

ADMINISTRATIVE PANEL DECISION

Lassonde Industries Inc. v. Wambuga Nelson
Case No. D2023-3722

1. The Parties

The Complainant is Lassonde Industries Inc., Canada, represented by BCF LLP, Canada.

The Respondent is Wambuga Nelson, Uganda.

2. The Domain Name(s) and Registrar(s)

The disputed domain name(s) <lassonde-industries.com> is registered with NameCheap, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on September 1, 2023. On September 6, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name(s). On September 6, 2023, the Registrar transmitted by email to the Center its verification disclosing registrant and contact information for the disputed domain name(s) which differed from the named Respondent (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 11, 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 September 11, 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 September 20, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 10, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 13, 2023.

The Center appointed Fabrizio Bedarida as the sole panelist in this matter on October 18, 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 in this proceeding is a leading North American company in the development, production and sale of juices and fruit and vegetable beverages and other food products, and has operated under the trade name Lassonde Industries Inc. since 1981. Its predecessors in title have used the LASSONDE trade name and trademark since 1918.

The Complainant is, *inter alia*, the owner of:

- Canadian trademark registration number TMA659894 for the LASSONDE (device) trademark, registered on March 1, 2006.
- Canadian trademark registration number TMA659826 for the LASSONDE (device) trademark, registered on February 28, 2006.
- Canadian trademark registration number TMA694085 for the LASSONDE (device) trademark, registered on August 15, 2007.

The disputed domain name was registered on November 2, 2022.

The disputed domain name redirects Internet users to the Complainant's website, "www.lassonde.com".

The Complainant's trademark registrations predate the registration of the disputed domain name.

5. Parties' Contentions

A. Complainant

The Complainant claims that:

- (a) The disputed domain name wholly incorporates and is confusingly similar to the Complainant's trademark;
- (b) The Respondent lacks any rights or legitimate rights in the disputed domain name; and
- (c) The Respondent has registered and is using the disputed domain name in bad faith.

B. Respondent

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

6. Discussion and Findings

In order for the Complainant to obtain the transfer of the disputed domain name, paragraphs 4(a)(i)-(iii) of the Policy require that the Complainant must demonstrate to the Panel that:

- (i) the disputed domain name is identical or confusingly similar to a 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 Complainant has established rights in the LASSONDE trademarks.

The disputed domain name consists of the LASSONDE trademark combined with a hyphen and the term “industries”.

The Panel agrees with the Complainant’s assertion that the LASSONDE trademark is clearly recognizable within the disputed domain name.

The addition of the above-indicated elements in the disputed domain name does not prevent a finding of confusing similarity between the Complainant’s trademark and the disputed domain name. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.8: “Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element”.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

This Panel finds that the Complainant has made a *prima facie* case that the Respondent does not have rights or legitimate interests in the disputed domain name. The Respondent has no connection or affiliation with the Complainant and the Complainant has not licensed or otherwise authorized the Respondent to use or register any domain name incorporating the Complainant’s trademark. The Respondent does not appear to engage in any legitimate noncommercial or fair use of the disputed domain name, nor any use in connection with a *bona fide* offering of goods or services, but is rather misrepresenting itself as the Complainant for apparent fraudulent purposes. In addition, the Respondent does not appear to be commonly known by the disputed domain name or by a similar name. The Respondent has not formally replied to the Complainant’s contentions, claiming any rights or legitimate interests in the disputed domain name.

Moreover, the fact that the disputed domain name consists of the expression “Lassonde Industries” and redirects to the Complainant’s official website carries with it a risk of implied affiliation, potentially conveying to unsuspecting Internet users the false belief that any website related thereto would be associated with or endorsed by the Complainant.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy

C. Registered and Used in Bad Faith

The Panel, on the basis of the evidence presented, accepts and agrees with the Complainant’s contentions that the disputed domain name was registered and has been used in bad faith.

The Panel is of the opinion that the Respondent was aware of the Complainant’s trademark registrations and rights to the LASSONDE mark when it registered the disputed domain name.

Clear inference that the Respondent was aware of the Complainant’s trademark is given by the fact that the disputed domain name redirects to the Complainant’s official website, “www.lassonde.com”.

Further inference that the Respondent registered the disputed domain name with the Complainant's trademark in mind is given by the fact that the Respondent uses the disputed domain name as part of an email address to send fraudulent emails in which the Respondent presents itself as Lassonde Industries Inc. (*i.e.*, the Complainant). In these emails, the Respondent also uses the Complainant's trademark LASSONDE, the Complainant's logo, the Complainant's trade name, and even its corporate postal address in Canada.

Hence, the registration of the disputed domain name cannot be seen as a coincidence, and on the contrary it indicates that the Respondent knew of the Complainant's mark and intentionally intended to create an association with the Complainant and its business at the time of the registration of the disputed domain name.

The fact that the Respondent is using the disputed domain name as part of a misleading email address to send fraudulent emails to potential clients and/or suppliers of the Complainant in order to present itself as the Complainant is therefore clear evidence of bad faith use of the disputed domain name.

Accordingly, the Panel finds, based on the evidence presented, that the Respondent registered and is using the disputed domain name in bad faith. Therefore, the Complainant has satisfied paragraph 4(a)(iii) of the Policy.

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, <lassonde-industries.com> be transferred to the Complainant.

/Fabrizio Bedarida/

Fabrizio Bedarida

Sole Panelist

Date: November 1, 2023