

ADMINISTRATIVE PANEL DECISION

Groupe Lactalis v. Name Redacted
Case No. D2022-3580

1. The Parties

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

The Respondent is Name Redacted¹.

2. The Domain Name and Registrar

The disputed domain name <lactaliscanada.org> is registered with Google LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 28, 2022. On September 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 (Contact Privacy Inc. Customer 7151571251). The Center sent an email communication to the Complainant on September 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 October 3, 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”).

¹ The Respondent appears to have used the name and/or contact details of a third party when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted the Respondent’s name from this decision. However, the Panel has attached as Annex 1 to this Decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this Decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST 12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceeding commenced on October 6, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 26, 2022. The Center received informal email communications from an email address recorded as the domain holder's email address on September 29, 30, October 3, 6, and 31, 2022. The Center sent a Commencement of Panel Appointment Process email to the Parties on October 31, 2022.

The Center appointed Sebastian M.W. Hughes as the sole panelist in this matter on November 4, 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

A. Complainant

The Complainant is a company headquartered in France and founded in 1933 and a leading player in the global dairy industry, operating under the trade mark LACTALIS (the "Trade Mark").

The Complainant is the owner of numerous registrations in jurisdictions worldwide for the Trade Mark, including European Union registration No. 017959526, with a registration date of May 22, 2019; and Canadian registration No. TMA920257, with a registration date of November 16, 2015.

The Complainant is also the owner of several domain names comprising the Trade Mark, including <lactalis.com>, <lactalis.eu>, <lactalis.org>, <lactalis.fr>, <lactalis.group>, and <lactalis.ca>.

B. Respondent

The identity of the Respondent is unknown.

C. The Disputed Domain Name

The disputed domain name was registered on May 12, 2022.

D. Passive Holding of the Disputed Domain Name

The disputed domain name is not resolved to an active web page.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is identical or confusingly similar to the Trade Mark; the Respondent has no rights or legitimate interests in respect of the disputed domain name; and the disputed domain name has been registered and is being used in bad faith.

B. Respondent

The Respondent did not reply to the Complainant's contentions. The Center received informal email communications from an email address recorded as the domain holder's email address on September 29, 30, October 3, 6, and 31, 2022.

6. Discussion and Findings

The Complainant must prove each of the three elements in paragraph 4(a) of the Policy in order to prevail.

A. Identical or Confusingly Similar

The Panel finds that the Complainant has rights in the Trade Mark acquired through use and registration.

The disputed domain name incorporates the entirety of the Trade Mark, followed by the word “canada” (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.7).

Where a relevant trade mark is recognisable within a disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity under the first element (see [WIPO Overview 3.0](#), section 1.8).

The Panel therefore finds that the disputed domain name is confusingly similar to the Trade Mark.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of non-exhaustive circumstances any of which is sufficient to demonstrate that a respondent has rights or legitimate interests in a 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 trade mark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark or service mark at issue.

The Complainant has not authorised, licensed, or permitted the Respondent to register or use the disputed domain name or to use the Trade Mark. The Panel finds on the record that there is therefore a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name, and the burden is thus on the Respondent to produce evidence to rebut this presumption.

The Respondent has failed to show that he has acquired any trade mark rights in respect of the disputed domain name or that the disputed domain name has been used in connection with a *bona fide* offering of goods or services. To the contrary, the disputed domain name has not been used.

There has been no evidence adduced to show that the Respondent has been commonly known by the disputed domain name; and there has been no evidence adduced to show that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name.

The Panel finds that the Respondent has failed to produce any evidence to rebut the Complainant’s *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

The disputed domain name was registered using a privacy service. The registrant name for the disputed domain name disclosed by the Registrar in its verification response is in fact the name of an employee of one of the Complainant’s subsidiaries in Canada. The Complainant has confirmed with this person that her

name has been impersonated by the Respondent in registering the disputed domain name.

Furthermore, the holder of the email address registered with the Registrar for the disputed domain name, in his several emails to the Center following notification of the Complaint, has asserted that he is not the owner of the disputed domain name and that the email address is incorrect.

In light of the above, and given also the notoriety of the Trade Mark in the global dairy industry, the distinctiveness of the Trade Mark and the confusing similarity between the Trade Mark and the disputed domain name, the Panel finds that the Respondent's use of a privacy service, impersonation of an employee of the Complainant's subsidiary and provision of false contact information to the Registrar amounts to bad faith registration and use (see [WIPO Overview 3.0](#), section 3.6)

Furthermore, in all the circumstances, the Respondent's non-use or passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy (see [WIPO Overview 3.0](#), section 3.3).

The Panel considers the Respondent was aware of the Complainant's Trade Mark at the time he registered the disputed domain name; and that in light of the inherently misleading nature of the disputed domain name, there cannot be any actual or contemplated good faith use of the disputed domain name by the Respondent.

For all the foregoing reasons, the Panel concludes that the disputed domain name has been registered and is being used in bad faith.

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, <lactaliscanada.org>, be transferred to the Complainant.

/Sebastian M.W. Hughes/

Sebastian M.W. Hughes

Sole Panelist

Dated: November 18, 2022