

ADMINISTRATIVE PANEL DECISION

Lohilo Foods AB (publ) v. Niclas Blomström
Case No. D2022-3169

1. The Parties

The Complainant is Lohilo Foods AB (publ), Sweden, represented by Groth & Co KB, Sweden.

The Respondent is Niclas Blomström, Sweden.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 26, 2022 with respect to the domain name <lohinella.com> and the disputed domain name. On August 26, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name and the other domain name. On August 29, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for both domain names which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on September 14, 2022, providing the registrants and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on September 16, 2022 in which the domain name <lohinella.com> was removed.

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 of the Complaint, and the proceedings commenced on October 11, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 31, 2022. The Respondent did not submit any response. The Center received a communication from a third party on October 11, 2022. Accordingly, the Center notified the parties that it would proceed to panel appointment on November 1, 2022.

The Center appointed Petter Rindforth as the sole panelist in this matter on November 15, 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.

The Complainant submitted its complaint in English but has requested that the language of proceedings be Swedish. The Registrar confirmed that the language of the registration agreement for the disputed domain name is English. The Panel has decided in accordance with paragraph 11(a) of the Rules that the language of the proceedings will be English.

4. Factual Background

The Complainant is the owner of the trademark LOHILO, registered in several countries and regions, such as:

- Swedish national trademark registration No. 521493 LOHILO (word), registered on October 10, 2014, for goods in class 30;
- European Union trademark registration No. 014250252 LOHILO (word), registered on September 29, 2015, for goods in class 30;
- Swedish national trademark registration No. 604883 LOHILO (word), registered on November 15, 2019, for goods in classes 5, 25, 30, and 32;
- European Union trademark registration No. 018312404 LOHILO (word), registered on February 13, 2021, for goods in classes 5, 25, 28, 29, 30, 32; and
- International Trademark registration No. 1593716 LOHILO (word), registered on March 12, 2021, for goods in classes 5, 25, 30, and 32, designating 10 countries around the world.

The disputed domain name <lohilo.com> was originally registered on January 17, 2014, in the name of Constant Innovation AB, but transferred to – and registered in the name of – the Respondent on September 14, 2015. The disputed domain name currently resolves to a pay-per-click page.

5. Parties' Contentions

A. Complainant

The Complainant states that the disputed domain name <lohilo.com> is identical to the Complainant's registered trademark LOHILO. The Respondent has not used the disputed domain name in connection with a *bona fide* offering of goods/services and holds no trademark rights in LOHILO. The Respondent is not making a legitimate noncommercial or fair use of the disputed domain name. The Respondent is a former contractor and employee of the Complainant and has contrary to the Complainant's instructions and without the Complainant's knowledge transferred the disputed domain name to himself.

The Complainant launched its trademark LOHILO in 2013, and hired the Respondent's company Constant Innovation AB for branding services, including registration of – on behalf of the Complainant – the disputed domain name. It was registered by and in the name of Constant Innovation AB on behalf of the Complainant on January 17, 2014. The Complainant and the Respondent had a business relationship between 2010 and 2021 and from January 2019 until December 2021 the Respondent was also employed by the Complainant, with the position as CFO and IT Manager, and performed IT related services, including domain registration and web hotel services. The Respondent was fired on December 1, 2021, due to suspected fraud.

In September 2015, the Complainant instructed the Respondent to transfer the disputed domain name from Constant Innovation AB to the Complainant. The Respondent issued an invoice dated December 5, 2015, for the domain name transfer. The Complainant has over the years instructed the Respondent to register several domain names on various generic Top Level Domains ("gTLDs") and country code Top Level

Domains (“ccTLDs”) on behalf of the Complainant and it has come to the Complainant’s knowledge that the Respondent registered them in his own name. The Complainant instructed the Respondent on March 17, 2022, to provide the Complainant with the authorization codes to all the domain names that the Respondent had handled on behalf of the Complainant. The Respondent replied that he would give the authorization codes, provided the Complainant pay an invoice at SEK 38,756 issued in the name of a company owned by the Respondent, IM Solutions AB. On August 14, 2022, the Respondent sent a new email to the Complainant requesting payment of SEK 248,000 to provide the authorization codes and if not done, the Respondent threatened to shut down all web related services.

The Respondent has from 2016 to 2021 intentionally by means of misleadingly caused the Complainant to pay a total of SEK 21,428,331 to accounts held by the Respondent or companies he represented, and causing the Complainant damage.

The Complainant requests that the Panel issue a decision that the disputed domain name be transferred to the Complainant.

B. Respondent

The Center received a communication from a third party (Constant Innovation company) on October 11, 2022, stating that they were the creator of the disputed domain name, and that they “created the LOHILO brand back in 2013 and contacted Alvestaglass to produce the ice cream”, then they “sold all rights to them and transferred all domain names to them in 2015”.

The communication also states that “they have then proceeded to rewrite history so it sounds like they came up with the idea and the name, but that is false. I don’t think this claim has anything to do with me but I am on cc since I registered the domain lohilo.com from the first beginning.”

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, a complainant must prove each of the following:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- (ii) that the respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant is the owner of the LOHILO trademark, registered in several countries and regions around the world, including Sweden – where the Respondent appears to be located.

The relevant part of the disputed domain name is “lohilo”.

As it is well established in previous UDRP decisions that the added gTLD – being a required technical element of every domain name – may be irrelevant when assessing whether or not a domain name is identical or confusingly similar to a trademark.

There is no difference between LOHILO and “lohilo”.

The Panel therefore concludes that the disputed domain name is identical similar to the Complainant's trademark LOHILO and thus, the Complainant has satisfied the first element of the Policy.

B. Rights or Legitimate Interests

Once a complainant establishes a *prima facie* case of the second element of the Policy, the burden of production shifts to the respondent to come forward with appropriate allegations or evidence demonstrating that it does have rights or legitimate interests pursuant to paragraph 4(a)(ii) of the Policy. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 2.1.

By not submitting a Response, the Respondent failed to invoke any circumstance which could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights or legitimate interests in the disputed domain name or to rebut the Complainant's *prima facie* case that it lacks rights or legitimate interests.

The Respondent has no rights to use the Complainant's trademark and is not an authorized agent or licensee of the Complainant's products, services or trademarks. There is nothing in the Respondent's name that indicates it may have become commonly known by the disputed domain name, enabling it to establish a legitimate interest in the disputed domain name, nor any evidence in the present record to indicate that the Respondent is making any legitimate noncommercial or fair use of the disputed domain name.

On the contrary, the Complainant states that the disputed domain name <lohilo.com>, although never registered in the name of the Complainant, was originally registered by the Respondent on behalf of the Complainant, and then transferred to the Complainant that was, for a time, also employed by the Complainant with the position as CFO and IT Manager, dealing with the Complainant's domain names and related web hotel services. It is also noted that the Respondent has claimed a rather high monetary compensation in order to transfer <lohilo.com> and other domain names to the Complainant.

Such registration and use by a business partner and later on employee does not create any rights or legitimate interests in the disputed domain name. See *Resins Olot, SL v. Francisco Jose Lopez de Vega*, WIPO Case No. [D2017-0050](#).

The Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

"Bad faith" under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's trademark.

Referring to the evidence and arguments provided by the Complainant, it appears that the disputed domain name was transferred to – and thereby registered in the name of – the Respondent close to one (1) year after the Complainant originally registered the trademark LOHILO in Sweden.

Furthermore, in the present case, the Respondent does not refute Complainant's allegation that Respondent registered the disputed domain name without Complainant's authorization. The Respondent's registration of the disputed domain name in the circumstances constitutes bad faith registration.

Further, as shown by documentation provided by the Complainant, the Respondent has demanded high monetary compensation to transfer the disputed domain name to the Complainant.

Thus, the Panel concludes that the disputed domain name was registered and is being used in bad faith, and that the Complainant has succeeded in proving the three elements within 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, <lohilo.com>, be transferred to the Complainant.

/Petter Rindforth/

Petter Rindforth

Sole Panelist

Date: November 29, 2022