Decision for dispute CAC-UDRP-106695

Case number	CAC-UDRP-106695
Time of filing	2024-08-27 09:07:33
Domain names	xn--lyondllbasell-fhb.com

Case administrator

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

Complainant

Organization	LyondellBasell Industries Holdings B.V.

Complainant representative

Organization	Barzanò & Zanardo Milano S.p.A.

Respondent

Name	Eric Watson

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 various trademark registrations for “LYONDELLBASELL”, including the following:

- United States trademark registration No. 3634012 for LYONDELLBASELL, registered on June 9, 2009;

- United States trademark registration No. 5096173 for lyondellbasel stylized registered on December 6, 2016;

- European Union trademark registration No. 006943518 for LYONDELLBASELL, registered on January 21, 2009; and

- European Union trademark registration No. 013804091 for lyondellbasel stylized, registered on July 2, 2015.

The Complainant has a large domain name portfolio. Its domain names include its main domain name, <lyondellbasell.com>, registered on October 23, 2007.

The disputed domain name was registered on March 7, 2024, and at the time of filing the Complaint, resolved to an inactive website.

FACTUAL BACKGROUND

The Complainant is the third largest plastics, chemicals and refining company, and the largest licensor of polyethylene and polypropylene technologies in the world. Founded around 1953-1954, it currently has over 13,000 employees and 55 manufacturing sites in over 17 countries, and its products are sold in over 100 countries.

The Complainant is listed on the New York Stock Exchange, and in 2020, it generated $4.9 billion in income, resulting in an EBITDA of $7.1 billion, and $12.28 diluted earnings per share.

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

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires a complainant to show that a domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights.

The Complainant has provided evidence that it owns registered trademark rights in the LYONDELLBASELL mark.

In this case, the disputed domain name is a typosquatted version of the Complainant's LYONDELLBASELL trade mark with the addition of an accent above the first letter "e". It is well-established that where the relevant trademark is recognizable within the disputed domain name, the addition or substitution, of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. The fact that the LYONDELLBASELL trademark is sufficiently recognizable within the disputed domain name makes the addition to the trade mark deliberate, intended by the Respondent to cause confusion to Internet users seeking or expecting the Complainant. (See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ["WIPO Overview 3.0"], sections 1.8 and 1.9.).

As for the generic Top-Level Domain ("gTLD") ".com", it is well established that the gTLD is not relevant to the issue of identity or confusing similarity between the Complainant's trademark and the domain name in dispute (see WIPO Overview 3.0, section 1.11.1).

Consequently, the Panel finds that the Complainant has shown that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

Once the complainant establishes a prima facie case that the respondent lacks rights or legitimate interests in the domain name, the burden of production shifts to the respondent to show that it has rights or legitimate interests in respect to the domain name (see WIPO Overview 3.0, section 2.1).

In the present case, the Complainant has demonstrated a prima facie case that the Respondent lacks rights or legitimate interests in respect of the disputed domain name and the Respondent has failed to assert any such rights or legitimate interests.

The Complainant has provided evidence that it has been the registered owner of the LYONDELLBASELL mark long before the date that the disputed domain name was registered and that it has not licensed or otherwise authorised the Respondent to use the Complainant's trademark. There is no evidence that the Respondent is commonly known by the disputed domain name.

It is noted that the disputed domain name resolves to a webpage displaying random words such as "trattamenti metali" and "Pall Filter". The Panel notes that "trattamenti metali" is Italian, and translates into English as "metal treatments" and Pall Filter is a filter used in the chemical industry. There is no evidence that the Respondent has demonstrable plans to use the disputed domain name.

The Respondent did not submit a Response and did not provide any explanation for its choice of the disputed domain name nor evidence to show rights or legitimate interests in the disputed domain name which would be sufficient to rebut the Complainant's prima facie case.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

C. Registered and Used in Bad Faith

The Complainant must also show that the respondent registered and is using the disputed domain name in bad faith (see Policy, paragraph 4(a)(iii)). Paragraph 4(b) of the Policy provides circumstances that may evidence bad faith under paragraph 4(a)(iii) of the Policy.

As noted earlier, the disputed domain name resolves to a website that displays words comprising links to competing services associated with the chemical industry.

It has been long held that parked pages comprising pay-per-click links which offer links to competing services or products with those of the Complainant, when the domain name at issue is not a generic or dictionary word, would constitute bad faith use of the disputed domain name given that the website set up would commercially benefit the Respondent at the expense of the Complainant.

Given the particular circumstances of this case, and the distinctive nature of the Complainant's trademark, the Panel is persuaded on the evidence that the Respondent was aware of the Complainant and its LYONDELLBASELL trademark at the time of registering the disputed domain name and specifically targeted the Complainant.

Further, the Panel cannot conceive any plausible good faith use to which the disputed domain name may be put. The Respondent failed to submit a response and provided no evidence to rebut the Complainant's case.

Accordingly, having regard to the circumstances of this case, the Panel finds that the Complainant has met its burden under 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. **xn--lyondllbasell-fhb.com**: Transferred

PANELLISTS

Name	**Jonathan Agmon**

DATE OF PANEL DECISION 2024-10-08

Publish the Decision