

## **ADMINISTRATIVE PANEL DECISION**

### Mölnlycke Health Care AB v. Jawd Khan

### Case No. D2024-2375

#### **1. The Parties**

The Complainant is Mölnlycke Health Care AB, Sweden, represented by Abion AB, Sweden.

The Respondent is Jawd Khan, United Arab Emirates.

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

The disputed domain name <molnlykce.com> is registered with NetEarth One Inc. d/b/a NetEarth (the “Registrar”).

#### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 11, 2024. On June 12, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 12, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 11, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 31, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 2, 2024.

The Center appointed Daniel Peña as the sole panelist in this matter on August 12, 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 medical solutions company, specialising in wound care and surgical procedures. The company was founded in 1849 in Sweden with over 8,000 employees and EUR 1,924 million in net sales in 2023. Today the Complainant is a global company and developer and manufacturer of high-quality, single-use surgical and wound care products which are marketed and sold worldwide. The Complainant promotes its business online at “www.molnlycke.com”.

The Complainant is the owner of several trademark registrations worldwide, including, among others, the following:

- European Union trademark registration No. 005357082, MÖLNLYCKE, registered on September 15, 1999;
- International trademark registration No. 1230528, MÖLNLYCKE, registered on June 18, 2014;
- United States of America trademark registration No. 7001082, MÖLNLYCKE, registered on March 14, 2023.

On May 22, 2024, the Complainant sent a cease-and-desist letter by email to the Respondent. The Respondent has not replied to the letter.

The disputed domain name resolved to an inactive page at the time of filing of the Complaint

The disputed domain name was registered on June 15, 2023.

#### 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 registered trademark MÖLNLYCKE.

The trademarks MÖLNLYCKE are incorporated in their entirety in the disputed domain name with one intentional spelling error (letter “kc” instead of “ck”). This obvious and intentional misspelling of the Complainant's trademark constitutes typosquatting. The fact that the disputed domain name substitutes the letter “ö” by “o” due to technological limitations, has no relevance in the comparison.

The addition of the generic Top-Level Domain (“gTLD”) “.com” is a technical requirement and does not prevent a finding of confusing similarity with the trademarks.

The Complainant has not licensed or authorized the Respondent to use its trademarks. The Respondent is not affiliated to the Complainant.

The Complainant did not authorize the Respondent to register or use the disputed domain name incorporating its respective trademarks.

There is no evidence that the Respondent is commonly known by the disputed domain name.

The Complainant's trademarks were registered and used by the Complainant before the Respondent became the owner of the disputed domain name.

The disputed domain name currently resolves to an inactive webpage, and it is therefore evident that the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name.

The disputed domain name is passively held.

The Respondent failed to respond to the cease-and-desist letter of the Complainant and continued using the disputed domain name, instead of attempting to vindicate her/his conduct.

The disputed domain name has been registered and is being used in bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (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. Considering these requirements, the Panel rules as follows:

### **A. Identical or Confusingly Similar**

The Panel holds that the disputed domain name is confusingly similar to the Complainant's trademarks MÖLNLYCKE. The Respondent's incorporation of a typo-variant of the Complainant's trademarks in the disputed domain name is evidence that the disputed domain name is confusingly similar to the Complainant's marks. Mere inclusion of letters "kc" instead of "ck" does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's marks. The fact that the disputed domain name substitutes the letter "ö" by "o" due to technological limitations, has no relevance in the comparison.

The Complainant have provided evidence of its rights in the trademarks on the basis of its multiple MÖLNLYCKE trademark registrations in the United States of America and the European Union, as well as International registrations. A trademark registration provides a clear indication that the rights in the trademark belong to the Complainant (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.2.1). It has also been established by prior UDRP panels that when a trademark is sufficiently recognizable in a domain name it will be considered confusingly similar to the trademark. Such findings were confirmed, for example, within sections 1.7 and 1.9 of the [WIPO Overview 3.0](#). Further, the addition of the gTLD ".com" to the disputed domain name is a standard registration requirement and as such is disregarded.

The Panel is satisfied that the disputed domain name is confusingly similar to the Complainant's mark and the Complainant has satisfied the requirement of paragraph 4(a)(i) of the Policy.

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

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

The Complainant has made a prima facie showing that the Respondent does not have any rights or legitimate interests in the disputed domain name, including by asserting that the Respondent is not affiliated with it in any way and that it never authorized the Respondent to use its trademark as part of the disputed domain name. There is no evidence that the Respondent is commonly known by the disputed domain name. The Panel notes that the Respondent has not filed any response and thus did not deny the Complainant's assertions, nor brought any information or evidence demonstrating any rights or legitimate interests.

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

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

Paragraph 4(b) of the Policy stipulates that any of the following circumstances, inter alia, shall be considered as evidence of the registration and use of a domain name in bad faith: (i) circumstances indicating that the respondent registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or (ii) circumstances indicating that the respondent registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or (iii) circumstances indicating that the respondent registered the domain name primarily for the purpose of disrupting the business of a competitor; or (iv) circumstances indicating that the respondent is using the domain name to intentionally attempt to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on its website or location.

With regard to the bad faith at the time of registration, the Panel notes that it is not likely that the Respondent was not aware of the Complainant and its trademark. On the contrary, the Panel finds that it is likely that the Respondent was aware of the Complainant and its rights and reputation in the MÖLNLYCKE mark at the time the disputed domain name was registered. Bad faith can be presumed based on the widely evidenced recognition of the Complainant's marks and typosquatting nature of the disputed domain name (discussed further below), such that the Respondent was most likely aware of the Complainant's well-known marks and related rights.

The Panel finds that the Respondent has registered the disputed domain name that contains the Complainant's trademark MÖLNLYCKE, with mere inclusion of letters "kc" instead of "ck". This kind of conduct is considered as an act of typosquatting or registering a domain name that is a common misspelling of a mark in which a party has rights and has often been recognized as evidence of bad faith registration. See *Paragon Gifts, Inc. v. Domain.Contact*, WIPO Case No. [D2004-0107](#) (citing *National Association of Professional Baseball Leagues, Inc., d/b/a Minor League Baseball v. John Zuccarini*, WIPO Case No. D2002-1011); and *ESPN, Inc. v. XC2*, WIPO Case No. [D2005-0444](#) (finding that the practice of typosquatting is evidence of bad faith).

In the Panel's view, the Complainant's mark is widely known and registration by the unrelated Respondent creates a presumption of bad faith in this case. On this subject, section 3.1.4 of the [WIPO Overview 3.0](#) says: "Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos [...]) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith."

Furthermore, the disputed domain name resolved to an inactive website at the time of filing of the Complaint. The Panel finds that the passive holding of the disputed domain name in the circumstances of the case does not prevent a finding of bad faith registration and use considering the reputation and distinctiveness of the

Complainant's earlier marks, and the nature of the disputed domain name (see section 3.3 of the [WIPO Overview 3.0](#)).

The bad faith registration and use of the disputed domain name is also affirmed by the fact that the Respondent has not denied, or even responded to, the assertions of bad faith made by the Complainant in this proceeding.

The Panel concludes that the disputed domain name was registered and is being used in bad faith and that consequently, the Complainant has satisfied the requirement under 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 <molnlykce.com> be transferred to the Complainant.

*/Daniel Peña/*

**Daniel Peña**

Sole Panelist

Date: August 26, 2024