Decision for dispute CAC-UDRP-106574

Case number	CAC-UDRP-106574
Time of filing	2024-06-03 10:06:55
Domain names	usalactalis.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Groupe Lactalis

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	amy reints

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 owns several trade mark registrations for its LACTALIS word mark including European trade mark n° 1529833 registered on November 7, 2002 and United States trade mark registration n° 6824877 registered on August 23, 2022.

FACTUAL BACKGROUND

The Complainant, founded originally in 1933, is a French multi-national company, engaged in the food industry, particularly the dairy sector. The Complainant has traded under the name “Lactalis” since 1999 and is one of the largest dairy products groups in the world, with over 85,500 employees, 266 production sites, and a presence in 51 different countries. Notably, the group has a strong presence in the United States through its subsidiary LACTALIS AMERICAN GROUP which communicates with email addresses using the structure: […]@us.lactalis.com . The Complainant owns a large domain name portfolio, based upon its LACTALIS mark , including domain names such as <Lactalis.com> registered on January 9, 1999; <lactalis.net> registered on December 28, 2011, and <uslactalis.com> registered on April 20, 2022

The disputed domain name was registered on May 22 , 2024 and resolves to a blank page displaying the message “The content of the page cannot be displayed”.

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.

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

The Complainant has demonstrated that it owns registered trade mark rights for its LACTALIS mark as set out above. It has submitted that the disputed domain name wholly incorporates its LACTALIS mark and that the addition of the abbreviation “USA”, referring to the United States of America, does not prevent a finding of confusing similarity. The Panel agrees and finds that the inclusion of the LACTALIS mark in the disputed domain name renders it confusingly similar to the Complainant’s LACTALIS trade mark registrations and that the inclusion of the USA abbreviation does not prevent a finding of confusing similarity. Accordingly, the Complaint succeeds under the first element of the Policy.

The Complainant has submitted that the Respondent is not commonly known by the disputed domain name, that she is not affiliated with the Complainant in any way and that the Respondent has not been authorised or licensed by the Complainant to use and register its LACTALIS trade mark or to seek registration of any domain name incorporating the trade mark or any similar sign. The Complainant has also submitted that the Respondent has no rights or legitimate interests in the disputed domain name and is not related in any way to its business. The Complainant has noted that the disputed domain name resolves to a blank page with a message reading “The content of this message cannot be displayed”. It has submitted that the Respondent has not used the disputed domain name and has asserted that the Complainant has no demonstrable plan to use the disputed domain name.

The Panel finds that the Complainant has made out a prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name. As the Complainant’s case has not been rebutted by the Respondent, the Panel finds for these reasons and as set out under part of the decision below, that the Complainant has successfully made out its case and that the Complaint also succeeds under the second element of the Policy.

The disputed domain name was registered in 2024 many years after the Complainant first registered its LACTALIS trade mark. The LACTALIS trade mark is distinctive and following considerable use internationally, including through the Complainant’s United States based subsidiary, the Lactalis American Group and through the domain name <uslactalis.com>, appears to enjoy a high degree of reputation internationally. In these circumstances the fact that the disputed domain name wholly incorporates the LACTALIS mark together with the geographic descriptor “usa” is very unlikely to be a coincidence and creates a very strong inference that the Respondent was well aware of the Complainant’s LACTALIS mark when she registered the disputed domain

name.

Panels have previously found that the non-use of a domain name, including for a holding page as in this case, does not prevent a finding of bad faith under the doctrine of passive holding. Although panelists consider the overall circumstances of the case, the factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent's concealing its identity or use of false contact details and (iv) the plausibility of the Respondent's use of the disputed domain name in good faith.

In this case the LACTALIS mark is distinctive and appears to be very well reputed internationally based upon the size and breadth of the Complainant's international dairy business. The Respondent has failed to provide a response or to otherwise explain its registration and non-use of the disputed domain name and the Respondent initially failed to provide its name or address. Finally the use of both the Complainant's LACTALIS mark and of the geographic abbreviation "USA" in circumstances that the Complainant already uses the domain name <uslactalis.com>, in relation to its United States business, can only have been calculated to ultimately confuse Internet users or to be used for bad faith purposes, such as re-sale to the Complainant or to a competitor and in the Panel's view there is no plausible reason for the Respondent to have used it in this way. As a result, the Panel finds that the factors of the passive holding doctrine have been fulfilled in this case and that the disputed domain name was registered and has been used in bad faith and therefore that the Complaint also succeeds under this 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. **usalactalis.com**: Transferred

PANELLISTS

Name	**Mr Alistair Payne**

DATE OF PANEL DECISION 2024-07-03

Publish the Decision