

ADMINISTRATIVE PANEL DECISION

Groupe Lactalis v. Registration Private, Domains By Proxy, LLC / Francesca Laddaga

Case No. D2022-2889

1. The Parties

Complainant is Groupe Lactalis, France, represented by Inlex IP Expertise, France.

Respondent is Registration Private, Domains By Proxy, LLC, United States of America / Francesca Laddaga, Canada.

2. The Domain Name and Registrar

The disputed domain name <uslactalis.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 August 5, 2022. On August 5, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 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 Complainant on August 16, 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 August 16, 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 August 18, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 7, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on September 13, 2022.

The Center appointed Lynda J. Zadra-Symes as the sole panelist in this matter on September 29, 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 French multinational group created in 1933 which operates in the food industry, particularly in the dairy industry.

In December 1984, Complainant registered the company name Groupe Lactalis with the French company register and also registered that name for several of its subsidiaries. Complainant uses the mark LACTALIS in connection with its business, in its corporate names and domain names in many countries around the world. Complainant now has 250 production sites in 50 countries, with more than 80,000 employees in 94 countries and a turnover of 20 billion euros.

Complainant owns the following trademark registrations, among others:

LACTALIS and design	French Registration No. 4438490, filed March 20, 2018;
LACTALIS and design	European Registration No. 017959526 registered March 22, 2019;
#LACTALIS EXPERIENCE	US Reg. No. 6375247, filed May 26, 2020, registered June 8, 2021;
LACTALIS	US Reg. No. 6824877, filed July 23, 2021, registered August 23, 2022.

Complainant also owns numerous domain names containing the mark LACTALIS, including:

- <lactalis.com>, registered January 9, 1999;
- <lactalis.eu>, registered June 20, 2006;
- <lactalis.org>, registered May 12, 2011;
- <lactalis.fr>, registered February 23, 1999;
- <lactalis.group>, registered May 31, 2016.

The disputed domain name was registered on April 20, 2022 and it resolves to a page that cannot be found.

On May 30, 2022, Complainant sent a formal notice to Respondent's email address demanding transfer of the disputed domain name to Complainant. Respondent failed to respond.

5. Parties' Contentions

A. Complainant

Complainant contends that the disputed domain name is confusingly similar with Complainant's LACTALIS trademarks, that Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the disputed domain name was registered and is being used in bad faith.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

In order to succeed in its claim, Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied:

(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 with respect to the disputed domain name; and

(iii) the disputed domain name has been registered and is being used in bad faith.

Paragraph 15(a) of the Rules instructs the Panel to 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 demonstrated that it has rights in the trademark LACTALIS. The disputed domain name incorporates Complainant’s mark in its entirety, with the addition of the country designation “us” which does not avoid a finding of confusing similarity.

Accordingly, the Panel finds that the disputed domain name is confusingly similar to Complainant’s trademark.

B. Rights or Legitimate Interests

Complainant contends that Respondent is not affiliated with or connected to Complainants in any way. At no time has Complainant licensed or otherwise endorsed, sponsored or authorized Respondent to use Complainant’s mark or to register the disputed domain name. The record is devoid of any facts that establish any rights or legitimate interests of Respondent in the disputed domain name. There is no evidence that Respondent has been commonly known by the disputed domain name or that it has any rights that might predate Complainant’s adoption and use of its marks.

Respondent has not made, and is not making, a legitimate noncommercial or fair use of the disputed domain name. Respondent has not used the disputed domain name in connection with the *bona fide* offering of goods or services.

Instead, the disputed domain name resolves to a page that cannot be found. There is no active website associated with the disputed domain name. Such passive holding of a domain name does not constitute a *bona fide* offering of goods or services and does not create any legitimate interest in the disputed domain name.

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

C. Registered and Used in Bad Faith

The record indicates that Complainant’s trademarks are well-known in France, Europe and other countries. It is highly likely that Respondent was aware of the existence of Complainant’s marks at the time of registering the disputed domain name. The disputed domain name resolves to a page that cannot be found. From the inception of the UDRP, panelists have found that the non-use of a domain name (including a blank or “coming soon” page) would not prevent a finding of bad faith under the doctrine of passive holding. In the circumstances of this case, including (i) the degree of distinctiveness and reputation of Complainant’s mark, (ii) the failure of Respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the concealment of Respondent’s identity through the use of a privacy service, and (iv) noting the composition of the disputed domain name, the implausibility of any good faith use to which the disputed domain name may be put, the Panel finds that the lack of a website at the disputed domain name does not prevent a finding of bad faith. See section 3.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)). Moreover, Internet users may believe that

Complainant's website is not operating correctly. In addition, there is a risk that Respondent may be using the disputed domain name in connection with a phishing scheme to make them believe they are dealing with Complainant. Indeed, Complainant submitted evidence that several mail exchange ("MX") records have been activated for the disputed domain name, thereby enabling emails to be sent and received using the disputed domain name for the purpose of sending fraudulent emails to Complainant's clients and suppliers by usurping Complainant's well-known trademark in the email address. These facts indicate that Respondent potentially registered the disputed domain name in bad faith for Respondent's commercial gain by intentionally creating a likelihood of confusion with Complainant's marks to deceive Internet users seeking or dealing with Complainant.

Accordingly, the Panel finds that Respondent has registered and used the disputed domain name in bad faith.

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, <uslactalis.com> be transferred to Complainant.

/Lynda J. Zadra-Symes/

Lynda J. Zadra-Symes

Sole Panelist

Date: October 13, 2022