In view of the Complaint the Respondent has registered the disputed domain name in order to “sell it back for out-of-pockets costs”.

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 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

1st element (similarity test)

The Complainant is owner of a trademark family whose common distinctive element is a particle “LACTALIS”, having trademark registrations in various countries.

The disputed domain name <lactalismx.com> comprises of the distinctive element “LACTALIS” which is followed by a particle “-mx” which is commonly understood as a geographical reference to Mexico, where the Complainant trademark is also protected, therefore this particle has a low degree of distinctiveness comparing to the word “LACTALIS”.

Given that the Complainant’s trademark LACTALIS is fully comprised within the disputed domain name and that the additional elements have lower degree of distinctiveness, the Panel considers that the disputed domain name is confusingly similar to Complainant’s previously registered trademarks.

As far as the the Top-Level domain “.com”, the Panel shares the Complainant’s argument in the sense that this particle has rather technical function and does not outweigh the overall similar impression <lactalismx.com> and “LACTALIS” trademarks leave.

2nd element (lack of legitimate interest)

The Complainant stated that the Respondent is not affiliated with or authorized by the Complainant in any way. Furthermore, the Respondent does not appear to be commonly known by the disputed domain name or by the name “LACTALIS” or by a name corresponding to the disputed domain name.

Finally, the website at the disputed domain name is currently resolve to a parking page with commercial links and there is no evidence of it having ever been associated with any goods or services.

Therefore, and in the absence of a Response, the Panel finds that the Complainant has made a prima facie case that the Respondent has no rights or legitimate interest in the disputed domain name.

3rd element (bad faith in registration and use)

As to the bad faith at the time of the registration, the Panel finds that, in light of the distinctiveness of the Complainant’s trademarks with which the disputed domain name is confusingly similar, and due to the worldwide presence of the Complainant’s business known under the name LACTALIS, the Respondent was most likely aware of the Complainant’s trademarks at the time of the registration of the disputed domain name.

Bearing in mind these circumstances and the fact that the disputed domain name resolves to a parking page, the Respondent can be deemed to have registered the domain name to create an association, and a subsequent likelihood of confusion, with the Complainant’s trademark in Internet users’ mind for whatsoever unfair purpose.

Under such circumstances, the Panel finds that the disputed domain name was registered and is being used in bad faith.

Accordingly, the Panel finds that the Complainant has satisfied 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. **lactalismx.com**: Transferred

PANELLISTS

Name	Hana Císlerová
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DATE OF PANEL DECISION 2023-11-05

Publish the Decision
