

ADMINISTRATIVE PANEL DECISION

Aglo B.V. v. Domain Administrator, See PrivacyGuardian.org / ogred
Case No. D2022-2457

1. The Parties

Complainant is Aglo B.V., Netherlands, represented by Novagraaf Nederland B.V., Netherlands.

Respondent is Domain Administrator, See PrivacyGuardian.org, United States of America (“U.S.”) / ogred, Malaysia.

2. The Domain Name and Registrar

The disputed domain name <olvislace.com> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 6, 2022. On July 6, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 6, 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 Complainant on July 11, 2022, 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 July 11, 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 Respondent of the Complaint, and the proceedings commenced on July 13, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 2, 2022. Respondent did not submit any response. Accordingly, the Center notified the Parties of Respondent’s default on August 3, 2022.

The Center appointed Ingrīda Kariņa-Bērziņa 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

Complainant is a women's and bridal fashion company marketing garments featuring French lace. It is the proprietor of registrations for its OLVI'S trademark, including the following:

- International Trademark No. 1256362 for OLVI'S (word mark), registered on February 10, 2015, for goods and services in classes 3, 9, 14, 18, 24, 25, 26, and 35;
- Canadian Trademark No. TMA1055920 for OLVI's (word mark), registered on September 24, 2019, for goods and services in classes 3, 9, 14, 18, 23, 24, 25, 26 and 35.

Complainant operates its primary business website at "www.olvis-lace.com".

The disputed domain name was registered on September 27, 2021. It resolves to a website featuring advertisements for pornographic and gambling websites.

5. Parties' Contentions

A. Complainant

Complainant's contentions may be summarized as follows:

Under the first element, Complainant states that it is an international luxury women's fashion and bridal brand specialized in creating garments made with fine French lace. OLVI'S was founded in the Netherlands in 2002 by designer Olga Yermoloff. The trademark OLVI'S contains the first two letters O-L, which is derived from the first two letters of her name. The disputed domain name contains Complainant's OLVI'S mark together with the term "lace". Moreover, it is nearly identical to Complainant's own domain name.

Under the second element, Complainant states that Respondent has no relationship with Complainant or its trademarks. Respondent is not an official licensee nor is Respondent authorized in any other way by Complainant to use the OLVI'S trademark. The disputed domain name is used for advertisements related to gambling and pornographic content.

Under the third element, Complainant states that its registration and use of the OLVI'S mark predates the registration of the disputed domain name. The OLVI'S mark has acquired a certain reputation among Internet users, and Complainant uses a nearly identical domain name for its own business. The use of the disputed domain name to resolve to a website featuring ads for gambling and pornographic content misleads Internet users into believing the website is used by or with consent of Complainant. The website to which the disputed domain name triggers warnings that it contains a malicious URL. The disputed domain name interferes with Complainant's business and its ability to promote its services under its OLVI'S trademark. The contact information given by Respondent is clearly false.

Complainant requests transfer of the disputed domain name.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Paragraph 4(a) of the UDRP requires Complainant to make out all three of the following:

- (i) the disputed 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 disputed domain name; and
- (iii) Respondent has registered and is using the disputed domain name in bad faith.

Under paragraph 15(a) of the Rules, “[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”.

A. Identical or Confusingly Similar

Complainant has provided evidence establishing that it has trademark rights in the OLVI’S mark through registrations in Canada and internationally. Complainant thereby satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.2.1.

In comparing Complainant’s mark with the disputed domain name, the Panel finds that the disputed domain name is confusingly similar to this mark as the trademark is clearly recognizable within the disputed domain name. It is the consensus view of UDRP panels that 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. See [WIPO Overview 3.0](#), section 1.8.

It is the well-established view of UDRP panels that a generic Top-Level Domain such as “.com” is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. See [WIPO Overview 3.0](#), section 1.11.1.

Accordingly, the Panel finds that Complainant has established the first element under paragraph 4(a) of the Policy in respect of the disputed domain name.

B. Rights or Legitimate Interests

The circumstances stated in the Complaint and evidence in support set forth in the annexes thereto indicate that Respondent has no rights or legitimate interests in the disputed domain name.

The Panel finds that the evidence submitted by Complainant establishes a *prima facie* case that Respondent has no rights or legitimate interests in the disputed domain name. Respondent is not authorized by Complainant and has no rights in the OLVI’S trademark. The disputed domain name contain Complainant’s mark along with “lace,” which is a term connected to Complainant’s business, thereby suggesting sponsorship or endorsement by the trademark owner. Such use composition cannot confer rights or legitimate interests. See, for example, [WIPO Overview 3.0](#), section 2.5.1.

Pursuant to [WIPO Overview 3.0](#), section 2.1, and cases thereunder, where Complainant makes out a *prima facie* case that Respondent lacks rights or legitimate interests, the burden of production on this element shifts to Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name.

Respondent has not provided evidence of rights or legitimate interests. There is no evidence that Respondent is commonly known by the disputed domain name, nor that there are any circumstances or activities that would establish Respondent's rights therein. There is no evidence that the disputed domain name has been registered or is being used for legitimate noncommercial purposes. Rather, the disputed domain name resolves to a website featuring advertisements related to gambling and pornography with no connection to the OLVI'S mark. The record contains evidence that the website triggers a warning by anti-virus programs. Such use cannot establish rights or legitimate interests. See [WIPO Overview 3.0](#), section 2.5.2. See also, for example, *Haahtela Oy v. Matti Haahtela, Haahtelan Imupojat*, WIPO Case No. [D2021-2123](#).

Accordingly, the Panel finds that Complainant has established the second element under paragraph 4(a) of the Policy.

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 a disputed domain name in bad faith:

(i) circumstances indicating that Respondent has registered or has acquired the disputed 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 the documented out-of-pocket costs directly related to the domain name; or

(ii) Respondent has registered the disputed 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) 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, 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 finds that Complainant has demonstrated Respondent's bad faith registration and use of the disputed domain name. Complainant provides uncontroverted evidence that the OLVI'S trademark belongs to it. Complainant has registered and used this mark for several years, and the disputed domain name is nearly identical to the domain name used by Complainant for its primary business website. UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith on the part of Respondent. In this case, the disputed domain name redirects to a website with no connection to Complainant. See [WIPO Overview 3.0](#), section 3.1.4. Respondent has not provided any information that would rebut this presumption.

The Panel finds that Respondent has demonstrated bad faith by using the disputed domain name to redirect to a website displaying advertisements for pornographic material. Said website has no connection to Complainant's OLVI'S trademark and indicate that Respondent is seeking commercial gain by creating a likelihood of confusion with Complainant's trademark. Such circumstances clearly indicate bad faith in registration and use of the disputed domain name. See [WIPO Overview 3.0](#), section 3.2.1 and cases cited thereunder.

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 <olvislace.com> be transferred to Complainant.

/Ingrīda Kariņa-Bērziņa/

Ingrīda Kariņa-Bērziņa

Sole Panelist

Date: August 19, 2022