

ADMINISTRATIVE PANEL DECISION

SoletLuna Holdings, Inc., Lifewave, Inc. v. Armando Guevara
Case No. D2024-4036

1. The Parties

Complainants are SoletLuna Holdings, Inc., United States of America (“United States”), Lifewave, Inc., United States, represented by ARC IP Law, P.C, United States.

Respondent is Armando Guevara, United States.

2. The Domain Name and Registrar

The disputed domain name <lifewave.partners> (“Domain Name”) is registered with Network Solutions, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 2, 2024. On October 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On the same day, 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 Respondents (Armando Guevara and Network Solutions, LLC) and contact information in the Complaint. The Center sent an email to Complainant on October 8, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on October 14, 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 Respondent of the Complaint, and the proceedings commenced on October 16, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 5, 2024. Respondent sent several email communications to the Center on October 17 and October 19, 2024. The Center sent an email regarding possible settlement to the Parties on October 22, 2024. Complainant requested a suspension for settlement talks on October 25, 2024. On October 28, 2024, the Center issued the Notification of Suspension to the Parties, and the proceeding was

suspended until November 27, 2024. On December 3, 2024, Complainant confirmed that they did not request any further extensions. The proceeding was reinstituted as of December 6, 2024, and the new Response due date was December 14, 2024. On December 18, 2024, the Center commenced the panel appointment process.

The Center appointed Robert A. Badgley as the sole panelist in this matter on December 20, 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

According to the Complaint:

“The Complainants in this administrative proceeding are SoletLuna Holdings, Inc. (“SoletLuna”) and LifeWave, Inc. (“LifeWave”), with both being corporations organized under the laws of the State of Georgia in the United States of America. [...] LifeWave has assigned the full right and title to its trademarks, including the trademarks described below to 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.”

The Panel will henceforth refer to the two nominal Complainants as a monolith, i.e., as “Complainant.”

Complainant manufactures and sells health and wellness products under the trademark LIFEWAVE. Complainant holds various trademark registrations for LIFEWAVE in various jurisdictions, including United States Patent and Trademark Office (“USPTO”) Reg. No. 4,841,450 for the stylized mark LIFEWAVE, registered on October 27, 2015 in connection with, among other things, “vitamin preparations,” “dietary supplements,” and “non-transdermal adhesive packages,” with a June 2007 date of first use in commerce, as well as USPTO Reg. No. 5,285,572 for the word mark LIFEWAVE, registered on September 12, 2017 in connection with “non-transdermal adhesive patches” with an August 13, 2004 date of first use in commerce.

Complainant operates a commercial website at the domain name <lifewave.com>. At this website, one of Complainant’s offerings is the “LIFEWAVE X39”, described at the site as follows:

“Optimum health and wellness can now be yours with X39, a new approach to improving the way your body fosters the flow of energy in your body for improvements in strength, stamina and beyond. By gently stimulating the skin with light, our general wellness, non-transdermal patches help you conquer your active life-style and pave a new way to vibrant health.”

The Domain Name was registered on August 23, 2024. As of August 26, 2024, the Domain Name resolved to a parking page which contained various pay-per-click (“PPC”) hyperlinks, including “Lifewave Patches” and “Lifewave X39.”

On October 16, 2024 (the date on which Respondent was formally notified of the Complaint in this proceeding), the Domain Name resolved to a very rudimentary website, which stated, “Be a Partner,” “LifeWave Partners,” and “Life Innovative Technology.”

Complainant alleges:

“[T]he Domain Name displays or at one point displayed PPC Ads. The PPC ads include and included ads for LifeWave. This means that a person seeking LifeWave’s goods and services may accidentally visit the Domain Name looking for the LifeWave website. Upon reaching the Domain Name, internet users may receive a PPC ad that leads to LifeWave’s website. However, in clicking on the PPC Ads, Registrant is nominally profiting off of the LIFEWAVE marks.”

On October 17, 2024, Respondent sent the following emails to the Center:

“What is this all about. At first I thought it was spam or some kind of SPAM. I own hundreds of domains. What is the issue with www.lifewave.partners? Please advice.” [...]

“Please clarify what this is about? I own hundreds of domain names for various purposes. I just replied to other emails as it first thought the matter was a spam/scam. Can someone succinctly clarify what’s the issue? I bought the domain www.lifewave.partners for the partners part. Is someone interested in buying it from our company? Please advice. Thank you.” [...]

“Who is interested in this domain? Do they want to buy it? Please advice – not sure what the issue is but as a businessperson, we can negotiate. Thru time we have bought and sold many domain names.” [...]

“Is this for real? Or a spam/scam trying to trojan horse with a zip file?”

On October 19, 2024, Respondent sent an email to Complainant’s counsel and the Center, stating:

“Thank you for your communication. I am writing from my personal email account as I have come to realize this matter has nothing to do with my company; therefore no need to involve the Gttn’s General Counsel. Frankly, I have been deleting related email messages because at first I thought it was spam email or some sort of scam. I even called Network Solutions to ask about one email I received from them and they gave me no clear answer. I started to note when begun to increasingly receive emails re WIPO.”

“Please note that my initial apprehension was because I own hundreds of domain names, some of which I have paid thousands of dollars to get – hence receive plenty of spam from vendors et.al. Some of these domains have been bought for my company group; and others as investments to later sell. It seems the crux of the matter with whom you represent has to do with the domain I bought www.lifewave.partners. This domain I bought since it was publicly available and did with the idea of possibly using as my promotion blog site linked to www.lifewave.com/armandoguevara.”

“The above said, I suggest we have a call next week to clarify, and possibly initially settle, what the complaint is about and how to resolve. I am open to do this in the best amicable and win-win way; thank you.”

5. Parties’ Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

B. Respondent

Respondent did not formally reply to Complainant’s contentions. The entirety of Respondent’s statements in this proceeding are contained in the above-quoted emails from October 17 and 19, 2024.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to the Domain Name:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) 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 trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7.

The Panel finds that Complainant has rights in the mark LIFEWAVE through registration and use demonstrated in the record. The Panel also finds that the Domain Name is identical to that mark.

Complainant has established Policy paragraph 4(a)(i).

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

- (i) before any notice to you [Respondent] of the dispute, your use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a bona fide offering of goods or services; or
- (ii) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Domain Name, even if you have acquired no trademark or service mark rights; or
- (iii) you [Respondent] are making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel concludes, on the undisputed record here, that Respondent lacks rights or legitimate interests in respect of the Domain Name. It is common ground that Respondent was never affiliated with Complainant, nor authorized by Complainant to use LIFEWAVE as a mark or in a domain name. Further, Respondent has not disputed that, for a time, the Domain Name resolved to a parking page containing hyperlinks incorporating Complainant's LIFEWAVE trademark and even Complainant's LIFEWAVE X39 product.

In the absence of any specific explanation, supported by contemporaneous evidence, by Respondent regarding his motives vis-à-vis the Domain Name, the Panel is left with the conclusion that Respondent more likely than not targeted Complainant's trademark for commercial gain, either through deriving PPC revenue or by selling the Domain Name at a profit, or both.

Complainant has established Policy paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that the following circumstances, "in particular but without limitation," are evidence of the registration and use of the Domain Name in "bad faith":

- (i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or
- (ii) that Respondent has 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 Respondent has engaged in a pattern of such conduct; or
- (iii) that Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or

(iv) that by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent's website or other online location, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website or location or of a product or service on Respondent's website or location.

The Panel concludes, on the record provided here, that Respondent has registered and used the Domain Name in bad faith. The Panel incorporates its discussion above in the "Rights or Legitimate Interests" section. On this record, the Panel concludes that Respondent more likely than not had Complainant's mark in mind when registering the Domain Name. Again, the repeated references to LIFEWAVE and LIFEWAVE X39 on the PPC hyperlinks supports this conclusion.

The Panel also concludes on this record that Respondent's conduct, including the PPC links at Respondent's website shortly after the Domain Name was registered, violates the above-quoted Policy paragraph 4(b)(iv).

Complainant has established Policy paragraph 4(a)(iii).

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 Domain Name <lifewave.partners> be transferred to Complainant.

/Robert A. Badgley/

Robert A. Badgley

Sole Panelist

Date: January 3, 2025