

ADMINISTRATIVE PANEL DECISION

Tetra Laval Holdings & Finance S.A. v. Danielle Wolfe
Case No. D2023-0362

1. The Parties

The Complainant is Tetra Laval Holdings & Finance S.A., Switzerland, represented by Aera A/S, Denmark.

The Respondent is Danielle Wolfe, United States of America.

2. The Domain Name and Registrar

The disputed domain name <tetrapakes.com> is registered with Wild West Domains, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 26, 2023. On January 27, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 January 31, 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 amended Complaint on February 3, 2023.

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 February 6, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 26, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 27, 2023.

The Center appointed Fabrizio Bedarida as the sole panelist in this matter on March 3, 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 Tetra Laval Holdings & Finance S.A. The Complainant is a Swiss corporation which is part of the Tetra Laval Group. The Tetra Laval Group consists of three independent industry groups; Tetra Pak, DeLaval, and Sidel Group. The Tetra Pak Group is a multinational food processing and packaging company founded in 1947 in Sweden by Ruben Rausing. The Tetra Pak Group develops markets and sells equipment for processing, packaging, and distributing food products.

The Complainant's Group is one of the world leaders in the development, production, and sale of equipment and processing plants for making, packaging, and distributing foods and accessories. The Tetra Pak Group employs more than 25,000 people and operates in more than 160 countries worldwide, including the United States of America and Spain.

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

European Union Trade Mark TETRA PAK (word) number 1202522, registered on October 2, 2000.
International trademark TETRA PAK (word) number 1146433, registered on November 6, 2012.

The Complainant is also the owner of more than 300 domain name registrations throughout the world containing the TETRA PAK trademark.

The disputed domain name was registered on January 11, 2023.

The disputed domain name does not resolve to an active website, but it appears from the document filed by the Complainant that it is registered to use the Microsoft Mail Service (Exchange Online).

5. Parties' Contentions

A. Complainant

The Complainant claims that:

- (a) the disputed domain name is confusingly similar to the Complainant's trademark;
- (b) the Respondent lacks any rights or legitimate interests 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 a 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; and (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 TETRA PAK trademark. The disputed domain name contains the Complainant's TETRA PAK trademark with the addition of the term "es", and the generic Top-Level Domain ("gTLD") ".com". The addition in the disputed domain name of the term "es" does not prevent a finding of confusing similarity, being the TETRA PAK trademark recognizable in the disputed domain name.

Pursuant to section 1.8 of the Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") which states: "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. The nature of such additional term(s) may however bear on assessment of the second and third elements."

Therefore, the Panel finds the disputed domain name to be confusingly similar to the TETRA PAK trademark in which the Complainant has rights.

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. In addition, the Respondent does not appear to be commonly known by the disputed domain name or by a similar name. Moreover, the Respondent has not 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 Complainant's trademark along with the letters "es" (generally used to refer to Spain) 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 or endorsed with the Complainant's official services in Spain.

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

C. Registered and Used in Bad Faith

Based on the evidence put forward by the Complainant, the Panel is of the opinion that the Respondent was aware of the Complainant's trademark registrations and rights to the TETRA PAK mark when it registered the disputed domain name.

The disputed domain name was registered many years after the Complainant's renowned trademark was registered. In addition, owing to the substantial presence established worldwide and on the Internet by the Complainant, it is at the least very unlikely that the Respondent was not aware of the existence of the Complainant's trademark when registering the disputed domain name that is confusingly similar to the Complainant's trademark.

A circumstance supporting a finding of bad faith can also be found in the failure to respond to the Complainant's contentions.

Further corroboration of bad faith can be found in the fact that the disputed domain name has active email servers which the Complainant asserts can be used in. e.g. phishing emails.

Finally, the disputed domain name does not resolve to an active website. 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. On the contrary, this Panel agrees with previous panels' assertion that in the case of domain names containing well-known earlier marks, passive holding can constitute an indication of bad faith.

Here the Panel finds that the Respondent's passive holding of the disputed domain name constitutes bad faith use and registration (see section 3.3 of the [WIPO Overview 3.0](#)).

Accordingly, the Panel finds, on the basis of the evidence presented, that the Respondent registered and used 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 <tetrapakes.com> be transferred to the Complainant.

/Fabrizio Bedarida/

Fabrizio Bedarida

Sole Panelist

Date: March 17, 2023