

## **ADMINISTRATIVE PANEL DECISION**

Alfa Laval Corporate AB v. VNET Informatique, Vincent Lagacé  
Case No. D2023-1972

### **1. The Parties**

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

The Respondent is VNET Informatique, Vincent Lagacé, Canada.

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

The disputed domain name <altalaval.org> is registered with NameSilo, LLC (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on May 3, 2023. On May 3, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 3, 2023, 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 (Redacted for Privacy, PrivacyGuardian.org llc) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 10, 2023 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 11, 2023.

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 26, 2023. From June 9, 2023 to August 9, 2023, the proceedings were suspended at the parties' request to provide the parties with an opportunity to explore a possible settlement. Following the termination of the suspension, in accordance with the Rules, paragraph 5, the due date for Response was August 15, 2023. The Respondent submitted an informal Response on July 13, 2023 but did not otherwise submit a formal Response.

The Center appointed Warwick A. Rothnie as the sole panelist in this matter on August 28, 2023. 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 well-established business operating around the world providing technologies and services for heat transfer, separation, gas, and fluid handling across many industries particularly in the marine, environment, pharma, hygienic, food, and energy sectors.

The business was originally founded in Sweden in 1883 and adopted the name Alfa-Laval AB in 1963.

The Complaint includes evidence that the Complainant holds a very large number trademarks registered around the world for ALFA LAVAL with the earliest registration dating from 1897: Swedish Registered Trademark No. 6089. A registration in the United States of America, Registered Trademark No. 764,251, was filed in 1962 and registered on February 4, 1964; a registration in Canada dates from 1996, Canadian Registered Trademark No. TMA498490, specifying International Classes 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 14, 16, 19, 35, 37, 40, 41, 42, 43, and 44 and, amongst others, a registration in the European Union, EUTM No. 003481702, was filed in 2003 and formally registered on March 3, 2005.

According to the Whois report, the disputed domain name was registered on March 15, 2023. The disputed domain name does not resolve to an active website.

The Respondent appears to be an IT services provider based in Quebec, Canada.

In its informal Response, the Respondent claims to have registered the disputed domain name for a client which it identifies as ALTA Laval. According to the Respondent, the client is a non-profit organisation that provides transportation services for handicapped individuals.

Laval is one of the 17 administrative regions of Quebec, Canada and, according to the Response, the third most populous city in the province of Quebec.

#### **5. Discussion and Findings**

Paragraph 4(a) of the Policy provides that in order to divest the Respondent of the disputed domain name, the Complainant must demonstrate 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; 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.

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

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

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

There are two parts to this inquiry: the Complainant must demonstrate that it has rights in a trademark at the date the Complaint was filed and, if so, the disputed domain name must be shown to be identical or confusingly similar to the trademark.

The Complainant has proven ownership of a very large number of registered trademarks around the world for ALFA LAVAL.

As numerous decisions under the Policy have previously found, the Complainant's trademark is very well-known in its field.

The second stage of this inquiry simply requires a visual and aural comparison of the disputed domain name to the proven trademarks. This test is narrower than and thus different to the question of "likelihood of confusion" under trademark law. Therefore, questions such as the scope of the trademark rights, the geographical location of the respective parties and other considerations that may be relevant to an assessment of infringement under trademark law are not relevant at this stage. Such matters, if relevant, may fall for consideration under the other elements of the Policy. See *e.g.*, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([WIPO Overview 3.0](#)), section 1.7.

In undertaking that comparison, it is permissible in the present circumstances to disregard the generic Top-Level Domain ("gTLD") component as a functional aspect of the domain name system. See *e.g.*, [WIPO Overview 3.0](#), section 1.11.

Disregarding the ".org" gTLD, the disputed domain name consists of the Complainant's registered trademark with the letter "t" in place of the letter "f". That kind of substitution can easily be mistaken for the Complainant's trademark. Indeed, both letters are typed with the same finger when using a standard QWERTY keyboard. See *e.g.*, [WIPO Overview 3.0](#), section 1.9. Accordingly, the Complainant's trademark remains visually and aurally recognisable within the disputed domain name.

As a result, the Panel finds that the Complainant has established that the disputed domain name is confusingly similar to the Complainant's trademark and the requirement under the first limb of the Policy is satisfied.

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

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a 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 domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

In the present case, the Complainant contends that the disputed domain name is not derived from the Respondent's name; the Respondent is not licensed by or otherwise associated with the Complainant and does not appear to be using the disputed domain name in connection with a good faith offering of goods or services.

The Complainant's search of the WIPO Global Brand Database has not disclosed any trademark registrations or pending applications for ALTA LAVAL.

The Complainant further contends that, having regard to the renown of its trademark ALFA LAVAL around the world, the Complainant has exclusive rights in the trademark and the Respondent could not legitimately conduct activities under the highly similar name “Alta Laval” without infringing the Complainant’s rights.

The Respondent claims, however, that it registered the disputed domain name for a client, ALTA Laval, which provides transportation services for handicapped individuals in Laval, which is the name of an administrative region and city in Quebec Canada.

The Respondent has not provided corroboration that it was acting on behalf of such a client.

As noted above, the Respondent appears to be an IT services provider.

Further, a simple Internet search conducted by the Panel of “Alta Laval” does return numerous results for the Complainant’s business. However, it also features a result in the right hand “featured” pane for Association Lavalloise pour le Transport Adapté (ALTA), described as a non-profit organization in Laval, Canada.

The search result includes a link to that organisation’s website at “www.altalaval.ca”. The website claims that the association was founded in 1987 and was formed to defend the rights and promote the interests of handicapped users of transport. The website also invites users to contact the organization through an email address “[ ]@altalaval-ass.org”.

It is at least theoretically possible that this is all a ruse and that the Respondent is not associated with the Quebec Laval organization and it would certainly have been prudent for the self-represented Respondent to provide some correspondence or other documentary corroboration of the relationship with that organisation.

On the other hand, there are objectively verifiable facts that there is a place in Quebec called Laval and there is a non-profit organization in Laval, Canada that uses both the acronym ALTA and, at least in domain names, “Alta Laval”.

Moreover, contrary to the Complainant’s submission, it is plausible that such an organization could use its name and acronyms in connection with its services without infringing the Complainant’s rights.

Registration of a domain name on behalf of such an organization by an IT services business of the kind the Respondent appears to provide is not implausible. In addition, there is no suggestion in the record in this case that the Respondent has a history of targeting or stockpiling third parties’ trademarks.

In these circumstances, there does not appear to be a sufficient basis to disregard the Respondent’s claims that it registered the disputed domain name for an organisation which appears to have rights or a legitimate interest in using the disputed domain name.

Accordingly, the Panel finds that on the balance of probabilities and having regard to all the known circumstances the Complainant has not established that the Respondent does not have rights or a legitimate interest in the disputed domain name insofar as the Respondent appears to have registered the disputed domain name on behalf of the Laval Canada organisation.

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

In the circumstances, there is no value in considering whether the third element under the Policy has been satisfied as the Complaint must fail in any event.

## 7. Decision

For the foregoing reasons, the Complaint is denied.

*/Warwick A. Rothnie/*

**Warwick A. Rothnie**

Sole Panelist

Date: September 4, 2023