

ADMINISTRATIVE PANEL DECISION

Läderach (Schweiz) AG v. Host Master, Transure Enterprise Ltd
Case No. D2023-3001

1. The Parties

The Complainant is Läderach (Schweiz) AG, Switzerland, represented by Cosmovici Intellectual Property Sarl, Switzerland.

The Respondent is Host Master, Transure Enterprise Ltd, United States of America ("United States").

2. The Domain Name and Registrar

The disputed domain name <laderach-ch.com> is registered with Above.com, PTY LTD. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on July 13, 2023. On July 13, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 14, 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 (UNKNOWN) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 19, 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 amendment to the Complaint on July 19, 2023.

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 Respondent of the Complaint, and the proceedings commenced on July 26, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 15, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 16, 2023.

The Center appointed Knud Wallberg as the sole panelist in this matter on August 25, 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 Swiss company, leader in the manufacturing of fresh premium chocolate since 1962. Its premium chocolate is now sold in more than 100 Läderach chocolateries stores with sales locations in 15 countries such as Switzerland, Germany, Austria, the United Kingdom, the United States and Canada, as well as via franchise partners in the Middle East and Asia.

The Complainant holds trademark registrations for the mark LÄDERACH or registrations that include the mark LÄDERACH a number of jurisdictions, such as the following:

- European Union Trade Mark registration No. 005032371 for the word LÄDERACH, registered on April 18, 2007, and covering goods in international class 30;
- International Trademark registration 1196728 of the mark LÄDERACH PROFESSIONAL, registered on February 14, 2014, for goods in international class 30 and designating *inter alia* the United States; and
- Benelux Trademark registration No. 981349 of the mark LÄDERACH, registered on September 9, 2015, for goods in international class 30.

The Complainant is also the owner of a number of domain name registrations containing the LÄDERACH mark including <laderach.com>, <laderach.swiss>, <laderach.co.jp> and <laderach.com>.

The disputed domain name was registered on April 13, 2023. At the time of the filing of the Complaint, the disputed domain name was used for a website that contained pay-per-click ("PPC") links to third party websites.

5. Parties' Contentions

A. Complainant

The Complainant contends, that the disputed domain name <laderach-ch.com> is confusingly similar to LÄDERACH mark since it incorporates the complete mark with the appended letters "ch", which serves to enhance the Swiss identity and establish a connection to the Complainant's origin.

The Complainant further contends that the Complainant has not licensed or otherwise permitted the Respondent to use any of its trademarks, nor has it licensed or otherwise permitted the Respondent to apply for or use any domain names incorporating any of those marks, just as there is not and has never been any association between the Respondent and the Complainant. Consequently, the Respondent holds no legitimate and/or *bona fide* interest in the use of the disputed domain name, and it is evident that the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name, but instead, aims at commercial gain by using the disputed domain name in a PPC campaign.

The Complainant finally contends that since the LÄDERACH trademarks significantly predate the registration of the disputed domain name and since the Complainant has a strong business position worldwide, the Respondent must have been aware of the Complainant's trademarks at the time of registration. By using the disputed domain name for a website that contains PPC-links to third party websites it is also evident that the Respondent has used the disputed domain name in bad faith, since the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trademarks, and the notorious name LÄDERACH, as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service offered on the Respondent's website or location.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

Based on the available record, the Panel finds the Complainant has shown rights in respect the trademark LÄDERACH for the purposes of the Policy. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.2.1.

The Panel further finds that this mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark LÄDERACH mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7

While the addition of other terms, here the country code for Switzerland "ch", may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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

B. Rights or Legitimate Interests

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 disputed domain name. The Respondent has not rebutted the Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name.

The Panel considers that the record of this case reflects that: the Respondent is not 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 trademark or service mark at issue. Paragraph 4(c)(iii) of the Policy, and [WIPO Overview 3.0](#), section 2.4. Rather, the Respondent has used said disputed domain name to host a PPC landing page wherein the Respondent presumably earns click-through revenue from the unsuspecting Internet users misled to the disputed domain name by virtue of the implied affiliation with the Complainant.

Based on the available record, the Panel finds that 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 Panel considers that the record of this case reflects that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its web sites or other on-line location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's web site or location or of a product or service on the Respondent's web site or location. Paragraph 4(b)(iv) of the Policy, and [WIPO Overview 3.0](#), section 3.1.4.

Based on the available record, the Panel finds that 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 that the disputed domain name <laderach-ch.com> be transferred to the Complainant.

/Knud Wallberg/

Knud Wallberg

Sole Panelist

Date: September 11, 2023