

ADMINISTRATIVE PANEL DECISION

SoletLuna Holdings, Inc., LifeWave, Inc. v. Ivan Jose Gomez Matos,
Ivannutritions

Case No. D2024-4542

1. The Parties

The Complainants are SoletLuna Holdings, Inc. and LifeWave, Inc., both United States of America (“United States”), represented by ARC IP Law, P.C, United States (hereinafter the “Complainant”).

The Respondent is Ivan Jose Gomez Matos, Ivannutritions, the Dominican Republic.

2. The Domain Name and Registrar

The disputed domain name <lifewave.lat> (the “Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 5, 2024. On November 6, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On November 7, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Namecheap, Inc.) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 8, 2024, 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 November 13, 2024.

The Center verified that the Complaint together with the amendment to 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 November 18, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 30, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 20, 2024.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on January 16, 2025. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant, "LifeWave", has assigned the full right and title to its LIFEWAVE trademarks to the Complainant, "SoletLuna". In turn, SoletLuna and LifeWave have entered into a licensing agreement whereby LifeWave has the right to use the trademarks assigned to SoletLuna and handle the enforcement of these trademarks against any third party. Accordingly, given their common rights, both SoletLuna and LifeWave will hereinafter be referred to as the "Complainant".

Under the LIFEWAVE brand, the Complainant promotes goods and services, including non-transdermal adhesive patches, both in the United States and Internationally.

The Complainant owns numerous trademark registrations for LIFEWAVE, such as United States trademark registration number 5285572 registered on September 12, 2017, in class 10.

The Respondent registered the Domain Name on September 17, 2024. The Complainant has documented that the Domain Name has resolved to a webpage with pay-per click advertisements for various goods and services including patches sold by the Complainant. At the time of drafting the Decision, the Domain Name resolved to an error page.

5. Parties' Contentions

A. Complainants

The Complainant provides evidence of trademark registrations and argues that the trademark is known worldwide.

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the Domain Name. The Respondent has not used the Domain Name, or a name corresponding to the Domain Name in connection with a bona fide offering of goods or services. The Respondent misleadingly diverts consumers and devalues the LIFEWAVE trademark for its personal gain.

The Complainant argues that by registering the Domain Name, the Respondent intentionally created a likelihood of confusion with the Complainant's trademark as to source, sponsorship, affiliation, or endorsement. The Complainant believes the Respondent's use and registration of the Domain Name is a blatant attempt to trade on the goodwill of the Complainants' mark.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the Domain Name. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has established that it has rights in the trademark LIFEWAVE. The Domain Name is identical to the Complainant's trademark. For the purpose of assessing the confusing similarity under paragraph 4(a)(i) of the Policy, the Panel may ignore the generic Top-Level-Domain (gTLD); see [WIPO Overview 3.0](#), section 1.11.1.

Based on the available record, the Panel finds the first element of the Policy has been established.

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. If the respondent fails to come forward with relevant evidence, the complainant is deemed to have satisfied the second element. See [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the Domain Name. The Respondent has not rebutted the Complainant's showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Domain Name. Based on the record, the Respondent is not affiliated with or related to the Complainant. There is no evidence that the Respondent has registered the Domain Name as a trademark or acquired trademark rights. There is no evidence of the Respondent's use of, or demonstrable preparations to use, the Domain Name in connection with a bona fide offering of goods or services. The Respondent's use of the Domain Name for pay-per click advertisements, as described above, is not bona fide, but rather evidence of bad faith, see below.

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

The fact that the Domain Name is identical to the Complainant's prior registered trademark makes it probable that the Respondent was aware of the Complainant when the Respondent registered the Domain Name.

Based on the use of the Domain Name, it appears that the Respondent is intentionally creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website.

For the reasons set out above, the Panel concludes that the Domain Name was registered and is being used in bad faith, within the meaning of paragraph 4(a)(iii) of the Policy.

The third element of the Policy has been established.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders the Domain Name <lifewave.lat> transferred to the Complainant.

/Mathias Lilleengen/

Mathias Lilleengen

Sole Panelist

Date: January 27, 2025