

ADMINISTRATIVE PANEL DECISION

Axfood AB v. Name Redacted

Case No. D2022-4599

1. The Parties

The Complainant is Axfood AB, Sweden, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondents are Name Redacted¹.

2. The Domain Names and Registrar

The disputed domain names <axfood-dagab.com> and <dagab-axfood.com> are registered with Ascio Technologies Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 1, 2022. On December 2, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On December 2, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on December 5, 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 on December 9, 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 the Respondent of the Complaint, and the proceedings commenced on December 19, 2022. In accordance with the Rules,

¹ The Respondents appears to have used the name of a third party when registering the disputed domain names, or at least for <axfood-dagab.com>. In light of the potential identity theft, the Panel has redacted the Respondents’ name from this decision. However, the Panel has attached as Annex 1 to this decision an instruction to the Registrar regarding transfer of the disputed domain names, which includes the name of the Respondents. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

paragraph 5, the due date for Response was January 8, 2023. The Respondents did not submit any response. Accordingly, the Center notified the Respondents' default on January 9, 2023.

The Center appointed Petter Rindforth as the sole panelist in this matter on January 12, 2023. 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 is a Swedish food retail group and the owner of the trademarks AXFOOD and DAGAB, registered in several countries and regions:

- Swedish national trademark registration No. 354216, AXFOOD (word), registered on April 12, 2002, for goods and services in Intl Classes 3, 5, 16, 21, 29, 30, 31, 32, 34, 35, 39 and 42;
- European Union trademark registration No. 008836785, AXFOOD (word), registered on August 18, 2010, for goods and services in Intl Classes 29, 30, 31, 32, 35 and 42;
- United Kingdom national trademark No. UK00908836785, AXFOOD (word), registered on August 18, 2010, for goods and services in Intl Classes 29, 30, 31, 32, 35 and 42;
- Swedish national trademark registration No. 387380, DAGAB (word), registered on March 9, 2007, for goods and services in Intl Classes 3, 16, 21, 29, 30, 31, 32, 35, 36, 39, 40 and 43;
- Norwegian national trademark registration No. 309280, DAGAB (word), registered on April 7, 2020, for services in Intl Classes 35 and 39; and
- Finnish national trademark registration No. 77085, DAGAB (logo), registered on March 20, 1981, for goods in Intl Classes 3, 29, 30, 31 and 32.

The Complainant's support company, Dagab, is responsible for the company group's assortment, purchasing and logistics.

The disputed domain name <dagab-axfood.com> was registered on May 3, 2022.

The disputed domain name <axfood-dagab.com> was registered on July 26, 2022.

The disputed domain names resolves to inactive websites.

5. Parties' Contentions

A. Complainant

The Complainant claims that the disputed domain names are identical or confusingly similar to the Complainant's trademarks AXFOOD and DAGAB, as the disputed domain names incorporate and combine the two trademarks in their entirety with a hyphen in between the trademarks.

The Respondents are not affiliated with the Complainant, nor has the Complainant given the Respondents permission to use the Complainant's trademarks in any manner, including in the creation of domain names. Furthermore, the Complainant has not licensed, authorized, or permitted the Respondents to register the disputed domain names. The Respondents are not commonly known by the disputed domain names, which evidences a lack of rights or legitimate interests in the disputed domain names.

It is the Complainant's contention that the disputed domain names were registered in bad faith and that the Respondents fraudulently used the identity of the Complainant's employee when registering the disputed domain names.

The disputed domain name <dagab-axfood.com> was used for a fraudulent email scheme and the s use of the personal name of the Complainant's employee to register the disputed domain names further evidences its lack of legitimate rights or interests. As part of the Respondents' fraudulent email scheme, it sent emails associated with the disputed domain name "[...]dagab-axfood.com", pretending to be a campaign manager, to one of the Complainant's customers attempting to create the impression that the emails originated from the Complainant. Thus, the Respondents intentionally seek to take advantage of the goodwill of the Complainant's trademarks, for financial gain.

By creating the impression that the disputed domain names are authorized and affiliated by Complainant, the Respondents' purpose was to confuse the Complainant's customers and suppliers for its financial gain. The Respondent is currently using both of the disputed domain names to direct Internet users to websites that are inactive. The Respondents have failed to make use of the disputed domain names' websites and has not demonstrated any attempt to make legitimate *bona fide* use of the disputed domain names.

By registering the disputed domain names, the Respondents have demonstrated a knowledge of and familiarity with the Complainant's brands and business. The Respondents have registered and used the disputed domain names for purposes of launching a phishing attack, which is a clear evidence of bad faith registration and use.

In addition, the Respondents have registered other domain names infringing on the Complainant's AXFOOD and DAGAB trademarks. For instance, the phishing email sent by the Respondent displays the domain name <dagab-axfood.se>, which was subsequently dropped and registered by the Complainant. The sheer number of infringing domain names registered by the Respondent demonstrates that the Respondents are engaging in a pattern of cybersquatting, which is an evidence of bad faith registration and use.

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

The Complainant, referring to the fact that the Respondents have fraudulent used the identity of the Complainant's actual employee "D.S." to register the Disputed Domain Names, requests that the identity of the Respondent "D.S." be redacted from the decision.

B. Respondents

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

6. Discussion and Findings

6.1 Procedural Matter – Consolidation of Multiple Respondents

In accordance with paragraph 10(e) of the Rules, "[a] Panel shall decide a request by a Party to consolidate multiple domain name disputes in accordance with the Policy and these Rules."

Previous panels have found have reached consensus in that where a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. See Section 4.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") and also *Meow Wolf, Inc. v. Nick Ramirez, Talk Abot Wireless / Brody Rios, NET4000*, WIPO Case No. [D2022-3354](#) stating that "The record indicates the disputed domain names are under common control. In particular, both disputed domain names were registered with the same email address, identified in the registrant contact details".

In the present case, the Panel notes that:

- the disputed domain names share the same composition with the Complainant's trademarks simply inverted;
- the disputed domain names are registered through the same Registrar and with only two months apart;
- the disputed domain names were both, as shown by the Complainant, used in the same fraudulent e-mail scheme;
- the Respondents share the same e-mail address; and
- the Respondents are both located in Sweden.

Thus, the Panel finds that the "Respondents" in this case are likely one and the same person and the Respondents have not presented any arguments as to why consolidation would be unfair or inequitable. Accordingly, conditions for proper consolidation of the disputed domain names into one matter are present here and the Panel herein forth will refer to the registered Respondents as "the Respondent" in singular.

6.2 Findings related to Paragraph 4(a) of the Policy

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 has proven its ownership of the trademarks AXFOOD and DAGAB as listed in section 4 above.

Disregarding the generic Top-Level Domain ("gTLD") component, ".com", the disputed domain names consists of the Complainant's two trademarks in their entirety with the addition of a hyphen. See sections 1.7 and 1.11 of the [WIPO Overview 3.0](#).

As the disputed domain names consists of obvious combinations of the Complainant's trademarks AXFOOD and DAGAB and *vice versa*, the Panel finds that the disputed domain names are confusingly similar to the Complainant's registered trademarks AXFOOD and DAGAB and that the first element of the Policy has been met.

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.

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 names or to rebut the Complainant's *prima facie* case.

The Respondent has no rights to use the Complainant's trademarks 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 that the Respondent may have become commonly known by any the disputed domain names, nor any evidence in the present record to indicate that the Respondent is making any legitimate noncommercial or fair use of the disputed domain names.

On the contrary – the Panel finds that the Respondent’s use of the disputed domain names to falsely identify himself as a representative/staff of the Complainant, is a clear evidence that Respondent has no rights or legitimate interests in any of the disputed domain names. Further, the fact that both domain names points to inactive or non-existing websites (in combination with the false e-mails), is a further indication of lack of legitimate interests.

The Panel finds that the Respondent has no rights or legitimate interests in the disputed domain names and that the second element of the Policy has been met.

C. Registered and Used in Bad Faith

The Policy requires a complainant to establish that the disputed domain names were registered and are being used in bad faith. The Policy describes several non-exhaustive circumstances demonstrating a respondent’s bad faith registration and use. See paragraph 4(b) of the Policy.

As concluded in section 6.A above, the Complainant’s distinctive trademarks AXFOOD and DAGAB were registered long before the disputed domain names. Since the Complainant’s trademarks are well-known in Sweden, it is implausible that the Respondents were not aware of the trademarks when registering the disputed domain names. The Panel further takes into account the following circumstances:

- the Respondents have also registered and used a similar combined domain name under the country code Top-Level Domain (“ccTLD”) .se;
- the Respondents have used the disputed domain names to falsely identify himself as one of the Complainant’s campaign manager to third parties with no other purpose than to commit/perpetrate a fraud; and
- both of the disputed domain names are clear combinations of two well-known trademarks owned by the Complainant.

Thus, the Panel concludes that the disputed domain names were registered and are 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 names, <axfood-dagab.com>, and <dagab-axfood.com>, be transferred to the Complainant.

/Petter Rindforth/

Petter Rindforth

Sole Panelist

Date: January 26, 2023