

ADMINISTRATIVE PANEL DECISION

Groupe Lactalis v. Lendvajova Tatiana

Case No. D2022-3164

1. The Parties

The Complainant is Groupe Lactalis, France, represented by Inlex IP Expertise, France.

The Respondent is Lendvajova Tatiana, Germany.

2. The Domain Names and Registrar

The disputed domain names <cei-lactalis.com> and <fr-lactalis.com> are both registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 26, 2022. On August 26, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On August 27, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names, which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on August 29, 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 August 29, 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 August 30, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 19, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 20, 2022.

The Center appointed Tobias Zuberbühler as the sole panelist in this matter on September 22, 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 French multinational group founded in 1933, active in the food and, in particular, the dairy industry.

The Complainant owns trademark registrations in various jurisdictions, including the French Trademark LACTALIS (Reg. No. 4438490, registered on March 20, 2018) and the European Union Trademark LACTALIS (device logo) (Reg. No. 017959526, registered on May 22, 2019).

The Complainant further holds the domain name <lactalis.com> under which the official website of the Complainant is available. The Complainant holds various other domain names incorporating the Complainant's trademark. The Complainant advertises and sells its services through its <lactalis.com> domain name.

The disputed domain names were both registered on May 20, 2022, and resolve to inactive pages.

Before initiating the present proceedings, the Complainant made some effort to settle the matter amicably. The Respondent did not reply to the Complainant's contact attempts.

5. Parties' Contentions

A. Complainant

The Complainant alleges that it has satisfied all elements of the Policy, paragraph 4.

B. Respondent

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

6. Discussion and Findings

Based on the facts and evidence introduced by the Complainant, and with regard to paragraphs 4(a), (b), and (c) of the Policy, the Panel concludes as follows:

A. Consolidation of the Proceedings

The Panel is empowered by paragraphs 3(c) and 10(e) of the Rules to consolidate multiple domain names in a single complaint on the basis that the domain names are registered by the same domain name holder. Pursuant to the information received from the Registrar in these proceedings, the disputed domain names have been registered by the same domain name holder.

In view of the above, the Panel determines that the disputed domain names shall be consolidated under this proceeding in accordance with paragraphs 3(c) and 10(e) of the Rules.

B. Identical or Confusingly Similar

The Complainant has submitted sufficient evidence to demonstrate its registered rights in the LACTALIS trademark.

The LACTALIS trademark is wholly reproduced in the disputed domain names.

A domain name is "identical or confusingly similar" to a trademark for the purposes of the Policy when the domain name includes the trademark, or a confusingly similar approximation, regardless of other terms in

the domain name (*Wal-Mart Stores, Inc. v. Richard MacLeod d/b/a For Sale*, WIPO Case No. [D2000-0662](#)). As stated in the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.8, “[w]here the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element.”. Hence, the Panel holds that the addition of the terms and hyphens “cei-” or “fr-” to the Complainant’s LACTALIS trademark does not prevent a finding of confusing similarity between the disputed domain names and the Complainant’s trademark.

The Complainant has thus fulfilled the requirements of paragraph 4(a)(i) of the Policy.

C. Rights or Legitimate Interests

There are no indications before the Panel of any rights or legitimate interests of the Respondent in respect of the disputed domain names. The Complainant contends that the Respondent is neither affiliated with the Complainant nor making any *bona fide* use of the disputed domain names.

The Panel notes that the term “lactalis” does not appear to have any dictionary meaning to justify the Respondent’s selection of the disputed domain names, but is a coined term. In any event, the disputed domain names are being passively held, as discussed further below under section D. See also section 2.10 of the [WIPO Overview 3.0](#).

Furthermore, the composition of the disputed domain names, wholly incorporating the Complainant’s trademark and the term “cei” or “fr”, cannot constitute fair use in these circumstances as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. See [WIPO Overview 3.0](#), section 2.5.1.

The Panel finds that the Complainant, having made out a *prima facie* case which remains unrebutted by the Respondent, has fulfilled the requirements of paragraph 4(a)(ii) of the Policy.

D. Registered and Used in Bad Faith

Panelists have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. The totality of the circumstances in each case will be examined, and 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 of 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 [WIPO Overview 3.0](#), section 3.3).

Under the circumstances of this case, including the composition of the disputed domain names and reputation of the Complainant’s trademark, the Panel finds that the Respondent was most likely aware of the Complainant’s trademark when registering the disputed domain names. The Panel notes that the added term “cei” may be interpreted as the French geographical acronym for the Commonwealth of Independent States (“Communauté des États indépendants”), wherein the Complainant owns multiple trademark registrations for its distinctive LACTALIS mark. Similarly, the geographic acronym “fr” designates the Complainant’s home country, France, further inferring the Respondent’s awareness and intent to target the Complainant through the registration of the disputed domain names. The Respondent has not submitted any response, and the Panel sees no plausible good faith use to which the disputed domain names may be put. Further, the Respondent seems to have provided false contact details when registering the disputed domain name, since the courier was unable to deliver the Center’s written communication to the contact details disclosed by the Registrar. Hence, the Panel finds it more likely than not that the Respondent was targeting the Complainant and the goodwill it has obtained for its trademark LACTALIS. The Panel notes that screening of trademark registrations is readily available through online databases (or by a mere Internet search) to avoid the registration of trademark-abusive domain names.

In the totality of circumstances of this case, the Panel finds that the Respondent has therefore registered and is using the disputed domain names in bad faith.

Accordingly, the Complainant has also fulfilled 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 names, <cei-lactalis.com> and <fr-lactalis.com>, be transferred to the Complainant.

/Tobias Zuberbühler/

Tobias Zuberbühler

Sole Panelist

Date: September 26, 2022