

## **ADMINISTRATIVE PANEL DECISION**

Alfa Laval Corporate AB v. Privacy Service Provided by Withheld for Privacy ehf / nicholas friend, JDC worcetsr assosicates  
Case No. D2022-1494

### **1. The Parties**

The Complainant is Alfa Laval Corporate AB, Sweden, represented by Advokatbyrån Gulliksson AB, Sweden.

The Respondent is Privacy Service Provided by Withheld for Privacy ehf, Iceland / nicholas friend, JDC worcetsr assosicates, United States of America.

### **2. The Domain Name and Registrar**

The disputed domain name <alfarlaval.com> is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 26, 2022. On April 26, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same date, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on May 2, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on May 4, 2022.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on May 31, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 20, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 24, 2022.

The Center appointed Anna Carabelli as the sole panelist in this matter on June 30, 2022. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

#### **4. Factual Background**

The Complainant is a company based in Sweden operating a business in the field of heat transfer, separation and fluid handling across many industries, including marine, environment, pharma, hygienic, food and energy sectors. The business was established in 1883 under the company name AB Separator, which was changed to Alfa-Laval AB in 1963.

The Complainant holds a portfolio of registrations for the trademark ALFA LAVAL in various jurisdictions, including United States of America trademark registration number 0764251, registered on February 4, 1964 for a variety of goods in classes 6, 7, 8, 9, 11, 12, 16, 21 and 28.

The Complainant also owns multiple domain names incorporating the ALFA LAVAL trademark including the domain name <alfalaval.com> which redirects to the Complainant's main website.

The disputed domain name was registered on February 28, 2022 through a privacy proxy service. The disputed domain name does not resolve to an active website. The evidence in the Complaint is that the disputed domain name only leads to a webpage that states, "This site can't be reached".

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant asserts and contends that:

- The Complainant's trademark ALFA LAVAL has acquired and enjoys a significant reputation and goodwill, as recognized by previous UDRP panels.
- The disputed domain name is confusingly similar to the trademark ALFA LAVAL in which the Complainant has rights, since it incorporates the Complainant's trademark in its entirety. The addition of the letter "r" to the word "alfa" and of the generic Top-Level Domain ("gTLD") ".com" does not remove the similarity.
- The Respondent has no rights or legitimate interests in the disputed domain name. The Respondent has not acquired any trademark rights that could support a legitimate interest in the disputed domain name. Nor the Complainant has licensed or otherwise authorized the Respondent to use the trademark ALFA LAVAL. The Complainant also submits that there is no evidence of the Respondent making use of the disputed domain name for any active website and that such "passive holding" does not constitute any use in connection with a *bona fide* offering of goods or services.
- The disputed domain name was registered in bad faith. The Complainant's trademark is distinctive and well known and the Respondent did not choose to register the disputed domain name by accident.

- The disputed domain name is also being used in bad faith. The current inactive status of the disputed domain name does not prevent a finding of bad faith under the doctrine of passive holding.

## **B. Respondent**

The Respondent did not reply to the Complainant's contentions.

## **6. Discussion and Findings**

Paragraph 15(a) of the Rules instructs the Panel to decide the Complaint based on the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

Under paragraph 4(a) of the Policy, the Complainant must prove each of the following:

(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.

Paragraph 4(b) of the Policy sets out four illustrative circumstances, which for the purposes of paragraph 4(a)(iii) of the Policy, shall be evidence of registration and use of a domain name in bad faith.

Paragraph 4(c) of the Policy sets out three illustrative circumstances any one of which, if proved by the Respondent, shall be evidence of the Respondent's rights to or legitimate interests in the disputed domain name for the purpose of paragraph 4(a)(ii) of the Policy above.

### **A. Identical or Confusingly Similar**

The Panel finds that the Complainant has established rights over the trademark ALFA LAVAL based on the evidence submitted in the Complaint.

As highlighted in section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), the first element functions primarily as a standing requirement, and the threshold test for confusing similarity typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name.

In the present case, the ALFA LAVAL trademark of the Complainant is indeed recognizable in the disputed domain name, which incorporates the whole of the Complainant's registered mark. In the Panel's view, the addition of the letter "r" to the word "alfa" is a minor variation that would be easy for an Internet user to overlook and does not prevent a finding of confusing similarity when comparing the disputed domain name and the Complainant's trademark (see section 1.9 of the [WIPO Overview 3.0](#)).

The addition of the generic Top-Level Domain ("gTLD") ".com" is viewed as a standard registration requirement and as such is typically disregarded under the first element confusing similarity test. (See section 1.11 of the [WIPO Overview 3.0](#)).

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

## **B. Rights or Legitimate Interests**

The Complainant states that it has not authorized, licensed or permitted the Respondent to use the Complainant's trademark. The Complainant asserts that the Respondent cannot demonstrate any legitimate noncommercial or fair use of the disputed domain name as the disputed domain name is not resolving to an active website and merely leads to a webpage that states "This site can't be reached".

The Panel finds that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. As stressed by many previous UDRP decisions, in such a case the burden of production shifts to the Respondent to rebut the evidence (see [WIPO Overview 3.0](#), section 2.1).

By not submitting a response, the Respondent has failed to invoke any circumstance, which could have demonstrated any rights or legitimate interests in the disputed domain name under paragraph 4(c) of the Policy.

Therefore, the Panel finds that the Complainant has established paragraph 4(a)(ii) of the Policy.

## **C. Registered and Used in Bad Faith**

According to paragraph 4(a)(iii) of the Policy, the Complainant must establish that the disputed domain name has been registered and is being used in bad faith.

The disputed domain name incorporates the Complainant's trademark ALFA LAVAL. Given the well-established reputation of the Complainant's trademark (also recognized by previous UDRP panels, amongst others in *Alfa Laval Corporate AB v. Contact Privacy Inc. Customer 0148561631 / Erin Dickey, EDickey Ltd*, WIPO Case No. [D2017-1617](#); *Alfa Laval Corporate AB v. Withheld for Privacy Purposes, Privacy Service Provided by Withheld for Privacy ehf / Sunny Obed*, WIPO Case No. [D2021-2936](#)) it is not conceivable that the Respondent did not have in mind the Complainant's trademark when registering the disputed domain name. Such fact suggests that the disputed domain name was registered in bad faith (see section 3.2.2 of the [WIPO Overview 3.0](#)) with a deliberate intent to create an impression of an association with the Complainant.

As regards the use of the domain name, the currently inactive status of the disputed domain name does not prevent a finding of bad faith under the doctrine of passive holding. As stressed by many previous UDRP decisions, "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, (iii) the respondent's concealing its identity or use of false contact details, and (iv) the implausibility of any good faith use to which the domain name may be put." (see section 3.3 of the [WIPO Overview 3.0](#); *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)).

Each of these considerations points to the Respondent's passive holding of the disputed domain name being in bad faith in the circumstances of this case. Specifically: (i) the Complainant's trademark ALFA LAVAL is distinctive and well established, (ii) the Respondent has failed to submit a response to the Complaint or provide any evidence of good-faith use, (iii) the Respondent has taken steps to conceal its identity through use of a privacy proxy service, and (iv) given the composition of the disputed domain name, there is no conceivable good faith use to which it could be put by the Respondent.

For all the above reasons, the Panel finds that the disputed domain name was registered and is being used in bad faith by the Respondent.

Therefore, the Complainant has established also paragraph 4(a)(iii) of the Policy.

## **7. Decision**

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <alfarlaval.com> be transferred to the Complainant.

*/Anna Carabelli/*

**Anna Carabelli**

Sole Panelist Date: July 12, 2022