

## **ADMINISTRATIVE PANEL DECISION**

Alfa Laval Corporate AB v. Hojin Ham  
Case No. D2024-2180

### **1. The Parties**

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

The Respondent is Hojin Ham, United States of America ("United States").

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

The disputed domain name <alfalavali.com> is registered with GoDaddy.com, LLC (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on May 28, 2024. On May 31, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 1, 2024, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 3, 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 June 4, 2024.

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 June 7, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 27, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 28, 2024.

The Center appointed Warwick Smith as the sole panelist in this matter on July 11, 2024. 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 Swedish-based corporation, that supplies goods and provides services internationally in the (technology-based) fields of heat transfer, separation and gas and fluid handling. According to the Wikipedia entry for Alfa Laval which the Complainant produced, the Complainant supplies specialized products and solutions for heavy industry, including products used to heat, cool, separate and transport such products as oil, water, chemicals, beverages, foodstuffs, starch and pharmaceuticals.

The Complainant's business was established in Sweden in 1883, and since then it has become a major international player in the supply of products to large-scale business operations, including those engaged in the marine, energy, and food production fields. By 2016, the Complainant had established subsidiary companies in 35 countries around the world, including both China and the United States, and it had a global workforce of over 17, 000. Its global revenue in 2016 was reported to be approximately USD 4.715 billion.

The Wikipedia entry produced by the Complainant states that Alfa Laval has been present in the United States, where the Respondent appears to reside, for over 130 years. It markets and supplies a broad range of heat exchangers, separators, decanters, pumps, tank cleaning devices, valves and fittings to customers in a wide range of market segments in the United States, and it employs around 700 people in 15 different locations in the United States.

The Complainant registered the trade mark ALFA LAVAL in Sweden in 1897, and it has operated under the name "Alfa Laval" as a main trade mark and company name ever since. The Complainant says that its ALFA LAVAL mark has been extensively used for over 100 years, and that it is now one of the most famous and well-known trade marks in the above-mentioned business sectors. In support of that contention, the Complainant produced a copy of a report of a survey carried out in Sweden in May 2014, which showed a 90 per cent level of awareness of the ALFA LAVAL mark among the Swedish companies that were surveyed (being a mix of companies engaged in industries such as manufacturing, agriculture forestry and fishing, mining, construction, and utilities supply). Further in support of the international reputation of its ALFA LAVAL mark, the Complainant produced a copy of a 2011 civil judgment of the Intermediate People's Court of Nanjing City, China, in which the Complainant was the plaintiff. From the English translation provided by the Complainant, it appears that the judgment was given in a trade mark infringement proceeding brought by the Complainant, and that the Court found that the Complainant's ALFA LAVAL mark "enjoys a high reputation in respect of the approved products and services and when it is used as a trade mark or service name within the approved scope of business." The Complainant also cited a number of WIPO domain name decisions in which it has been the Complainant, in which its ALFA LAVAL mark has been held to be well-known.

The Complainant produced an extract from a global trade mark database, showing that it holds over 200 registrations of its ALFA LAVAL mark, many of them international registrations with designations worldwide, including, inter alia, ALFA LAVAL United States trade mark registered on October 1, 2013, under No. Registration 4408991. This registration covers a wide range of goods in International Classes 1, 3, 5, 6, 7, 9, 11, 14, 18, 21, 25, 28, and 37. Secondly, the Complainant registered the trade mark in the European Union on November 9, 2011, under Registration No. 1111236. This registration covers various goods in International Classes 1, 3, 5, 6, 7, 9, 11, 21, 25, 28, and 37.

The Complainant also operates multiple domain names that incorporate its ALFA LAVAL mark. Its principal website and main online marketing portal is at the domain name <alfalaval.com>, but it has also registered numerous other Top Level Domains consisting primarily of its ALFA LAVAL mark, including <alfalaval.us>.

The Complainant has no relationship with the Respondent, and it has been unable to find evidence of any bona fide offering of goods or services under the disputed domain name. The disputed domain name does not appear to have been used by the Respondent – as at the date of the complaint, it resolved to a parking page operated free by the Registrar. The Complainant's search of the WIPO Global Brand database revealed no trade marks registered in the Respondent's name.

The disputed domain was registered on May 8, 2024.

## 5. Parties' Contentions

### A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

The disputed domain name is confusingly similar to the Complainant's ALFA LAVAL mark. It incorporates all 9 letters of that mark, and adds only the letter "I" after the last "L" in the Complainant's mark. That addition is almost unnoticeable and does not differentiate the disputed domain name from the Complainant's mark.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant has never licensed or authorized the Respondent to use a domain name that incorporates the Complainant's ALFA LAVAL mark, and the Respondent is not actively using the disputed domain name for any business or other legitimate purpose.

The disputed domain name was registered and is being used in bad faith. The Respondent has taken steps to hide his identity by registering the disputed domain name through a privacy service, and he has shown no evidence that he has a legitimate interest in the disputed domain name or an intention to use it in good faith. The Complainant relies on the doctrine of bad faith registration and use by passive holding of the disputed domain name, referring to *Telstra Corporation Limited v. Nuclear Marshmallows*<sup>1</sup>.

The Complainant says that its ALFA LAVAL mark is well-known, long used, very valuable and extensively protected, such that it is clear that the Respondent had the Complainant and its mark in mind when he registered the disputed domain name. The case is an obvious one of reputation parasitism targeting the Complainant's well-known mark. The Complainant cannot see how the Respondent could have conceived any possible good faith use of the disputed domain name, especially as any use would likely result in a breach of the Complainant's intellectual property rights.

### B. Respondent

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

## 6. Discussion and Findings

Under paragraph 4(a) of the Policy, a Complainant is required to establish each of the following –

- (i) the domain name is identical or confusingly similar to a trade mark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the domain name; and
- (iii) the domain name has been registered and is being used in bad faith.

### A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trade mark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

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<sup>1</sup> *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#).

The Complainant has shown rights in respect of a trade mark or service mark for the purposes of the Policy, namely its ALFA LAVAL mark, which is registered in the United States and in numerous other jurisdictions ([WIPO Overview 3.0](#), section 1.2.1).

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

Although in some cases the addition of other terms may bear on the assessment of the second and third elements of the Policy, the Panel finds in this case that the addition of the single letter “i” does not prevent a finding of confusing similarity between the disputed domain name and the ALFA LAVAL mark for the purposes of the Policy ([WIPO Overview 3.0](#), section 1.8).

The Panel finds the first element of the Policy has been established.

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

Although 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 difficult 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 (although the burden of proof always remains on the complainant). 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).

While paragraph 4(c) of the Policy provides a non-exclusive list of three circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name, none of them has been raised by the Respondent, and none appears to apply in this case. There is nothing in the record to suggest that the Respondent might be commonly known by the disputed domain name (paragraph 4(c)(ii)), and there is nothing to suggest that the Respondent might have been entitled to take advantage of the “safe harbor” defenses at subparagraph 4(c)(i) or subparagraph 4(c)(iii) – both subparagraphs apply only where the respondent has made some use of the domain name, or at least (in the case of subparagraph 4(c)(i)) can show that it has made demonstrable preparations to use the domain name in connection with some bona fide offering of goods or services. There is nothing of that sort here – the Respondent appears to have made no active use of the disputed domain name, and without more that cannot provide a basis for a claim to a right or legitimate interest.<sup>2</sup>

The Panel accordingly finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The second element of the Policy has been established.

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

The Panel notes that, although paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith ([WIPO Overview 3.0](#), section 3.2.1).

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<sup>2</sup>Previous UDRP panels have held that using a disputed domain name to host an inactive website or one that lacks any substantive content does not constitute a bona fide offering of goods or services, or a legitimate noncommercial or fair use, pursuant to paragraphs 4(c)(i) or 4(c)(iii) of the Policy - *Skyscanner Limited v. WhoisGuard Protected, WhoisGuard, Inc. / petrov petya*, WIPO Case No. [DCC2020-0003](#), and *Instagram, LLC v. Zafer Demir, Yok*, WIPO Case No. [D2019-1072](#).

In this case, the only use made of the disputed domain name (pointing it to the parking page) appears to have been use by the Registrar.<sup>3</sup> However, panels have found that in certain circumstances the non-use of a domain name (including a blank or “coming soon” page) will not prevent a finding of bad faith under the doctrine of passive holding ([WIPO Overview 3.0](#), section 3.3). Panelists will look at the totality of the circumstances in each case, but there are some factors that have often been considered relevant in applying the passive holding doctrine. These are: (i) the degree of distinctiveness or reputation of the complainant’s mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put ([WIPO Overview 3.0](#), section 3.3).

The Panel notes that all of these factors are present in this case. The Complainant enjoys a substantial, worldwide reputation in its ALFA LAVAL mark, which is distinctive of the Complainant and its products,<sup>4</sup> and the Respondent has failed to submit a response or provide any evidence of actual or contemplated good faith use of the disputed domain name. By registering the disputed domain name through a privacy service the Respondent has attempted to keep his identity secret, and it is difficult to conceive of any good faith use to which the Respondent might now put the disputed domain name. The international reputation of the Complainant and its ALFA LAVAL mark is strong, including in the United States where the Respondent appears to reside, and many Internet users who were familiar with the Complainant and its products would inevitably but mistakenly assume that any website at the disputed domain name would be a website owned or authorized by the Complainant.

Having considered those factors, with all of the other facts disclosed by the record, the Panel is satisfied that the “passive holding” doctrine applies, and that the disputed domain name was registered and has been (passively) used in bad faith.

The Panel finds that the Complainant has established the third element 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 <alfalavali.com> be transferred to the Complainant.

/Warwick Smith/

**Warwick Smith**

Sole Panelist

Date: July 22, 2024

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<sup>3</sup>Although in such cases it is often inferred that the Respondent has approved of, or acquiesced in, that use.

<sup>4</sup> In addition to the Complainant’s evidence of worldwide use of its ALFA LAVAL mark over many years, the Swedish survey evidence, and the findings of the Chinese Court decision produced by the Complainant, the Panel notes that previous WIPO panels have found that the Complainant’s ALFA LAVAL mark is “very well-known, long time used, and extensively protected” (*Alfa Laval Corporate AB v Jim Wilson*, WIPO Case No. [D2023-2371](#)), and “highly distinctive” and “an exceptionally well established and reputed mark” (*Alfa Laval Corporate AB v Privacy Service Provided by Withheld for Privacy ehf / holy genius*, WIPO Case No. [D2022-2492](#)).