

ADMINISTRATIVE PANEL DECISION

Laverana GmbH & Co. KG v. Caviera Finland, Lavera Zurich; Maria Gabriela Rota, Von Meyer; Privacy Protected, Privacy Protected by Hostnet
Case No. D2023-3522

1. The Parties

The Complainant is Laverana GmbH & Co. KG, Germany, represented by Boehmert & Boehmert, Germany.

The Respondents are Caviera Finland, Lavera Zurich, Maria Gabriela Rota, Von Meyer, and Privacy Protected, Privacy Protected by Hostnet, Netherlands (Kingdom of the).

2. The Domain Names and Registrar

The disputed domain names <lavera-schweiz.com>, <lavera-suomi.com>, and <lavera-zurich.com> are registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 21, 2023, regarding the two disputed domain names <lavera-schweiz.com> and <lavera-zurich.com>. On August 21, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On August 21, 2023, 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 Respondents (Contact Privacy Inc. Customer 0167688828 & 0167026101) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 25, 2023. The Complainant filed an amendment to the Complaint on August 28, 2023, and requested consolidation of the Respondents. On August 29, 2023, the Complainant filed a request that the disputed domain name <lavera-suomi.com> be included in the Complaint and that Respondents be consolidated as well.

The Center verified that the Complaint together with the amendment to the 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 Respondents of the Complaint, and the proceedings commenced on September 18, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 8, 2023. The Respondents did not submit any response to the Center, but the Registrar did forward a chain of emails on September 22, 2023, from a third party apparently claiming ownership of the disputed domain names <lavera-suomi.com> and <lavera-zurich.com>. Accordingly, the Center notified the Parties of the commencement of the panel appointment process on October 18, 2023.

The Center appointed Andrea Mondini as the sole panelist in this matter on October 24, 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, Laverana GmbH & Co. KG, is a German company specializing in natural cosmetics since 1987.

The Complainant owns numerous trademark registrations for LAVERA as a word mark in many jurisdictions throughout the world, including:

- International Registration No. 518849, registered on January 11, 1988, designating numerous countries, including Switzerland;
- European Union Trade Mark No. 004098679, registered on February 25, 2008;
- German Trade mark No. 1087216, registered on January 29, 1986.

In addition to natural cosmetics, the Complainant's European and German trademarks also claim protection for clothing and related products (e.g., clothing, t-shirts, headgear, bathrobes and so on) under the LAVERA trademark.

The Complainant also holds the domain name <lavera.com> that resolves to its official website.

The disputed domain names <lavera-zurich.com>, <lavera-suomi.com>, and <lavera-schweiz.com> were registered on April 14 and 30, 2023, and June 28, 2023, respectively.

The record shows that the disputed domain name <lavera-zurich.com> redirects to the other disputed domain name <lavera-schweiz.com> which resolves to an online shop in Finnish offering clothing, footwear, and cosmetics. The Complainant's trademark is used several times on this website. Furthermore, the other disputed domain name, <lavera-suomi.com>, also resolves to a similar online shop in Finnish.

5. Parties' Contentions

A. Complainant

The Complainant contends as follows:

The disputed domain names are identical or confusingly similar to the LAVERA trademark in which the Complainant has rights, because they incorporate this trademark in its entirety. The addition of geographic terms such as "Zurich", "Suomi" and "Schweiz" is insufficient to eliminate the likelihood of confusion. It is also well established that the generic Top-Level Domain ("gTLD"), such as ".com," in a disputed domain name is disregarded.

As further provided below, the Complainant requests consolidation of the multiple Respondents, thus addressing them in the singular as the “Respondent”. The Respondent has no rights or legitimate interests in respect of the disputed domain name. The LAVERA trademark is associated with the Complainant, since it has been extensively used to identify the Complainant and its products. The Respondent has not been authorized by the Complainant to use this trademark, is not commonly known by the disputed domain names, and there is no evidence of the Respondent’s use, or demonstrable preparation to use, the disputed domain names in connection with a *bona fide* offering of goods and services. On the contrary, the Respondent’s websites posted under the disputed domain names create the false impression of a commercial relationship with the Complainant which in fact does not exist.

The disputed domain names were registered in bad faith because it is obvious that the Respondent was aware of both the Complainant and its well-known LAVERA trademark at the time it registered the disputed domain names.

The disputed domain names are being used in bad faith because, at first glance, the websites posted under the disputed domain names give the impression of being an online shop operated with the consent of the Complainant. However, as several customer reviews, news articles and consumer warnings show, these are fraudulent websites offering goods of inferior quality and failing to provide refunds. By using the disputed domain names, the Respondent has thus intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship or affiliation of the Respondent’s website.

B. Respondents

The Respondents did not reply to the Complainant’s contentions. In the forwarded email chain from the Registrar, a third party claiming use of the disputed domain names was notified by the Registrar of these proceedings and expressed its intent to stop using the disputed domain names.

6. Discussion and Findings

6.1 Procedural Issue – Subsequent Addition of a Domain Name and Consolidation of Multiple Respondents

On August 29, 2023, the Complainant filed a request that the disputed domain name <lavera-suomi.com> be included in the Complaint. Because (i) at that point in time the Respondents have not yet been notified of the Complaint and the proceedings had not yet formally commenced, and (ii) the addition involves the same trademark, the subsequent addition of this disputed domain name is admissible. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.12.1.

The Complainant requested the consolidation of the Respondents. [WIPO Overview 3.0](#), section 4.11.2 provides that “Where a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario.”

Based on the available record, the Panel notes that all disputed domain names are of similar composition, resolve to similar web shops, and that one of the disputed domain names redirects to the website hosted at another disputed domain name. The Panel further notes that the Respondents have raised no objection to the Complainant’s request for consolidation and that a single third party responded to the Registrar’s email concerning these proceedings, expressing its use of the disputed domain names.

Considering the above, the Panel finds that it is more likely than not that the disputed domain names are subject to the common control, and that consolidation would be fair and equitable to all Parties and enhance efficiency. Therefore, the Panel grants the Complainant's consolidation request and will address the Respondents as the "Respondent" going forward.

6.2 Substantive issues

According to paragraph 4(a) of the Policy, in order to succeed, a complainant must establish each of the following elements:

- (i) the disputed domain name is identical or confusingly similar to the 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.

A. Identical or Confusingly Similar

The Panel is satisfied that the Complainant has trademark rights by virtue of the registrations it owns for its LAVERA trademark.

The Panel notes that the disputed domain names incorporate the LAVERA trademark in its entirety. The addition of geographic terms such as "Zurich", "Suomi", and "Schweiz" does not prevent a finding of confusing similarity under the Policy, paragraph 4(a)(i). [WIPO Overview 3.0](#), section 1.8.

The addition of the gTLD ".com" in the disputed domain names are a standard registration requirement and as such is disregarded under the confusing similarity test under the Policy, paragraph 4(a)(i). See [WIPO Overview 3.0](#), section 1.11.1.

For these reasons, the Panel concludes that the disputed domain names are confusingly similar to the Complainant's LAVERA trademark.

The first element of paragraph 4(a)(i) of the Policy has been met.

B. Rights or Legitimate Interests

The Complainant states that the Respondent is not commonly known by the dispute domain names, that it has not authorized the Respondent to use the LAVERA trademark and that before notice of the dispute, there is no evidence of the Respondent's use, or demonstrable preparation to use, the disputed domain names in good faith. On the contrary, the Complainant has shown that the Respondent's web shops operated under the disputed domain names do not disclose the correct identity of the Respondent but create the false impression of being affiliated with the Complainant. Moreover, the Complainant has also furnished evidence of Internet users' actual confusion whereby said users complain about inferior quality and a lack of refunds, reinforcing the apparent fraudulent nature of the disputed domain names.

In the view of the Panel, the Complainant has succeeded in raising a *prima facie* case that the Respondents lacks rights or legitimate interests in the disputed domain names. For its part, the Respondents did not provide a Response and thus failed to provide any explanations as to any rights or legitimate interests.

Therefore, the Panel finds that the Respondents do not have any rights or legitimate interests in the disputed domain names.

The second element of paragraph 4(a)(ii) of the Policy has been met.

C. Registered and Used in Bad Faith

The Complainant has shown to the satisfaction of the Panel that its LAVERA trademarks is well known.

In the view of the Panel, noting that the Complainant's trademark predates the registration of the disputed domain names and the nature of the disputed domain names, and that the web shops operated under the disputed domain names also offer cosmetics, it is inconceivable that the Respondents could have registered the disputed domain names without knowledge of the Complainant's well-known trademark. In the circumstances of this case, this is evidence of registration in bad faith.

The Complainant has shown that the websites posted under the disputed domain names resolve to web shops using the Complainant's trademark creating the impression of a commercial relationship with the Complainant which in fact does not exist. The Complainant has submitted several customer reviews, a news article, and consumer warnings showing that these web shops offer goods of inferior quality and fail to provide refunds. The Panel thus finds that by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its websites by creating a likelihood of confusion as to the source, sponsorship or affiliation of its website in the sense of paragraph 4(b) (iv) of the Policy.

The Panel thus finds that the disputed domain names were registered and are being used in bad faith.

The third element of paragraph 4(a)(iii) of the Policy has been met.

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, <lavera-zurich.com>, <lavera-suomi.com>, and <lavera-schweiz.com>, be transferred to the Complainant.

/Andrea Mondini/

Andrea Mondini

Sole Panelist

Date: November 7 , 2023