

ADMINISTRATIVE PANEL DECISION

AAK AB v. maqeeens slayman
Case No. D2022-3122

1. The Parties

Complainant is AAK AB, Sweden, represented by Ports Group AB, Sweden.

Respondent is maqeeens slayman, United States of America (hereafter “US”).

2. The Domain Name and Registrar

The disputed domain name <aakoilexport.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 24, 2022. On August 24, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 24, 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 25, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on August 25, 2022. Complainant also submitted a signed copy of the Complaint on the same day.

The Center verified that the Complaint, together with the amendment to the 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 September 5, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 25, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on September 26, 2022.

The Center appointed Yijun Tian as the sole panelist in this matter on October 3, 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

A. Complainant

Complainant, AAK AB, is a company incorporated in Sweden. It is a company specialized in plant-based oils, with over 4,000 employees.

Complainant is the exclusive owner of several AAK trademarks worldwide, including the European Union (“EU”) Trademark registered on September 27, 2019 (the EU registration number 018049544), the United Kingdom (:UK”) Trademark registered on October 1, 2010 (the UK registration number UK00800949023), and the Canadian Trademark registered on February 16, 2009 (the Canadian Trademark registration number TMA734484).

B. Respondent

Respondent is maqeeens slayman from the US.

C. The Disputed Domain Name

The disputed domain name <aakoilexport.com> was registered on July 14, 2022. The disputed domain name resolves to a website which is currently inactive.

5. Parties’ Contentions

A. Complainant

Complainant contends that the disputed domain name is confusingly similar to Complainant’s AAK trademarks. The disputed domain name incorporates the AAK mark in its entirety with the added ending of wordings “oil” and “export”, and the generic Top-Level Domain (“gTLD”) “.com”. The addition of the words “oil export” is not sufficient to eliminate the confusing similarity. The gTLD “.com” is irrelevant when assessing whether a domain name is identical or confusingly similar to a mark as it is a functional element.

Complainant contends that Respondent has no rights or legitimate interests in the disputed domain name.

Complainant contends that the disputed domain name was registered and is being used in bad faith.

Complainant requests that the disputed domain name be transferred to it.

B. Respondent

Respondent did not reply to Complainant’s contentions.

6. Discussion and Findings

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

- (i) the disputed domain name registered by Respondent 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) the disputed domain name has been registered and is being used in bad faith.

On the basis of the evidence introduced by Complainant and in particular with regard to the content of the relevant provisions of the Policy (paragraphs 4(a)-(c)), the Panel concludes as follows:

A. Identical or Confusingly Similar

The Panel finds that Complainant has rights in the AAK marks acquired through registration. The AAK marks have been registered in Canada since 2009, registered in the UK since 2010, and registered in the EU since 2019. The disputed domain name comprises the AAK mark in its entirety. The disputed domain name only differs from Complainant's trademark by the terms "oil" and "export", and the gTLD ".com". This does not prevent a finding of confusing similarity between Complainant's registered trademark and the disputed domain name.

Previous UDRP panels have consistently held that a domain name is identical or confusingly similar to a trademark for purposes of the Policy "when the domain name includes the trademark, or a confusingly similar approximation, regardless of the other terms in the domain name" (*Wal-Mart Stores, Inc. v. Richard MacLeod d/b/a For Sale*, WIPO Case No. [D2000-0662](#)).

Further, in relation to the gTLD, section 1.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") states: "The applicable Top Level Domain ('TLD') in a domain name (e.g., '.com', '.club', '.nyc') is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test."

The Panel therefore holds that the Complaint fulfils the first condition of paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances any of which is sufficient to demonstrate that Respondent has rights or legitimate interests in the disputed domain name:

(i) before any notice to Respondent of the dispute, the use by Respondent 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) Respondent has been commonly known by the disputed domain name, even if Respondent has acquired no trademark or service mark rights; or

(iii) 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 Complainant's trademarks.

The overall burden of proof on this element rests with Complainant. However, it is well established by previous UDRP panel decisions that once a complainant establishes a *prima facie* case that a respondent lacks rights or legitimate interests in a domain name, the burden of production shifts to the respondent to rebut the complainant's contentions. If the respondent fails to do so, the complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy. (*Danzas Holding AG, DHL Operations B.V. v. Ma Shikai*, WIPO Case No. [D2008-0441](#); [WIPO Overview 3.0](#), section 2.1, and cases cited therein).

Complainant has rights in the AAK marks in Canada since 2009, in the UK since 2010 and in the EU since 2019, which precede Respondent's registration of the disputed domain name in 2022. According to the Complaint, Complainant is a leading company specialized in plant-based oils, with over 4,000 employees.

Moreover, Respondent is not an authorized dealer of AAK branded products or services, and Respondent has not used the disputed domain name in connection with an active website. Complainant has therefore established a *prima facie* case that Respondent has no rights or legitimate interests in the disputed domain name and thereby shifted the burden to Respondent to produce evidence to rebut this presumption (*The Argento Wine Company Limited v. Argento Beijing Trading Company*, WIPO Case No. [D2009-0610](#); *Do The*

Hustle, LLC v. Tropic Web, WIPO Case No. [D2000-0624](#); *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#)).

Based on the following reasons the Panel finds that Respondent has no rights or legitimate interests in the disputed domain name:

(a) There has been no evidence adduced to show that Respondent is using the disputed domain name in connection with a *bona fide* offering of goods or services. Respondent has not provided evidence of legitimate use of the disputed domain name. There has been no evidence adduced to show that Complainant has licensed or otherwise permitted Respondent to use the AAK marks or to apply for or use any domain name incorporating the AAK marks;

(b) There has been no evidence adduced to show that Respondent has been commonly known by the disputed domain name. There has been no evidence adduced to show that Respondent has any registered trademark rights with respect to the disputed domain name. Respondent registered the disputed domain name in 2022, long after the AAK marks became internationally known. The disputed domain name is confusingly similar to Complainant's AAK marks;

(c) There has been no evidence adduced to show that Respondent is making a legitimate noncommercial or fair use of the disputed domain name. The website resolved by the disputed domain name is currently inactive.

The Panel finds that Respondent has failed to produce any evidence to establish rights or legitimate interests in the disputed domain name. The Panel therefore holds that the Complaint fulfils the second condition of 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 Respondent has registered or 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 Complainant, for valuable consideration in excess of Respondent's documented out-of-pocket costs directly related to the disputed 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 the website or location.

The Panel concludes that upon the evidence of these circumstances and other relevant circumstances, it is adequate to conclude that Respondent has registered and used the disputed domain name in bad faith.

(a) Registration in Bad Faith

The Panel finds that Complainant has a widespread reputation in the AAK marks with regard to its products or services. Complainant has registered its AAK marks in Canada since 2009, in the UK since 2010, and in the EU since 2019. As introduced above, it is a leading company specializing in plant-based oils and has over 4,000 employees. Also, the dates of Complainant's above trademark registrations long precede Respondent's registration of the disputed domain name in 2022. Therefore, it is not conceivable that Respondent would not have had actual notice of Complainant's trademark rights at the time of the registration of the disputed domain name.

Moreover, Respondent has chosen not to respond to Complainant's allegations. According to the UDRP decision in *The Argento Wine Company Limited v. Argento Beijing Trading Company, supra*, "the failure of Respondent to respond to the Complaint further supports an inference of bad faith". See also *Bayerische Motoren Werke AG v. (This Domain is For Sale) Joshuathan Investments, Inc.*, WIPO Case No. [D2002-0787](#).

Thus, the Panel concludes that the disputed domain name was registered in bad faith.

(b) Use in Bad Faith

The disputed domain name is currently inactive. In terms of inactive domain names, section 3.3 of the [WIPO Overview 3.0](#) provides: "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."

Section 3.3 of the [WIPO Overview 3.0](#) further states:

"While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put."

As discussed above, Complainant's AAK marks are widely known. Taking into account all the circumstances of this case, the Panel concludes that the current inactive use of the disputed domain name by Respondent is in bad faith also.

In the absence of convincing evidence and rebuttal to the contrary from Respondent, the choice of the disputed domain name which is confusingly similar to Complainant's widely-known trademarks, and the conduct of Respondent are indicative of registration and use of the disputed domain name in bad faith.

The Panel therefore holds that the Complaint fulfils the third condition of paragraph 4(a) of the Policy.

7. Decision

For all 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 <aakoilexport.com> be transferred to Complainant.

/Yijun Tian/

Yijun Tian

Sole Panelist

Dated: November 9, 2022