

## **ADMINISTRATIVE PANEL DECISION**

SoletLuna Holdings, Inc., Lifewave, Inc. v. Bahl Co  
Case No. D2024-5115

### **1. The Parties**

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

Respondent is Bahl Co, United States, self-represented.

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

The disputed domain name <silentnights.org> (hereinafter “Disputed Domain Name”) is registered with Brandfish.Com Inc (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 11, 2024. On December 12, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On December 12, 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 (Bahl Co and Brandfish.Com Inc) and contact information in the Complaint. The Center sent an email communication to Complainants on December 13, 2024, providing the registrant and contact information disclosed by the Registrar, and requesting Complainants to submit an amendment to the Complaint. Complainants filed an amended Complaint on December 19, 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 December 19, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 8, 2025. The Response was filed with the Center on December 19, 2024.

The Center appointed Lawrence K. Nodine as the sole panelist in this matter on December 27, 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.

### **Complainants' Request That Complaint be Withdrawn**

On January 2, 2025, Complainants unilaterally<sup>1</sup> requested that the proceedings be suspended to allow for settlement discussions. Respondent responded<sup>2</sup> on the same day and objected to suspension, asserting that it sought a decision on the merits. Respondent advised that it would object if Complainants requested their Complaint be dismissed (with or without prejudice). Respondent asserted that it had expended considerable expense preparing a response and highlighted its request for a finding of Reverse Domain Name Hijacking ("RDNH").

On January 6, 2025, Complainants requested leave to withdraw its Complaint with prejudice with respect to Respondent. In the alternative, Complainant requested that the Panel not find RDNH, asserting that Complainants were "unaware of Respondent's allegedly legitimate usage of the Disputed Domain Name in connection with a Domain Investment Business prior to the filing of the Response". Complainants further explained that third party distributors, contrary to Complainants' policies, often register domain names that incorporate Complainants' trademarks, and "Unfortunately, due to WHOIS protections and difficulties in communications around the holidays, Complainants concluded that on information and belief the registration of the Disputed Domain Name was targeted behavior and had no information to contradict this until receiving Respondents position."

On January 6, 2025, Respondent immediately objected to Complainants' request that the Complaint be withdrawn, again emphasizing the expense it had incurred preparing a response and its request for a finding of RDNH. On the merits of the alleged RDNH, Respondent argued that (1) Complainants had no basis for alleging bad faith because screenshots attached to the Complaint showed that the Disputed Domain Name was not being used to sell anything; (2) there was no evidence of bad faith; and (3) Complainants had lost a similar case based on the same SILENT NIGHTS trademark, referring to *SoletLuna Holdings, Inc., Lifewave, Inc. v. Christiaan Macdonald, Society Fools*, WIPO Case No. [D2024-4035](#), decided December 10, 2024 (one day before Complainants filed the instant case on December 11, 2024).

The Panel denies Complainants' request that it be allowed to withdraw its Complaint. The Panel has discretion under Rules paragraph 17(b) to terminate the proceedings "if it becomes unnecessary or impossible to continue the administrative proceedings for any reason [...] unless a party raises justifiable grounds for objection [...]". In addition, paragraph 10(b) of the Rules requires that the Parties be treated equally and that each party be allowed to present its case.

The Panel concludes that termination is not appropriate here as Respondent objects to the dismissal on the grounds that it has already incurred considerable expense to prepare its response and wants a decision on the merits vindicating its rights and good faith and a ruling on its request for a finding of RDNH.

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<sup>1</sup> Although Rules paragraph 17(a)(i) authorizes the Panel to suspend proceedings when the "Parties" (plural) so request, the Rules do not authorize the Panel to suspend proceedings based on the request of only one party, especially where the opposing party objects.

<sup>2</sup> Both parties included arguments on the merits in the messages that they exchanged relating to Complainants' requests for suspension of the proceedings and withdrawal of the Complaint. Neither party requested leave to file these additional arguments, but the Panel will consider them.

The Panel finds that Respondent “raises justifiable grounds for objection” under Rules paragraph 17(b) and, accordingly, denies the request that the case be terminated. See *Hale Law, P.A v. Roger Hale*, WIPO Case No. [D2023-0084](#), quoting *Gstaad Saanenland Tourismus v. Domain Administrator, PrivacyGuardian.org / Dimitri Dimitriadis*, WIPO Case No. [D2016-2601](#).<sup>3</sup>

### **Preliminary Issue: Consolidation**

Complainants SoletLuna Holdings, Inc. and Lifewave, Inc., are affiliated companies and have legal rights in the SILENT NIGHTS trademark. Complainant SoletLuna Holdings, Inc. owns the trademark SILENT NIGHTS (the “Mark”) (see below Section 4), for use in connection with patches that one adheres to the skin to promote general wellness, including (according to its website) “restfulness, which cultivates restorative sleep.” SoletLuna Holdings, Inc. licenses the Mark to the Complainant Lifewave, Inc., which sells the patches and enforces the Mark.

Complainants allege a common grievance against Respondent. Additionally, they have been joint parties to previous UDRP proceedings relating to the same Mark.

Consolidation of multiple complainants into a single proceeding is permissible when “(i) Complainants have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected Complainants in a similar fashion, and (ii) it would be equitable and procedurally efficient to permit the consolidation.” WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (“[WIPO Overview 3.0](#)”), section 4.11.1.

Accordingly, the Panel consolidates the claims of the two named Complainants. The Panel will hereafter refer to the two Complainants collectively as “Complainant” (singular).

## **4. Factual Background**

Complainant owns trademark registrations in several jurisdictions for the Mark, including:

- Canada Trademark Registration No. TMA1226565 (Registered March 27, 2024);
- United States Trademark Registration No. 5199095 (Registered May 9, 2017).

The Complaint does not mention, but the Panel’s own web visit reveals, that Complainant owns the domain name <silentsnights.com>, which redirects to <lifewave.com>, where one finds images of packaging for Complainant’s SILENT NIGHTS patches, which the package describes as a “General Wellness Patch” that, according to the website, will “gently nurture restfulness, which cultivates restorative sleep.”

Respondent is a domain name investor. It registered the Disputed Domain Name on October 23, 2024. There is no active website associated with the Disputed Domain Name. The Disputed Domain Name is listed as available of the Registrar’s website for USD 4,888.

## **5. Parties’ Contentions**

### **A. Complainant**

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<sup>3</sup> “[T]he Panel is of the view that if a complainant unilaterally makes it clear that it does not want the proceedings to continue, a panel can under paragraph 10 of the Rules order that the complaint be dismissed on the basis of that consent alone. However, if a respondent objects to that course of action, that will frequently be a good enough reason for the panel to proceed to issue a full decision. In the same way as a complaint is prima facie entitled to ask for a full decision so that its position is publicly vindicated, so is a respondent. This is particularly so where, as here, the respondent has actively sought a finding of reverse domain name hijacking.”

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

Notably, Complainant contends that because there was no active website associated with the Disputed Domain Name, there was no use that could qualify as a legitimate use under the second element of the Policy. In support of its bad faith allegation, Complainant argued that bad faith registration could be inferred from Respondent's posted offer to sell the Disputed Domain Name for USD 4,888, observing that:

"This is a substantial amount to pay for a domain name when, on the Registrar's website, other domain names that include the SILENT NIGHTS Marks are not more than \$300.00. The high cost of the Domain Name shows how the Registrant is targeting the Complainants because of the worldwide recognition of the SILENT NIGHTS marks."

Complainant also argued that "The lack of similar marks in the health-related field informed the Registrant that the SILENT NIGHTS Marks are strong marks."

## **B. Respondent**

Respondent contends that Complainant has not satisfied all three of the elements required under the Policy for a transfer of the Disputed Domain Name.

Respondent asserts that it is a domain name investor and that it purchased the Disputed Domain Name as an investment. Respondent contends that domain name investing has been recognized as a legitimate business under the second element of the Policy.

Respondent denies that it registered and used the Disputed Domain Name in bad faith. Respondent declares that it had no knowledge of Complainant's Mark when it purchased the Disputed Domain Name. Furthermore, Respondent has made no bad faith use of the Disputed Domain Name, highlighting the absence PPC links.

Respondent contends with supporting citations as evidence that "silent nights" is a common widely used phrase and that numerous third parties use the phrase in diverse ways, including many coexisting trademarks, business names and domain names. Respondent demonstrates that the Disputed Domain Name was previously registered from 2010 to 2024, to a third party (a doctor), who used it for an infant sleep consulting business. Based on this evidence, Respondent asserts that there are myriad potential buyers to whom it may market the Disputed Domain Name in good faith.

Respondent contests Complainant's assertion that targeting may be inferred from the USD 4,888 price, observing that the price is not exorbitant or unusual compared to other domain names available in the resale market.

## **C. Complainant's Revised Arguments**

In its message requesting that the Complaint be withdrawn, Complainant concedes that Respondent purchased the Disputed Domain Name as an investment and that domain name investing is a legitimate business under element two of the Policy.

## **6. Discussion and Findings**

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

Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the Mark is reproduced within the Disputed Domain Name. Accordingly, the Disputed Domain Name is identical to the Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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

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

The Panel finds that, before notice to Respondent of the dispute, Respondent used or made demonstrable preparations to use the disputed domain name in connection with a bona fide offering of goods or services. [WIPO Overview 3.0](#), section 2.2.

Complainant now concedes that purchasing a domain name for resale may be considered legitimate under Policy element two, provided the purchase was not motivated by a desire to exploit the trademark rights of another. See [WIPO Overview 3.0](#) section 2.1.<sup>4</sup>

Respondent provided evidence that “silent nights” is a common widely used phrase and that numerous third parties use the phrase in diverse ways. Given the finding in the next Section that there is insufficient evidence that Respondent was targeting Complainant when it purchased the Disputed Domain Name, See [WIPO Overview 3.0](#) section 3.1.1, Respondent had a legitimate interest to purchase the Disputed Domain Name for resale – assuming this was not done to exploit trademark rights, of which there is no evidence.

The Panel finds the second element of the Policy has not been established.

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

The Panel finds that Complainant has not proved, based on the balance of probabilities, that Respondent registered the Disputed Domain Name in bad faith.

Respondent denies that it had any knowledge of Complainant’s Mark when it purchased the Disputed Domain Name and Complainant has not offered any evidence to support its allegation that its Mark is well known.

Complainant contends that bad faith may be inferred from the USD 4,888 asking price that Respondent set for sale of the Disputed Domain Name, asserting that “[t]he high cost of the [Disputed] Domain Name shows how the Registrant is targeting Complainants because of the worldwide recognition of the SILENT NIGHTS Marks.” Although Respondent persuasively argues that the USD 4,888 asking price is not unreasonable,<sup>5</sup> there is no need to reach this question because Complainant has not made the predicate showing that Respondent was aware of Complainant’s rights when it acquired the Disputed Domain Name or set the price. Complainant offers no evidence that its Mark is well known, and Respondent has denied any knowledge of Complainant’s Mark prior to these proceedings.

Although some cases have considered whether a particular (allegedly high) asking price could serve as evidence that, when combined with other evidence, supports a finding of targeting, these cases do not

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<sup>4</sup>“Over the course of many UDRP cases, panels have acknowledged further grounds which, while not codified in the UDRP as such, would establish respondent rights or legitimate interests in a domain name. For example, generally speaking, panels have accepted that aggregating and holding domain names (usually for resale) consisting of acronyms, dictionary words, or common phrases can be bona fide and is not per se illegitimate under the UDRP.”

<sup>5</sup> Although the present record does not require that the Panel reach the question of whether \$4,888 was “too high,” the Panel notes its skepticism. Compare *Calmino Group AB v. Domain Administrator, Domainmarket.com*, WIPO Case No. [D2024-1579](#) (“The Panel also notes that the sales price of the disputed domain name was initially USD 8,000, which does not suggest that in 2011 (about the time the disputed domain name was registered) the Respondent considered that the value of the domain name derived primarily from the Complainant’s trademark rights.”)

support inferring targeting from the (high) price alone. There must first be some basis for finding that a respondent knew of complainant's rights. Compare *Sage Global Services Limited v. Narendra Ghimire, Deep Vision Architects*, WIPO Case No. [DAI2023-0010](#) (panel rejected adverse inference from allegedly high price because respondent denied any knowledge of complainant's rights and there was insufficient evidence that complainant's mark was well known) with *All Star C.V., Converse, Inc. v. Narendra Ghimire*, WIPO Case No. [DCO2024-0014](#) (given respondent's admission that he was aware of complainant's famous CONVERSE trademark, targeting could be inferred from respondent's USD 300,000 asking price).

Because there is no evidence that Respondent, knew of Complainant's rights in the Mark, there is no basis for drawing an adverse inference of bad faith targeting from the allegedly high price that Respondent set for sale of the Disputed Domain Name.

Complainant also argues that "[t]he lack of similar marks in the health-related field informed the Registrant that the SILENT NIGHTS Marks are strong marks." The Panel is not persuaded. Complainant does not introduce any evidence of a trademark or even a general Internet search that would substantiate this contention. Even if Complainant's Mark were completely unique within a trademark class, it does not follow that the Mark is well known and or that Respondent was aware of Complainant's rights. Furthermore, there is no evidence that Respondent sought to focus on the healthcare market. On the contrary, Respondent's evidence demonstrates that the "silent night" phrase is used in many areas outside healthcare.

The Panel finds the third element of the Policy has not been established.

#### **D. Reverse Domain Name Hijacking**

Paragraph 15(e) of the Rules provides that, if after considering the submissions, the Panel finds that the Complaint was brought in bad faith, for example in an attempt at RDNH or to harass the domain-name holder, the Panel shall declare in its decision that the Complaint was brought in bad faith and constitutes an abuse of the administrative proceeding. The mere lack of success of the complaint is not, on its own, sufficient to constitute RDNH. [WIPO Overview 3.0](#), section 4.16.

Although Complainant failed to prove that its Mark is well known, such a failure is not uncommon in UDRP proceedings and does not necessarily evidence bad faith. On the other hand, when Complainant requested leave to withdraw its Complaint, it did not explain why it apparently ignored the holding in *Soletluna Holdings*. This failure supports a finding of RDNH, but Complainant's request that its Complaint be withdrawn is evidence of good faith. The Panel finds that, although this is a close case, a finding of RDNH is not warranted.

The Panel also considers that it good policy to encourage parties to seek termination of proceedings when it becomes apparent that they will not succeed. A finding of RDNH in these circumstances would discourage future litigants from seeking to terminate claims for fear that doing so would be seen as an admission.

For these reasons, the Panel does not find RDNH.

#### **7. Decision**

For the foregoing reasons, the Complaint is denied.

*/Lawrence K. Nodine/*

**Lawrence K. Nodine**

Sole Panelist

Date: January 10, 2025