

ADMINISTRATIVE PANEL DECISION

Alfa Laval Corporate AB v. Privacy Service Provided by Withheld for Privacy ehf / holy genius

Case No. D2022-2492

1. The Parties

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

The Respondent is Privacy Service Provided by Withheld for Privacy ehf, Iceland / holy genius, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <alfalavl.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 July 8, 2022. On July 8, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 8, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on July 11, 2022 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 July 13, 2022.

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 July 15, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 4, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 5, 2022.

The Center appointed Alistair Payne as the sole panelist in this matter on August 11, 2022. 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 based in Sweden and is a brand leader within the key technology areas of heat transfer, separation, and gas and fluid handling across many industries, including but not limited to the marine, environment, pharma, hygienic, food and seven energy sectors. Its business was established in 1883 under the company name AB Separator, which was changed to Alfa-Laval AB in 1963. The Complainant filed its first trade mark application for ALFA LAVAL in 1897 and now owns trade mark registrations throughout the world for its mark, including in the United States under registration no. 4408991, filed on November 9, 2011 and registered on October 1, 2013. The Complainant owns numerous domain names incorporating the ALFA LAVAL trade mark and the Complainant uses the domain name <alfalaval.com> as its main online marketing portal.

The disputed domain name was registered on March 3, 2022 and resolves to a website that hosts pay-per-click (“PPC”) links to different categories of goods/services including “E Training”, “Pressfittinge” and “Pneumatiska Cylindrar” (“Pneumatic Cylinders”), and “heat exchangers” with advertisements and or links to companies providing these services or offering these goods including the Complainant’s website and its competitors’ websites.

5. Parties’ Contentions

A. Complainant

The Complainant submits that it owns registered trade mark rights for its ALFA LAVAL mark as set out above and that the disputed domain name is almost identical to it apart from the omission of a letter “a”. The Complainant says that this is an obvious misspelling and does not alter an Internet user’s recognition of its ALFA LAVAL mark. Therefore, says the Complainant, the disputed domain name is confusingly similar to its registered trade mark.

The Complainant submits that there is no relationship between the Complainant and the disputed domain name and that the Complainant has never licensed or authorised the Respondent to use the ALFA LAVAL mark. Further, as far as the Complainant is aware and based on its trade mark searches, it says that the Respondent “holy genius” does not own any trade mark registrations or applications for the word “alfalavl”.

The Complainant submits that it has found no evidence of any *bona fide* offering of goods and services under the disputed domain name, nor any sign of any legitimate or fair use of the mark. Rather, the Respondent uses the website under disputed the domain name for a website hosting advertisements and PPC links to different categories of goods/services including “E Training”, “Pressfittinge” and “Pneumatiska Cylindrar” (“Pneumatic Cylinders”), and “heat exchangers”, and both to the Complainant’s website and to its competitors’ websites. This says the Complainant amounts to trading on the goodwill and reputation attaching to its trade mark and the Respondent is therefore not making a *bona fide* offering of goods and services.

The Complainant notes that the parking site to which the disputed domain name resolves features a disclaimer that sponsored listings are served automatically by a third party. However, the Complainant says that based on past cases such as *Owens Corning v. NA*, WIPO Case No. [D2007-1143](#), a respondent cannot disclaim responsibility for content appearing on a website to which the disputed domain name resolves and that this does not prevent a finding of bad faith (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 3.5).

The Complainant submits that the ALFA LAVAL mark is highly distinctive and well known and that it is more than likely that the Respondent had its mark in mind when it registered the disputed domain name and that it is an intentional misspelling of the Complainant's well-known mark and amounts to a registration in bad faith.

Finally, the Complainant notes that the Respondent has used a domain name privacy service to mask its identity which further confirms its bad faith.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has demonstrated that it owns, *inter alia*, United States registration no. 4408991 for its ALFA LAVAL mark. The disputed domain name wholly incorporates this mark with the exception of missing the fourth "a". This obvious misspelling of a very distinctive mark amounts to an example of typosquatting and the Panel finds that the disputed domain name is confusingly similar to the Complainant's mark. As a result the Complaint succeeds under the first element of the Policy.

B. Rights or Legitimate Interests

The Complainant has submitted that there is no relationship between the Complainant and the disputed domain name and that it has never licensed or authorised the Respondent to use the ALFA LAVAL mark. Further, the Complainant has said that as far as it is aware and based on its trade mark searches, the Respondent "holy genius" does not own any trade mark registrations or applications for the word "alfalavl".

The Complainant has also submitted that it has found no evidence of any *bona fide* offering of goods and services under the disputed domain name, nor any sign of any legitimate or fair use of the disputed domain name. The Respondent is using the disputed domain name to resolve to a website that hosts advertisements and PPC links to different categories of goods/services, which divert both to the Complainant's website and to its competitors' websites and the Panel finds that this competes with or capitalizes on the reputation and goodwill of the Complainant's mark or otherwise mislead Internet users. As a consequence, the Respondent is not making a *bona fide* offering of goods and services in relation to the disputed domain name.

The Panel finds that the Complainant has made out a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent has failed to respond to or to rebut the Complainant's case and the Panel accordingly finds that the Complaint also succeeds under this element of the Policy.

C. Registered and Used in Bad Faith

The disputed domain name was only registered on March 3, 2022. By comparison, the Complainant has been using its ALFA LAVAL mark for more than one hundred years and owns registered trade mark rights for it in numerous countries, including in the United States where the Respondent is based. The ALFA LAVAL mark is highly distinctive and previous panels have accepted that it is an exceptionally well established and reputed mark. In these circumstances the Panel finds that it is more than likely that the Respondent registered the disputed domain name knowingly and as a purposeful misspelling or typosquatting of the ALFA LAVAL mark.

Under paragraph 4(b)(iv) of the Policy there is evidence of registration and use of a disputed domain name in bad faith where a respondent has used the disputed domain name to intentionally attract, for commercial

gain, Internet users to its website by creating a likelihood of confusion with the complainant's trade marks as to the source, sponsorship, affiliation, or endorsement of the website.

As noted under part 6.B above, the disputed domain name resolves to a parking page that features PPC links to certain identical or similar categories of goods or services as provided by the Complainant and both to the Complainant's website and to those of certain competitors. The Panel finds that this amounts to using the disputed domain name to intentionally attract, for commercial gain, Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's trade mark as to the source, sponsorship, affiliation or endorsement of the website. This is so whether the Respondent has actual control over the generation of links or not and in spite of any disclaimer (see [WIPO Overview 3.0](#), section 3.5) and under paragraph 4(b)(iv), this is evidence of registration and use of the disputed domain name in bad faith. In these circumstances, the Respondent's use of a privacy service in an attempt to mask its identity only serves to reinforce the Panel's view of its bad faith.

Accordingly, the Panel finds that the disputed domain name has been registered and used in bad faith and that the Complaint also succeeds under this 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 <alfalavl.com> be transferred to the Complainant.

/Alistair Payne/

Alistair Payne

Sole Panelist

Date: August 25, 2022