

## **ADMINISTRATIVE PANEL DECISION**

Alfa Laval Corporate AB v. YangZhiChao

Case No. D2022-2316

### **1. The Parties**

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

The Respondent is YangZhiChao, China.

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

The disputed domain name <alfalaal.com> is registered with 22net, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on June 27, 2022. On June 27, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 28, 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 June 28, 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 in English on June 29, 2022.

On June 28, 2022, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On June 29, 2022, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

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 in English and Chinese of the Complaint, and the proceedings commenced on July 4, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 24, 2022. The Respondent did not submit any

response. Accordingly, the Center notified the Respondent's default on July 26, 2022.

The Center appointed Sok Ling MOI as the sole panelist in this matter on August 5, 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, founded in 1883, is a world brand leader within the key technology areas of heat transfer, separation and gas, and fluid handling across many industries. The Complainant changed its name from "AB Separator" to "Alfa-Laval AB" in 1963. The Complainant filed its first trade mark application for ALFA LAVAL in 1897, and has since used the trade mark for more than 100 years.

The Complainant owns numerous trade mark registrations for ALFA LAVAL in various jurisdictions, including the following:

Jurisdiction	Mark	Registration No.	Registration Date
United States of America	ALFA LAVAL	0764251	February 4, 1964
United States of America	ALFA LAVAL	1163281	August 4, 1981
European Union	ALFA LAVAL	003481702	March 3, 2005
International designating, <i>inter alia</i> , China, Singapore	ALFA LAVAL (stylised)	1557805	June 2, 2020
China	ALFA LAVAL	1245989	February 7, 1999
China	ALFA LAVAL	1914756	August 21, 2002

The Complainant also owns the domain name <alfalaval.com> and maintains an online presence through its website at this domain name.

The disputed domain name <alfalaal.com> was registered on March 11, 2022. According to the evidence submitted by the Complainant, the disputed domain name resolves to a website displaying a collection of click-through links which divert Internet users to third party websites, some of which offer services competitive to the Complainant's business.

#### 5. Parties' Contentions

##### A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to its trade mark ALFA LAVAL, the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the disputed domain name has been registered and is being used in bad faith.

The Complainant requests for the transfer of the disputed domain name.

##### B. Respondent

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

## **6. Discussion and Findings**

### **A. Language of the Proceeding**

Pursuant to paragraph 11(a) of the Rules, unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

Paragraphs 10(b) and (c) of the Rules require the Panel to ensure that the proceeding takes place with due expedition and that the Parties are treated equitably and given a fair opportunity to present their respective cases.

The language of the Registration Agreements for the disputed domain name is Chinese. From the evidence on record, no agreement appears to have been entered into between the Complainant and the Respondent regarding the language issue. The Complainant filed its Complaint in English and requested that English be the language of the proceeding. The Respondent did not respond on the issue of the language of the proceeding.

Although the Respondent appears to be a native Chinese individual, the Panel finds persuasive evidence in the present proceeding to suggest that the Respondent has sufficient knowledge of English. In particular, the Panel notes that:

- (a) the disputed domain name is registered in Latin characters, rather than Chinese script; and
- (b) according to the evidence submitted by the Complainant, the website to which the disputed domain name resolve contains content and links in English.

Considering the above circumstances, the Panel finds that the choice of English as the language of the present proceeding is fair to both Parties and is not prejudicial to either one of the Parties in his or her ability to articulate the arguments for this case.

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that (i) it shall accept the Complaint as filed in English; and (ii) English shall be the language of the proceeding and the decision will be rendered in English.

### **6.2 Substantive Issues**

Paragraph 4(a) of the Policy directs that a complainant must prove each of the following three elements to obtain an order for the disputed domain name to be cancelled or transferred:

- (i) the disputed domain name is identical or confusingly similar to a trade mark 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.

On the basis of the arguments and evidence introduced by the Complainant and Respondent, the Panel concludes as follows:

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

The Panel accepts that the Complainant has rights in ALFA LAVAL by virtue of its use and registration of the same as a trade mark.

The disputed domain name is an intentional typographical variant of the Complainant's trade mark ALFA LAVAL. The consensus view of previous UDRP panels is that a domain name which contains a common or obvious misspelling of a trade mark will normally be found to be confusingly similar to such trade mark, where the misspelled trade mark remains sufficiently recognizable in the domain name. In this case, the typographical error (the omission of a single letter "v") does not prevent a finding of the confusing similarity between the disputed domain name and the Complainant's trade mark. The addition of the generic Top-Level Domain ("gTLD") ".com" is a standard registration requirement and does not in this case impact the above analysis.

Consequently, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trade mark.

Accordingly, the Complainant has satisfied the requirements of the first element under paragraph 4(a) of the Policy.

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

Under paragraph 4(a)(ii) of the Policy, a complainant bears the burden of proof to establish that the respondent lacks rights or legitimate interests in the disputed domain name. However, once the complainant makes a *prima facie* showing under paragraph 4(a)(ii) of the Policy, the burden of production shifts to the respondent to come forward with evidence in support of its rights or legitimate interests in the disputed domain name. The respondent may establish its rights in the disputed domain name by demonstrating any of the following, without limitation, under paragraph 4(c) of the Policy:

- (i) before any notice to it of the dispute, the respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the respondent has been commonly known by the disputed domain name, even if it has acquired no trade mark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark or service mark at issue.

See *Taylor Wimpey PLC, Taylor Wimpey Holdings Limited v. honghao Internet foshan co, ltd*, WIPO Case No. [D2013-0974](#).

The Complainant has confirmed that the Respondent is not in any way affiliated with the Complainant or otherwise authorized or licensed to use the ALFA LAVAL trade mark or to seek registration of any domain name incorporating the trade mark. The Respondent appears to be an individual by the name of "YangZhiChao". There is no evidence suggesting that the Respondent is commonly known by the disputed domain name or has acquired any trade mark rights in the term "alfa laal" or similar.

According to the evidence submitted by the Complainant, the disputed domain name resolves to a parking webpage featuring a collection of click-through links which redirect to third party websites, some of which are competitors of the Complainant. Presumably, the Respondent receives Pay-Per-Click ("PPC") fees from the linked websites. UDRP panels have found that the use of a domain name to host a parked page comprising PPC links does not represent a *bona fide* offering where such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users. See section 2.9 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Panel is satisfied that the Complainant has made out a *prima facie* case showing that the Respondent lacks rights or legitimate interests in the disputed domain name. The burden of production thus shifts to the

Respondent to come forward with evidence of its rights or legitimate interests in the disputed domain name. Since the Respondent did not file a response or provide any evidence to support rights or legitimate interests in the disputed domain name, the *prima facie* case has not been rebutted.

Consequently, the Panel finds that the Respondent lacks rights or legitimate interests in the disputed domain name.

Accordingly, the Complainant has satisfied the requirements of the second element under paragraph 4(a) of the Policy.

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

Paragraph 4(b) of the Policy sets out four circumstances which, without limitation, shall be evidence of the registration and use of the disputed domain name in bad faith, namely:

- (i) circumstances indicating that the respondent has registered or acquired the disputed 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 trade mark or service mark or to a competitor of the complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the disputed domain name; or
- (ii) the respondent has registered the disputed domain name in order to prevent the owner of the trade mark 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) the respondent has registered the disputed domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the disputed domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to the respondent's 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 the respondent's website or location.

By virtue of its extensive use and advertising since 1897, the Complainant and its distinctive trade mark ALFA LAVAL enjoy a strong reputation worldwide. In this day and age of the Internet and advancement in information technology, the reputation of brands and trade marks transcends national borders. A cursory Internet search would have disclosed the ALFA LAVAL trade mark and its extensive use by the Complainant. As such, a presumption may be made that the Respondent was aware of the Complainant and its trade mark when he registered the disputed domain name.

According to the evidence submitted by the Complainant, the disputed domain name resolves to a website which appears to be a parking page featuring a collection of click-through links which divert Internet users to third party websites. The consensus view of previous UDRP panels is that a domain name registrant is normally deemed responsible for content appearing on a website at its domain name, even if such registrant may not be exercising direct control over such content – for example, in the case of advertising links appearing on an “automatically” generated basis. See [WIPO Overview 3.0](#), section 3.5.

A presumption may be made that the Respondent stands to profit or make a “commercial gain” from advertising revenue by such an arrangement trading on third party trade marks. In the Panel's opinion, such use of the disputed domain name clearly seeks to capitalize on the trade mark value of the Complainant's ALFA LAVAL trade mark resulting in misleading diversion.

In registering the disputed domain name that is a typographical variant of the Complainant's trade mark and domain name, and using it to offer sponsored links or redirect Internet users to websites offering competitive goods and services, the Respondent deprives the Complainant of the opportunity to sell its goods and

services to prospective clients who are clearly looking for the Complainant and, at the same time, promotes goods and services offered by competitors. The Respondent is clearly engaging in bad faith.

The Panel therefore determines that the Respondent has intentionally attempted to attract for commercial gain Internet users to his websites by creating a likelihood of confusion with the Complainant's mark as to source, sponsorship, affiliation, or endorsement of the Respondent's website. As such, the Panel is satisfied that the Respondent is using the disputed domain name for *mala fide* purposes and for commercial gain, and the Panel finds that the circumstances referred to in paragraph 4(b)(iv) of the Policy are applicable to the present case.

The Complainant also submitted evidence that the Respondent was engaged in previous UDRP disputes involving many third parties' well-known trade marks in which the panels determined that there had been bad faith registration and use of the domain names in question. See, for instance, *Blackbaud, Inc. v. YangZhiChao*, WIPO Case No. [D2022-1059](#); *Credit Karma, Inc. v. Domain Admin, Information Privacy Protection Services Limited / yangzhichao*, WIPO Case No. [D2018-0029](#).

Taking into account all the circumstances, the Panel concludes that the Respondent has registered and used the disputed domain name in bad faith.

Accordingly, the Complainant has satisfied the requirements of the third element under paragraph 4(a) 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 <alfalaal.com> be transferred to the Complainant.

/Sok Ling MOI/

**Sok Ling MOI**

Sole Panelist

Date: September 13, 2022