Decision for dispute CAC-UDRP-106818

Case number	CAC-UDRP-106818
Time of filing	2024-08-29 09:56:17
Domain names	frlactalis.com

Case administrator

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

Complainant

Organization	Groupe Lactalis

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	long her

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 trademark registrations for the wording “LACTALIS” across various jurisdictions, such as the International trademark No. 900154 “LACTALIS”, registered on July 27, 2006 and the European trademark No. 1529833 “LACTALIS”, registered on February 28, 2000 (hereinafter referred to as the "Trademark").

FACTUAL BACKGROUND

The Complainant was founded in 1933 and 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. LACTALIS is the largest dairy products group in the world, with over 85,500 employees, 270 production sites, and a presence in over 51 different countries.

The Complainant is also the owner of a large domain names portfolio, including the Trademark, such as <lactalis.com> registered on January 9, 1999 and <lactalis.net> registered on December 28, 2011.

The Complainant uses e-mail addresses with the format “...@fr.lactalis.com”.

The disputed domain name <frlactalis.com> was registered on August 12, 2024 and resolves to an inactive page without any content. Further, MX servers are configured.

The Respondent did not file a Response.

PARTIES CONTENTIONS

COMPLAINANT:

The Complainant contends that the disputed domain name is confusingly similar to the Trademark.

Furthermore, the Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. In this regard, the Complainant states that the Respondent is not commonly known by the disputed domain name, that it is not affiliated with nor authorized by the Complainant in any way, that the Complainant does not carry out any activity for, nor has any business with the Respondent, and that neither license nor authorization has been granted to the Respondent to make any use of the Trademark or apply for registration of the disputed domain name by the Complainant.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. It contends that the Respondent must have been aware of the Complainant and its Trademark at the time of registration of the disputed domain name, that the Respondent's passive holding of the disputed domain name is evidence of bad faith.

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 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

Under paragraph 4(a) of the Policy, the Complainant must prove that each of the following three elements is present:

(i) the disputed domain name is identical or confusingly similar to the Complainant's trademark; and

(ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and

(iii) the disputed domain name has been registered and is being used in bad faith.

1. The Panel accepts that the disputed domain name is confusingly similar to the Trademark as it fully incorporates it. The Panel also finds that the addition of "fr" creates an even higher risk of confusing similarity as the Complainant uses e-mail addresses in

the format "@fr.lactalis.com" and since "fr" is easily making a reference to France, where Complainant is located.

2. The Complainant has substantiated that the Respondent has no rights or legitimate interests in the disputed domain name. The Panel finds that the Complainant has fulfilled its obligations under paragraph 4(a)(ii) of the Policy. The Respondent did not deny these assertions in any way and therefore failed to prove any rights or legitimate interests in the disputed domain name.

3.1 The Panel is satisfied that the Respondent registered the disputed domain name with full knowledge of the Complainant and its rights in the Trademark as the Trademark is highly distinctive and well-established.

3.2 Furthermore, the Panel accepts the Complainant's contentions that the disputed domain name has been used in bad faith under the principles of passive holding. It is the consensus view that the lack of active use of a domain name does not as such prevent a finding of bad faith under the Policy. In such cases, the panel must examine all the circumstances of the case to determine whether a respondent is acting in bad faith. Examples of circumstances that can indicate bad faith include a complainant having a well-known trademark, no response to the complaint, respondent's concealment of identity and the impossibility of conceiving a good faith use of the domain name (cf Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003; Jupiters Limited v. Aaron Hall, WIPO Case No. D2000-0574; Ladbroke Group Plc v. Sonoma International LDC, WIPO Case No. D2002-0131).

The Respondent failed to file a Response and therefore did not provide evidence of any actual or contemplated good faith use of the disputed domain name. The Panel is convinced that, even though the disputed domain name has not yet been actively used, the Respondent's non-use of the disputed domain name equals to use in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **frlactalis.com**: Transferred

PANELLISTS

Name	**Stefanie Efstathiou LL.M. mult.**

DATE OF PANEL DECISION 2024-10-08

Publish the Decision