Decision for dispute CAC-UDRP-106941

Case number	CAC-UDRP-106941
Time of filing	2024-10-14 10:18:41
Domain names	fr-lactalis.net

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Groupe Lactalis

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	Ude Uwa

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 “LACTALIS”, including the following:

- European Union trademark registration No. 1529833 for LACTALIS, registered on November 7,2002;
- International trademark registration No. 900154 for LACRTALIS stylized, registered on July 27, 2006;
- International trademark registration No. 1135514 for LACTALIS stylized, registered on September, 20 2012;

- The Mexican trademark LACTALIS No 1343096 registered on January 17, 2013;

-The Mexican Registration LACTALIS no.1393735registered on August 29, 2013.

The Complainant has a large domain name portfolio. Its domain names include<lactalis.com> registered on January 9, 1999, and, <lactalis.net> registered on December 28, 2011.

The disputed domain name <fr-lactalis.net> was registered on October 4, 2024, and at the time of filing the Complaint, resolved to an inactive website. This disputed domain name has been used in phishing scheme that find their utility also in short period of time.

FACTUAL BACKGROUND

The Complainant is a French multi-national company operating particularly in the dairy sector of the food industry. Founded in 1933, it has traded under the name “Lactalis” since 1999. It currently has over 85,500 employees, 266 production sites, and a presence in over 51 countries.

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

Paragraph 4(a) of the Policy requires the Complainant to establish each of the following three elements:

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

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

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

We are going to elaborate on the above mentioned three elements as following:

1. Identical or Confusingly Similar trademark

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 LACTALIS mark. In this case, the disputed domain name is a typosquatted version of the Complainant’s LACTALIS trade mark with the substitution of the letter “C” with the letter “S”, and the addition of the prefix “fr-“. It is well-established that where the relevant trade mark 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 LACTALIS trademark is sufficiently recognizable within the disputed domain name makes the mis-spelling of the trademark 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 trade mark 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 trade mark in which the Complainant has rights.

1. Rights or Legitimate Interests

Once the complainant establishes a prima facie case that the respondent lacks rights or legitimate interests in the disputed domain name, the burden of production shifts to the respondent to show that it has rights or legitimate interests in respect to the disputed 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 LACTALIS 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 moreover no evidence that the Respondent is not commonly known by the disputed domain name. It is noted that the disputed domain name resolves to an inactive webpage and 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.

1. 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. Past panels have found that the non-use of a domain name (including a blank or “coming soon” page) would not prevent a finding of bad faith under the doctrine of passive holding. While panelists will look at the totality of the circumstances in each case, 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 implausibility of any good faith use to which the domain name may be put. (WIPO Overview, section 3.3.). The Complainant’s LACTALIS mark is well established and recognized in past panel decisions to be well known. Given the reputation and distinctive nature of the LACTALIS mark, it is not plausible that the Respondent was not aware of the Complainant and of its LACTALIS trademark prior to the registration of the disputed domain name. The addition of the hyphen and letters, “-fr”, in the disputed domain name is indicative of the Respondent’s familiarity with the French origin of the Complainant. It seems to the Panel that the Respondent was well aware of the Complainant and its LACTALIS trademark at the time of registering the disputed domain name and specifically targeted the Complainant. The Respondent failed to submit a response and therefore Ude Uwa did not provide any 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. **fr-lactalis.net**: Transferred

PANELLISTS

Name	**Massimo Cimoli**

DATE OF PANEL DECISION 2024-11-07

Publish the Decision