

ADMINISTRATIVE PANEL DECISION

Alfa Laval Corporate AB v. Nicole Baier

Case No. D2023-1870

1. The Parties

The Complainant is Alfa Laval Corporate AB, Sweden, represented by Advokatbyrå Gulliksson AB, Sweden.

The Respondent is Nicole Baier, Germany.

2. The Domain Name and Registrar

The disputed domain name <alfallaval.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 April 26, 2023. On April 27, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 27, 2023, 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 (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant April 28, 2023, 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 May 3, 2023.

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 May 5, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 25, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 26, 2023.

The Center appointed Andrew Brown K.C. as the sole panelist in this matter on June 1, 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 limited liability (joint stock) company incorporated in Sweden. It operates in key technology areas of heat transfer, separation and gas and fluid handling across many industries including the marine, environment, pharma, hygiene, food and energy sectors. The Complainant owns the trademark ALFA LAVAL and has over 200 trademark registrations for this mark in (*inter alia*) Sweden, the United States, Japan, the Republic of Korea, many individual European countries, the EU, Canada, the United Kingdom and as an International Registration (together "ALFA LAVAL Mark"). The registrations cover classes 1, 3, 5, 6, 7, 9, 11, 12, 14, 17, 18, 21, 25, 28, 37, 40 and 42.

The Complainant also owns multiple domain names incorporating its ALFA LAVAL Mark including its main domain name <alfalaval.com> and numerous other top level domains including <.us> and <.co.uk>.

The disputed domain name was registered on March 15, 2023.

5. Parties' Contentions

A. Complainant

The Complainant asserts its rights in the ALFA LAVAL Mark. It states that its trademark has been found to be well-known in nine previous UDRP decisions involving bad faith registrations of marks highly similar to its ALFA LAVAL Mark.

The Complainant states that the disputed domain name is confusingly similar to its ALFA LAVAL Mark given that the registration has incorporated nine letters of its ALFA LAVAL Mark – with the only difference being that an additional "L" has been added immediately prior to the word LAVAL. The Complainant asserts that the disputed domain name contains sufficiently recognizable aspects of its ALFA LAVAL Mark and should be considered as an obvious and intentional misspelling.

The Complainant also contends that the Respondent has no rights or legitimate interests in the disputed domain name. In this regard, the Respondent does not own any trademark registrations or applications for the words "Alfallaval". The Complainant has never licensed or authorized the Respondent to use a highly similar or almost identical domain name to its ALFA LAVAL Mark.

As the Respondent does not actively use the disputed domain name, there is no sign of any *bona fide* offering of goods or services.

Finally, the Complainant states that the Respondent has registered the disputed domain name in bad faith because she has intended to attract for her own gain Internet users to the website or online location at the disputed domain name by creating a likelihood of confusion with the Complainant's ALFA LAVAL Mark and its websites. The Complainant contends that because its ALFA LAVAL Mark is well-known and highly distinctive, it is highly likely that the Respondent had that trademark in contemplation when registering the disputed domain name.

The Complainant also relies on the doctrine of passive holding.

B. Respondent

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

6. Discussion and Findings

Pursuant to paragraph 4(a) of the Policy, a complainant must prove each of the following elements with respect to the disputed domain name in order to succeed in this proceeding:

- (i) that the disputed domain name is identical or confusingly similar to a trademark 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 provided evidence of its rights to the ALFA LAVAL Mark in multiple jurisdictions. It has also provided evidence of extensive use of the ALFA LAVAL Mark internationally starting in 1897 and more extensively from 1963.

It is the Panel's view that the Complainant has clearly and sufficiently demonstrated its rights in the ALFA LAVAL Mark. The Panel, along with earlier panels, is satisfied that the Complainant is well-known internationally by its ALFA LAVAL Mark in relation to heat transfer, separation and gas and fluid handling across multiple industries. The Panel also has taken note of earlier panel decisions making closely similar findings in:

- <alfelaval.com> (*Alfa Laval Corporate AB v. Contact Privacy Inc. Customer 0148561631 I Erin Dickey, EDickey Ltd*, WIPO Case No. [D2017-1617](#)),
- <alfalavalgroup.com> (*Alfa Laval Corporate AB v. Name Redacted*, WIPO Case No. [D2018-1450](#)),
- <alfalaval-uk.com> (*Alfa Laval Corporate AB v. Chris Bull*, WIPO Case No. [D2017-0826](#)),
- <alfelevel.com> (*Alfa Laval Corporate AB v. Domain Privacy, Domain Privacy ApS I Prince Michael*, WIPO Case No. [D2017-1602](#)),
- <alfalavai.com> and <aifalaval.com> (*Alfa Laval Corporate AB v. Prince, Michael, PMUJ*, WIPO Case No. [D2017-1613](#)),
- <aflalaval.com> (*Alfa Laval Corporate AB v. Withheld for Privacy Purposes, Privacy Service Provided by Withheld for Privacy ehf I Sunny Obed*, WIPO Case No. [D2021-2936](#)),
- <alfarlaval.com> (*Alfa Laval Corporate AB v. Privacy Service Provided by Withheld for Privacy ehf / nicholas friend, JDC worcetsr associates*, WIPO Case No. [D2022-1494](#)),
- <alfalaal.com> (*Alfa Laval Corporate AB v. YangZhiChao*, WIPO Case No. [D2022-2316](#)),
- <alfalavl.com> (*Alfa Laval Corporate AB v. Privacy Service Provided by Withheld for Privacy ehf I holy genius*, WIPO Case No. [D2022-2492](#)).

The Panel finds that the disputed domain name is confusingly similar to the Complainant's ALFA LAVAL Mark. This trademark is immediately recognizable in the disputed domain name. The Panel therefore finds in favor of the Complainant in respect of paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, the Respondent may establish that it has rights or legitimate

interests in the disputed domain name, among other circumstances, by showing any one of the following elements:

- (i) that before notice of the dispute, the Respondent used or made 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) that the Respondent has been commonly known by the disputed domain name, even if it had acquired no trademark or service mark rights; or
- (iii) that the 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 the trademark or service mark at issue.

The overall burden of proof for establishing that the Respondent has no rights or legitimate interests in respect of the disputed domain name lies with the Complainant.

There is no evidence of the existence of any rights or legitimate interests on the part of the Respondent in the ALFA LAVAL Mark and more particularly the ALFA LAVAL trademark that comprises the disputed domain name.

The Panel is satisfied that the Complainant has prior rights to the ALFA LAVAL Mark which precedes the Respondent's registration of the domain name by over one hundred years and certainly since 1963 when the Complainant made a name change to Alfa-Laval AB.

The Panel is satisfied that the Respondent has never been commonly known by the disputed domain name and that the Respondent has not made any legitimate noncommercial or fair use of the disputed domain name.

The Respondent had the opportunity to demonstrate her rights or legitimate interests in the disputed domain name but has not replied to the Complaint.

The Panel therefore finds that the Complainant has satisfied the burden of establishing a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name and accordingly finds that paragraph 4(a)(ii) of the Policy is satisfied in favor of the Complainant.

C. Registered and Used in Bad Faith

The Panel is also satisfied that the disputed domain name has been registered in bad faith for the following reasons:

- (i) the Panel has already found that the Complainant's ALFA LAVAL Mark is well-known for a core group of goods and services in relation to heat transfer, separation and gas and fluid handling across multiple industries. It is inconceivable that in registering <alfalaval.com>, where there are two "L's" in the center of the mark, the Respondent was unaware of the Complainant's well-known ALFA LAVAL Mark. The Panel is satisfied that the Respondent was indeed aware of the Complainant's ALFA LAVAL Mark at the time of the registration;
- (ii) paragraph 2 of the UDRP puts a burden on registrants where it states "by applying to register a domain name, or by asking us to maintain or renew a domain name registration, you hereby represent and bond to us that [...] to your knowledge, the registration of the domain name will not infringe upon or otherwise violate the rights of a third party [...]. It is your responsibility to determine whether your domain name infringes or violates someone else's rights." Even the most cursory trademark or other online search or any online search of existing domain names prior to the Respondent registering the disputed domain name would instantly have revealed the Complainant and its ALFA LAVAL Mark.

See in this regard section 3.2.3 of the [WIPO Overview 3.0](#): “ Noting registrant obligations under UDRP paragraph 2, panels have however found that respondents who (deliberately) fail to search and/or screen registrations against available online databases would be responsible for any resulting abusive registrations under the concept of willful blindness.”

The Panel is also satisfied that the Respondent is using the disputed domain name in bad faith.

The Respondent has not linked the disputed domain name to any site but the Panel is satisfied that the doctrine of passive holding applies in this case ([WIPO Overview 3.0](#) section 3.3).

Relevant factors for the application of this doctrine on these facts are:

- (i) the Complainant's ALFA LAVAL Mark is well-known internationally and is exclusively associated with the Complainant. When confronted with the disputed domain name many Internet users would wrongly assume that the disputed domain name is owned by, connected with, licensed by or otherwise endorsed by the Complainant because of its very close similarity with the ALFA LAVAL Mark;
- (ii) there is no evidence of any contemplated or actual *bona fide* use of the disputed domain name;
- (iii) the implausibility of any good faith uses to which the domain name may be put. The Complainant has a legitimate and natural concern that the disputed domain name will be used for wrongful purposes, which is a highly relevant factor;
- (iv) the Respondent had the opportunity to respond to the Complaint but has not done so. The Panel is therefore entitled to draw adverse inferences from that failure or omission.

Accordingly, the Panel finds that paragraph 4(a)(iii) of the Policy is satisfied in favor of the Complainant.

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 <alfallaval.com> be transferred to the Complainant.

/Andrew Brown K.C./

Andrew Brown K.C.

Sole Panelist

Date: June 15, 2023