Decision for dispute CAC-UDRP-108073

Case number	CAC-UDRP-108073
Time of filing	2025-11-13 09:47:02
Domain names	aarla.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Arla Foods Amba

Complainant representative

Organization	Abion GmbH

Respondent

Name	Xing Xiao

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 has provided evidence of its ownership of registered trademark rights in the trademark ARLA in classes 1, 5, 29, 30, 31 and 32 in multiple jurisdictions, including Denmark, the European Union, China and other countries:

EU trademark registration No. 001520899, registered on May 7, 2001;

International trademark registration No. 731917, registered on March 20, 2000.

The trademarks are still valid at present and their registration dates predate the registration date of the disputed domain name, <aarla.com>, registered on March 31, 2024.

The Complainant also owns numerous domain names containing its trademarks, including <arla.com.cn>, registered on December 16, 2002; <arla.com>, registered on July 15, 1996; <arla.eu>, registered on June 1, 2006; <arla-foods.cn>, registered on July 13, 2016; <arlafoods.com>, registered on October 1, 1999; <arlafoods.co.uk>, registered on October 1, 1999 and <arlafoods.ca>, registered on November 29, 2000.

FACTUAL BACKGROUND

A. Complainant's Factual Allegations

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

B. Respondent's Factual Allegations

The Respondent has defaulted in this UDRP administrative proceeding and has consequently made no factual allegations. The Respondent is Xing Xiao, based at the address of Sichuan lu zhou tian chi zhen, bai yang cun, ba she 3 hao fu 1 hao, China, Postcode 320000. The disputed domain name was registered on March 31, 2024 by the Respondent, as confirmed by the Registrar. At the time the Complainant found out the disputed domain name, it resolved to an inactive website. At the time of filing this Complaint, it resolved to a website displaying pornographic content.

PARTIES CONTENTIONS

A. COMPLAINANT

Language of the Proceedings

The Complaint is written in English. According to the registrar's verification response ('the RVR'), the language of the registration agreement for the disputed domain name is Chinese. The Complainant submitted a request for English to be the language of this administrative proceeding.

- The Respondent understands English language on the following grounds: i) the disputed domain name is composed of Latin characters; ii) by registering the disputed domain name, the Respondent was trying to target a broad visitor, not limited to Chinese speaking visitors; iii) the Respondent has registered numerous other domain names using Latin characters and incorporating English terms.

- The English language being commonly used internationally, it is fair to the Parties that the language be English;
- A translation of the Complaint into Chinese will entail significant additional costs for the Complainant and delay in the proceedings.

The Complainant's contentions can be summarized as follows:

I. The disputed domain name is identical or confusingly similar to a trade mark in which the Complainant has rights

The Complainant contends that the disputed domain name is confusingly similar to its trademark on the grounds: i) the addition of letter “a” to ”arla” does not prevent a finding of confusing similarity; ii) panels have consistently held that minor alterations to a complainant’s trademark do not prevent a finding of confusing similarity, and that typosquatting creates a virtually identical and/or confusingly similar sign for the purposes of paragraph 4(a)(i); iii) WIPO Overview 3.0, Paragraph 1.9 explains that domain names comprising a common, obvious, or intentional misspelling of a trademark are considered confusingly similar.

II. The Respondent has no rights or legitimate interests in respect of the disputed domain name

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name on the grounds: i) the Complainant has never granted the Respondent with any rights to use the ARLA trademark in any form; ii) the Respondent is not known by the disputed domain name or owns any corresponding trademark; iii) when searching “aarla” on the popular Chinese Internet search engines, one of the top hit results relates to the Complainant and its business; iv) the Respondent’s name does not correspond to the disputed domain name; v) when conducting trademark searches, no information is found in relation with trademarks corresponding to “aarla”; vi) the Respondent hiding his identity in Registrar’s Whois means that he is not interested in being known by the disputed domain name.

III. The Respondent registered and is using the disputed domain name in bad faith

Registration in bad faith

The Complainant submits that the Respondent registered the disputed domain name in bad faith on the grounds: i) ARLA trademark is well known and registered in many countries. By online search, the Respondent should have learnt about the Complainant and its trademark; ii) the Respondent knew the Complainant’s trademark when it registered the disputed domain name.

Use in bad faith

The Complainant submits that the Respondent is using the disputed domain name in bad faith on the grounds: i) the disputed domain name resolved to a website displaying pornographic content, which monetized user traffic through click-through revenue; ii) the Respondent selected the disputed domain name to trade on the Complainant’s goodwill or to suggest a false association with the Complainant; iii) the Respondent is the registrant of several domain names that incorporate or imitate trademarks of others; iv) the Respondent is the registrant of several other domain names that likewise resolve to pornographic content; v) the Respondent did not reply to the Complainant’s cease-and-desist letter; vi) the Respondent is trying to conceal its identity regarding the ownership of

the disputed domain name.

The Complainant contends that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.

B. 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 language of the registration agreement is Chinese. The Complainant has requested that the language of the proceedings be English. The Respondent did not respond to the issue of the language of the proceedings and did not reject the Complainant's request.

The Panel is given discretion under Paragraph 11 of the Rules to determine the appropriate language of the administrative proceeding. Paragraph 10 of the Rules mentions that the Panel shall ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case. Based on the following factors, the Panel has decided that it would be fair and equitable to all parties to have the language of the proceedings be English:

- The Complaint was written in English, an international language comprehensible to a wide range of internet users worldwide, including those living in Denmark and in China;
- While determining the language of the administrative proceeding, the Panel has a duty to consider who would suffer the greatest inconvenience as a result of the Panel's determination. On the one hand, the determination of English as the language of this administrative proceeding – a widely spoken language – is unlikely to cause the Respondent any inconvenience. The determination of Chinese as the language of this administrative proceeding, on the other hand, is very likely to cause the Complainant inconvenience, and to interfere with the overall due expedition of the proceedings under the Rules. See Burberry Limited v Fei Cheng, CAC-UDRP-106643;
- The Complainant has requested that the language of the proceedings be English. The Respondent did not respond to reject the Complainant's request.

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 provides that in order to be entitled to a transfer of the disputed domain name; the Complainant shall prove the following three elements:

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

(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.

Based on the above regulations under the Policy, what the Panel needs to do is to find out whether each and all of the above-mentioned elements are established. If all three elements are established, the Panel will make a decision in favor of the Complainant. If the three elements are not established, the claims by the Complainant shall be rejected.

The Respondent did not submit a Response of any argument against what the Complainant claimed and to show his intention to retain the disputed domain name as required by the Policy and the Rules. If the Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the complaint. In view of the situation, the Panel cannot but make the decision based primarily upon the contentions and the accompanying exhibits by the Complainant, except otherwise there is an exhibit proving to the contrary.

I. Identity or Confusing Similarity

Pursuant to Paragraph 4(a) (i) of the Policy, a Complainant must prove that the domain name is identical with or confusingly similar to a trademark or service mark in which the Complainant has rights.

A. Complainant should have rights in a trademark or service mark

The Complainant has provided evidence of its ownership of registered trademark rights in the trademark ARLA in classes 1, 5, 29, 30, 31 and 32 in multiple jurisdictions, including Denmark, the European Union, China and other countries:

EU trademark registration No. 001520899, registered on May 7, 2001;

International trademark registration No. 731917, registered on March 20, 2000.

The trademarks are still valid at present and their registration dates predate the registration date of the disputed domain name, <aarla.com>, registered on March 31, 2024. The Complainant therefore has rights in ALAR trademark.

B. The disputed domain name should be identical or confusingly similar to the trademark or service mark

The disputed domain name contains the Complainant's trademark ARLA in its entirety with addition of letter “a”. Previous panels have found that the slight spelling variations does not prevent a domain name from being confusingly similar to the Complainant’s trademark. See Arcelormittal (SA) v. Whois Privacy Protection Foundation / Pingkee Hong, WIPO Case No. D2020-0044: “This misspelling in the disputed domain name, also referred as typosquatting, is insufficient to avoid a finding of confusing similarity”.

WIPO Overview 3.0, Paragraph 1.7 mentions: “In cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing”.

WIPO Overview 3.0, paragraph 1.9 states: “A domain name which consists of a common, obvious, or misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element..... Panels will normally find that employing a misspelling in this way signals an intention on the part of the respondent (typically corroborated by infringing website content) to confuse users seeking or expecting the complainant”.

As to the generic Top Level Domain “.com”, it is viewed as a standard registration requirement and as such can be disregarded for the purpose of assessing identity or confusing similarity. See WIPO Jurisprudential Overview 3.0, paragraph 1.11.1.

Therefore, the Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights according to paragraph 4(a)(i) of the Policy. Accordingly, the Complainant has proven that the first element required by paragraph 4(a) of the Policy is established.

II. Rights or Legitimate Interests of the Respondent

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name on the grounds:

- The Complainant has never granted the Respondent with any rights to use the ARLA trademarks in any form;
- The Respondent is not known by the disputed domain name or owns any corresponding trademark;
- When searching “aarla” on the popular Chinese Internet search engines, one of the top hit results relates to the Complainant and its business;
- The Respondent’s name does not correspond to the disputed domain name;
- When conducting trademark searches, no information is found in relation with trademarks corresponding to “aarla”;
- The Respondent hiding his identity in Registrar’s Whois means that he is not interested in being known by the disputed domain name.

Once the Complainant makes out a prima facie case that the Respondent lacks rights or legitimate interests, the burden of production on this element shifts to the Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name. If the Respondent fails to come forward with such relevant evidence, the Complainant is deemed to have satisfied the second element. See WIPO Jurisprudential Overview 3.0, paragraph 2.1.

Paragraph 4(c) of the Policy lists a number of circumstances which can be taken to demonstrate a respondent’s rights or legitimate interests in a domain name. However, the Respondent has failed to meet that burden. The Respondent did not submit any evidence to demonstrate any of the above circumstances.

Therefore, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name. Accordingly, the Complainant has proven that the second element required by paragraph 4(a) of the Policy is established.

III. Bad Faith

Paragraph 4(a)(iii) of the Policy provides that the disputed domain name has been registered and is being used in bad faith.

A. The disputed domain name has been registered in bad faith

The Panel finds that the Respondent had knowledge of the Complainant's trademark at the time of registration of the disputed domain name, considering the following circumstances:

- WIPO Jurisprudential Overview 3.0, paragraph 3.2.2 mentions: "Noting the near instantaneous and global reach of the Internet and search engines, and particularly in circumstances where the complainant's mark is widely known (including in its sector) or highly specific and a respondent cannot credibly claim to have been unaware of the mark (particularly in the case of domainers), panels have been prepared to infer that the respondent knew, or have found that the respondent should have known, that its registration would be identical or confusingly similar to a complainant's mark". The Panel believes that before registration of the disputed domain name, the Respondent had made searches for the wording ARLA and knew it was the trademark of the Complainant;

- ARLA trademark is well known as determined in several prior UDRP decisions. The Complainant also enjoys a strong online presence and is very active on social media platforms to promote its trademark, products and services. The Respondent should have knowledge of the Complainant's trademark;

- The Complainant has a strong business presence in China, where it sells its products and services through its subsidiaries: Arla Foods Amba based in Beijing, Arla Foods Ingredients, China, and Arla Foods Trading and Procurement Limited. To support its operations and connect with the Chinese market, the Complainant also owns the domain name <arla.com.cn>. The Respondent located in China should have knowledge of the Complainant's trademark.

In view of the above circumstances, the Panel holds that the Respondent had knowledge of the Complainant's trademark at the time of registration of the disputed domain name. As the domain name would cause confusion to internet users, it should have avoided the registration, which is considered as good faith, rather it registered the disputed domain name. The Respondent deliberately sought to cause such confusion. Accordingly, the Panel finds that the disputed domain name has been registered in bad faith.

Furthermore, previous panels have found that misspelling in the disputed domain name, also referred as typosquatting, is evidence of the bad faith registration. See Longs Drug Stores Cal., Inc. v. Shep Dog, WIPO Case No. D2004-1069: "Finding typosquatting to be evidence of bad faith domain name registration" and Lexar Media, Inc. v. Huang, WIPO Case No. D2004-1039: "Typosquatting has been held under the Policy to be evidence of bad faith registration of a domain name".

B. The disputed domain name is being used in bad faith

- Paragraph 4(b)(iv) of the Policy states that the following circumstance in particular shall be evidence of registration and use of a domain name in bad faith: By using the domain name, the respondent has intentionally attempted to attract, for commercial gain, internet users to its website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website or location or of a product or service on its website or location.

According to the above paragraph 4(b)(iv) of the Policy, the Complainant contends that the disputed domain name is being used in bad faith. The Panel supports the Complainant's contention. ARLA trademark is well known as determined in several prior UDRP decisions. See Arla Foods Amba v. Fredrik Enghall, WIPO Case No. D2016-1205 and Arla Foods Amba v. Nashan, CAC Case No. 101486. The Respondent knew ARLA is well known and the disputed domain name with ARLA trademark can easily attract internet users to visit its website, which could bring him commercial gain. In view of this, the Panel finds that the disputed domain name is being used in bad faith, which meets the circumstance mentioned in Paragraph 4(b)(iv).

- WIPO Overview 3.0, Paragraph 3.12: "Noting that noncommercial fair use without intent to tarnish a complainant's mark is a defense under the second element, using a domain name to tarnish a complainant's mark (e.g., by posting false or defamatory content, including for commercial purposes) may constitute evidence of a respondent's bad faith". UDRP Panels have consistently held that using a domain name incorporating another's trademark to host pornographic content constitutes tarnishment and clear evidence of bad faith, particularly where such use is intended for commercial gain. See Six Continents Hotels, Inc. v. Seweryn Nowak, WIPO Case No. D2003-0022: "the diversion of the domain names to a pornographic site is itself certainly consistent with the finding that the Domain Name was registered and is being used in bad faith".

- The Complainant contacted the Respondent repeatedly through cease-and-desist letter, advising the Respondent that the unauthorized use of its trademark within the disputed domain name violates its trademark rights and requesting for a voluntary transfer. The Respondent chose not to reply to these repeated attempts sent by the Complainant, which infers bad faith. See International Business Machines Corporation v. Adam Stevenson, Global Domain Services, WIPO case No. D2016-1695 and Carrefour v. PERFECT PRIVACY, LLC / Milen Radumilo, WIPO Case No. D2018-2201: "Further evidence of bad faith, as held by previous UDRP panels, is the failure of the Respondent to respond to the cease-and-desist letter sent by the Complainant".

Considering the above factors, the Panel finds that the disputed domain name is being used in bad faith. Regarding the Complainant's contention on bad faith, the Respondent should rebut it, but it did not make any response, which strengthened the

Panel's findings on its bad faith. In view of all above, the Panel finds that the disputed domain name has been registered and is being used in bad faith according to paragraph 4(a)(iii) of the Policy. Therefore, the Complainant has proven that the third element required by paragraph 4(a) of the Policy is established.

Decision

For all the foregoing reasons, in accordance with paragraph 4(a) of the Policy and Rule 15 of the Rules, the Panel orders that the disputed domain name <aalar.com > be transferred to the Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **aarla.com**: Transferred

PANELLISTS

Name	**Yunze Lian**

DATE OF PANEL DECISION 2025-12-24

Publish the Decision