Decision for dispute CAC-UDRP-107830

Case number	CAC-UDRP-107830
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Domain names	orlafoods.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Arla Foods Amba

Complainant representative

Organization	Abion GmbH

Respondent

Name	Shah Wazeer

Respondent representative

Organization	M/s ORLA FOODS & BEVERAGES

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 registrant, among others, of the following trademarks:

- Pakistan Trademark registration No. 255845 "ARLA", registered on September 18, 2008 for goods and services in class 29;
- Pakistan Trademark registration No. 255841 "ARLA", registered on September 18, 2008 for goods and services in class 32;

- EU trademark registration No. 001520899 "ARLA", registered on May 7, 2001, for goods and services in classes 1, 5, 29, 30, 31 and 32; and
- Danish trademark registration No. VR 2000 01185 "ARLA FOODS", registered on March 6, 2000, for goods and services in classes 1, 5, 29, 30, 31 and 32.

The disputed domain name was registered by the Respondent on March 11, 2025.

FACTUAL BACKGROUND

Arla Foods is the fifth-largest dairy company in the world and a cooperative owned by more than 12,500 dairy farmers. Arla Foods Amba was constituted in 2000, when the largest Danish dairy cooperative MD Foods merged with its Swedish counterpart Arla ekonomisk Förening. Arla Foods Amba employs around 21,895 full time employees and reached a global revenue of EUR 13,8 billion for the year 2024.

Arla Foods' products are easily recognized by the consumers all over the world due to the significant investments of the company in promoting its products and brands and offering high-quality products. It sells its milk-based products under its famous brands ARLA, LURPAK, CASTELLO, APETINA and others.

The Complainant also enjoys a strong online presence via its official website and social media. Due to extensive use, advertising and revenue associated with its trademarks worldwide, the Complainant enjoys a high degree of renown around the world.

The Complainant is the owner of the registered trademarks ARLA and ARLA FOODS in numerous of countries all over the world including in Pakistan where the Respondent resides.

All these trademark registrations predate the registration of the disputed domain name.

The Complainant has also registered a number of domain names under generic top-level domains and country-code top-level domains containing the term "ARLA" and "ARLA FOODS" like for example <arlafoods.com>, < arla.com>, <arlafoods.co.uk>. The Complainant is using the domain names to connect to a website through which it informs potential customers about its trademarks and its products and services.

Orla Foods & Beverages is a firm registered in Pakistan since 2010 and member of the local Chamber of Commerce & Industry. The Respondent is the holder of the majority of the firm's shares.

The disputed domain name is used in a website which shows the Respondent's products bearing the ORLA sign, namely juices, flavored milk and ultra-heat treated milk.

PARTIES CONTENTIONS

The parties' contentions are summarized below.

COMPLAINANT:

The disputed domain name is a misspelled variation of the Complainant's trademark ARLA FOOD (with the first letter "A" being replaced by the letter "O"), with the generic top-level domain ".com" and constitutes a case of typosquatting.

The generic top-level domain ".com" is a standard registration requirement and should be disregarded when assessing whether a disputed domain name is confusingly similar to the trademark in which the Complainant has rights.

The disputed domain name is therefore confusingly similar to the Complainant's trademark ARLA FOODS.

The disputed domain name was registered many years after the first registrations of the Complainant's trademarks. The Complainant has not licensed or authorized the Respondent to register or use the disputed domain name nor is the Respondent affiliated with the Complainant in any form or has endorsed or sponsored the Respondent.

There is no evidence that the Respondent owns any registered trademark including the disputed domain name terms "orlafoods" or "orla foods".

The Respondent's use of a misspelled version of the Complainant's trademarks in the disputed domain name shows the Respondent's attempt to capitalize on Internet users' possible typing errors.

A previous version of the Respondent's website contained a logo similar to the Complainant's logo and a contact form, and provided information about drinks, including flavored milk. Such a website cannot be considered a bona fide offering of goods or services, and cannot confer rights or legitimate interests on the Respondent.

The Respondent's behavior, who did not reply to the Complainant's cease-and-desist letter, modified the logo on the website and did not use the disputed domain name in connection with a bona fide offering of goods and services, demonstrates the Respondent's absence of rights or legitimate interests in respect of the disputed domain name.

The Respondent registered the disputed domain name many years after the first registrations of the Complainant's ARLA and ARLA FOODS trademarks. The ARLA and ARLA FOODS trademarks are widely known trademarks, registered in many countries including Pakistan where the Respondent is located. The Complainant enjoys a strong online presence, and the logo used in the initial version of the Respondent's website included a logo very similar to the Complainant's logo, therefore it is inconceivable that the Respondent had no knowledge of the Complainant when registering the disputed domain name.

The structure of the disputed domain name reflects the Respondent's intention to create an association, and a subsequent likelihood of confusion, with the Complainant and its trademark in Internet users' minds. Such use of a misspelled version of the Complainant's trademark in the disputed domain name shows the Respondent's attempt to capitalize on Internet users' possible errors when typing the Complainant's trademark.

Moreover, the fact that the disputed domain name resolved to a website (i) incorporating a sign that was very similar to the Complainant's figurative trademark, (ii) allegedly advertising dairy items and other products protected by the Complainant's trademark registrations, and (iii) trying to gain access to user's personal details via a form available therein, as well as the lack of response to the cease-and-desist letter constitute further evidence of registration and use in bad faith.

RESPONDENT:

The Respondent could not find any significant evidence of an identical or confusingly similar trademark in the Pakistani markets when he chose the trademark ORLA, therefore he adopted it in good faith.

The word ORLA is part of the Respondent's trading name. The Respondent filed the trademark application for ORLA APPLE in 2010 in Pakistan.

The Respondent has never offered the trademark or the disputed domain name for sale to the Complainant.

The Respondent has never tried to profit from the Complainant's trademark because he considers that ORLA is different from the Complainant's trademark ARLA.

The Respondent does not sell any kind of cheese, yogurt, etc. and does not advertise them. The Respondent is not a dairy company in the strict sense of the word and its main business concerns juices.

The Respondent has acquired a certain goodwill and reputation in the ORLA trademark.

ARLA FOODS and ORLA FOODS are two visually and phonetically distinct wordings.

The word ORLA has several dictionary meanings.

The Respondent has made significant financial and intellectual investments on the ORLA name, therefore he has a legitimate interest in it and in the disputed domain name.

The Respondent is not using the disputed domain name to divert traffic to a website unconnected with the Complainant. The Respondent is not using the reputation of the Complainant to generate business.

The Complainant is using the UDRP in bad faith to attempt to deprive a registered domain-name holder of a domain name.

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 not 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

In light of the findings under the second element, the Panel considers the assessment of this third element unnecessary. Accordingly, the Panel has not examined the requirement under paragraph 4(a)(iii) of the Policy.

PROCEDURAL FACTORS

Paragraph 12 of the Rules for Uniform Domain Name Dispute Resolution Policy provides that "In addition to the complaint and the response, the Panel may request, in its sole discretion, further statements or documents from either of the Parties".

It is well established that, consistent with the Policy's stated objective of prompt and efficient resolution of a limited class of disputes, unsolicited supplemental filings are allowed only in exceptional circumstances, for instance when they involve matters that arise after the complaint was filed and which could not reasonably have been anticipated when the complaint was filed (see, for example, WIPO Case No. D2012-1225).

The Panel has received an unsolicited supplemental filing from the Complainant. Given that this supplemental filing cannot be justified by any exceptional circumstance and concerns arguments that could have been anticipated when the complaint was filed, the Panel shall not take it into account in his decision. The Panel considers that disregarding the supplemental filing in the circumstances of the present case is consistent with the general principles set out in paragraphs 10 and 12 of the Rules for Uniform Domain Name Dispute Resolution Policy.

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

In accordance with paragraph 4(a) of the Policy, in order to obtain the transfer of the disputed domain name, the Complainant has to demonstrate that:

(i) The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; 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.

IDENTICAL OR CONFUSINGLY SIMILAR

The first requirement that the Complainant must establish is that the disputed domain name is identical with, or confusingly similar to, the Complainant's trademark or service mark rights.

There are two elements of this test: the Complainant must demonstrate that it has rights in a trademark or service mark and, if so, the disputed domain name must be shown to be identical or confusingly similar to the trademark or service mark.

The Complainant has proven ownership of the registered trademark "ARLA FOODS", identified in section "Identification of rights" above.

On the question of identity or confusing similarity, what is required is simply a comparison and assessment of the disputed domain name itself to the Complainant's trademark.

The disputed domain name differs from the Complainant's trademark "ARLA FOODS" only by the replacement of the first letter "A" by the letter "O", and of the top-level domain ".COM".

It is well established that the top-level domain may generally be disregarded in the confusing similarity test (see, for example, WIPO case No. D2016-2547).

Other panels, in similar cases where the disputed domain name differs from a complainant's trademark by only one letter, have considered that the disputed domain name is confusingly similar to a trademark in which the relevant complainant has rights (see, for example, WIPO case No. D2006-0445). The Panel agrees with this view and considers that in the circumstances of the present case, taking also into account the fact that the letters "A" and "O" may appear similar depending on the used font, the same reasoning should apply.

Therefore, the Panel considers that the disputed domain name is confusingly similar to the Complainant's trademark.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

RIGHTS OR LEGITIMATE INTERESTS

The second requirement that the Complainant must prove is that the Respondent has no rights or legitimate interests in the disputed domain name.

Paragraph 4(c) of the Policy provides that the following circumstances can be situations in which the Respondent has rights or legitimate interests in the disputed domain name:

(i) before any notice to [the Respondent] of the dispute, [the Respondent's] use of, or demonstrable preparations to use, the [disputed] domain name or a name corresponding to the [disputed] domain name in connection with a bona fide offering of goods or services; or

(ii) [the Respondent] (as an individual, business, or other organization) [has] been commonly known by the [disputed] domain name, even if [the Respondent] [has] acquired no trademark or service mark rights; or

(iii) [the Respondent] [is] making a legitimate non-commercial or fair use of the [disputed] domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

This is a non-exhaustive list of circumstances in which a respondent can show rights or legitimate interests in a domain name.

The onus of proving this requirement falls on the Complainant. UDRP panels have recognized that proving that a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of "proving a negative".

Accordingly, it is usually sufficient for a complainant to raise a prima facie case against the respondent and the burden of proof on this requirement shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in a domain name.

The Complainant states that:

- the disputed domain name was registered many years after the first registrations of the Complainant's trademarks;

- the Complainant has not licensed or authorized the Respondent to register or use the disputed domain name nor is the Respondent affiliated with the Complainant in any form or has endorsed or sponsored the Respondent;

- there is no evidence that the Respondent owns any registered trademark including the disputed domain name terms "orlafoods" or "orla foods";

- the Respondent's use of a misspelled version of the Complainant's trademarks in the disputed domain name shows the Respondent's attempt to capitalize on Internet users' possible typing errors;

- a previous version of the Respondent's website contained a logo similar to the Complainant's logo and a a contact form, and provided information about drinks, including flavored milk and such a website cannot be considered as a bona fide offering of goods or services, and cannot confer rights or legitimate interests to the Respondent;

- the Respondent did not reply to the Complainant's cease-and-desist letter;

- the Respondent modified the logo contained in the website after having received the cease-and-desist letter.

The Respondent has provided evidence that his company name is ORLA FOODS & BEVERAGES since 2010. His company also sells products bearing the sign ORLA.

As clarified in the Policy, there is no need for having a registered trademark, when the respondent is commonly known by the domain name.

The Panel points out that other Panels have considered that the fact of modifying a website after receiving a letter from the Complainant is not evidence of lack of rights or legitimate interest (see, for example, WIPO Case No. D2024-3191). The Panel agrees with this view and considers that it applies also to the present case.

In the Panel's opinion, the Respondent's company name ORLA FOODS & BEVERAGES, under which he carries out his business in Pakistan since 2010, might be considered as evidence of the Respondent's legitimate interest in the disputed domain name.

However, the Panel considers that this is a complex dispute, where the evidence and arguments of both Parties are not conclusive. While there is a similarity between the disputed domain name and the Complainant's trademark and domain name, and some factors in this case may seem more than coincidental pointing to a possible target of the Complainant and its prior intellectual property rights, other factors may point to consider that the Respondent independently chose the names "ORLA" and "ORLA FOODS & BEVERAGES" for its business with no intention of taking advantage of the Complainant's prior rights.

Furthermore, the Panel considers that this case may concern a much broader intellectual property or unfair competition dispute between what appear to be two businesses with alleged competing legitimate interests.

For these reasons, the Panel considers that this case exceeds the relatively limited “cybersquatting” scope of the Policy and would be more appropriately addressed by the courts of competent jurisdiction. The limited written procedure provided under the Policy is not best suited to resolving this case, and the Parties would find other more suitable remedies, which may be available to them.

In view of the above, and without prejudice to the right of the Complainant to submit the dispute to the courts of competent jurisdiction, the Panel finds that the Complainant has failed to demonstrate that the Respondent has no rights or legitimate interests in the disputed domain name and resultantly the Complaint fails under paragraph 4(a)(ii) of the Policy.

BAD FAITH

As the Complaint is rejected for the reasons above, the Panel shall not examine the Complainant’s contentions with regard to registration and use in bad faith.

REVERSE DOMAIN NAME HIJACKING

Paragraph 15(e) of the Rules provides that, if after considering the submissions the Panel finds that the complaint was brought in bad faith, for example in an attempt at reverse domain name hijacking or was brought primarily to harass the domain-name holder, the Panel shall declare in its decision that the complaint was brought in bad faith and constitutes an abuse of the administrative proceeding. The mere lack of success of the complaint is not, on its own, sufficient to constitute reverse domain name hijacking.

Paragraph 4.16 of the WIPO Panel Views on Selected UDRP Questions, Third Edition, provides some examples of circumstances that could justify a finding of reverse domain name hijacking:

'[…] (i) facts which demonstrate that the complainant knew it could not succeed as to any of the required three elements [...], (ii) facts which demonstrate that the complainant clearly ought to have known it could not succeed under any fair interpretation of facts reasonably available prior to the filing of the complaint [...], (iii) unreasonably ignoring established Policy precedent [...], (iv) the provision of false evidence, or otherwise attempting to mislead the panel, (v) the provision of intentionally incomplete material evidence [...], (vi) the complainant’s failure to disclose that a case is a UDRP refiling, (vii) filing the complaint after an unsuccessful attempt to acquire the disputed domain name from the respondent without a plausible legal basis, (viii) basing a complaint on only the barest of allegations without any supporting evidence'.

In the present case, none of the circumstances listed above are applicable, and given that it is a complex dispute, where the evidence and arguments of both Parties are not conclusive, the Panel considers that the arguments put forward by the Respondent are not sufficient for demonstrating that the Complaint was brought in bad faith.

Accordingly, the Panel has decided not to make a finding of reverse domain name hijacking.

DISCLAIMER

The Panel's considerations above relates solely to the Panel’s assessment of the Complaint in light of the requirements of the Policy, which is aimed at addressing clear cut cases of ‘cybersquatting’ and ‘cyberpiracy’.

Nothing set out above should be interpreted as the Panel’s position on any action the Complainant may seek to pursue against the Respondent, or vice versa, outside of the Policy.

REFILING

As clarified at Paragraph 4.18 of the WIPO Panel Views on Selected UDRP Questions, Third Edition, the Panel can, in limited circumstances, record in a decision rejecting a complaint its opinion that such rejection should be “without prejudice” to the Complainant’s ability, in exceptional cases, to refile a case against the same respondent in respect of the same domain name should later-known facts and circumstances support such action. The Panel has decided that the present decision shall be without prejudice to a possible refiling if after the publication of this decision the Respondent uses the disputed domain name in a manner that shows clear cybersquatting intent.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Rejected

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

1. **orlafoods.com**: Remaining with the Respondent

PANELLISTS

Name	**Michele Antonini**

DATE OF PANEL DECISION 2025-10-03

Publish the Decision