

ADMINISTRATIVE PANEL DECISION

Logisber Forwarding, S.L., and Bold Logistics, S.L. v. Carolyn Feeley Case No. D2023-1966

1. The Parties

The Complainants are Logisber Forwarding, S.L., and Bold Logistics, S.L., Spain, represented by CTTS Abogados, Spain.

The Respondent is Carolyn Feeley, United States of America.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 3, 2023. On May 3, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 3, 2023, 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 May 17, 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 the same date and requested the addition of a disputed domain name to the proceedings. The Complainant requested the exclusion of the additional disputed domain name to the proceedings on May 22, 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 24, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 13, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 19, 2023.

The Center appointed Mario Soerensen Garcia as the sole panelist in this matter on July 13, 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 first Complainant is Logisber Forwarding, S.L, a Spanish company founded in 2006 that is mainly dedicated to providing logistics, distribution, warehousing, freight forwarding and customs agency services, with offices in Madrid, Barcelona, Bilbao, and São Paulo. It owns the following trademarks:

- European Union trademark LOGISBER FORWARDING, S.L. (figurative) No. 004851622, filed on January 16, 2006, and registered on January 23, 2007 in Classes: 35 (Import and export of goods and merchandise); 36 (Customs brokerage); and 39 (Transport agency; freight forwarding.).

- European Union trademark BOLD LOGISTICS (figurative) No. 016257115, filed on January 18, 2017, and registered on May 12, 2017 in Classes: 35 (Import and export of goods and merchandise); 36 (Customs brokerage); and 39 (Transport agency; freight forwarding.).

- European Union trademark BOLDLOG (figurative) No. 018278890, filed on July 29, 2020, and registered on December 16, 2020 in Classes: 35 (Import and export of goods and merchandise; 36 (Administrative services relating to customs clearance) (Arranging the return of customs duties, Arranging the collection of customs duties, Arranging the payment of customs duties, Financial customs brokerage services); and 39 (transport bureau services; Freight forwarding services relating to the handling, shipping and organization of import and export cargo. Transportation and storage; Distribution services).

The second Complainant is Bold Logistics, S.L., a Spanish company related to freight services, with partners coinciding with those of the first Complainant and which is the licensee of the trademarks BOLD and BOLDLOG.

The Complainants refer to themselves in the Complaint as “Logisber” and to their website at “www.logisber.com” for further information on their operations.

The disputed domain name was filed on March 21, 2023, and does not resolve to any active website. However, the Respondent has created email addresses under this disputed domain name, through which it sends emails to third parties impersonating the Complainants.

5. Parties' Contentions

A. Complainants

The Complainants argue that the dominant element of its trademark is reproduced in the disputed domain name in its entirety and that it is still to be considered confusingly similar to the Complainant's trademark LOGISBER FORWARDING, S.L.

The Complainants inform that they have taken screenshots of the Respondent's emails impersonating the Complainants, to show the Respondent's attempt to mislead Internet users, even displaying the trademark BOLD LOGISTICS, to take advantage of the Complainants' reputation and goodwill.

The Complainants argue that the Respondent has no rights or legitimate interests in respect of the disputed domain name and that the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name.

The Complainants further contend that the Respondent has contacted their customers by sending them emails impersonating the business identity of Complainants and requesting certain information.

Moreover, the Complainants stress that the Respondent is not commonly known by the disputed domain name, as well as it is not affiliated to or authorized by the Complainants to use or register the disputed domain name.

The Complainants state that the Respondent does not have prior rights over the trademarks LOGISBER FORWARDING, S.L. and BOLD LOGISTICS, and have not authorized the registration and use of the disputed domain name, nor the use of trademarks by the Respondent.

Additionally, the Complainants inform that its trademark registrations for LOGISBER FORWARDING, S.L. and BOLD LOGISTICS predate the registration of the disputed domain name.

The Complainants also argue that the Respondent has clearly registered the disputed domain name to target the Complainants' brand and that the registration of the disputed domain name was therefore conducted in bad faith. Finally, the Complainants mention that the use of the disputed domain name is clearly in bad faith, as the Respondent presented itself as the Complainants.

The Complainants request the transfer of the disputed domain name.

B. Respondent

The Respondent did not reply to the Complainants' contentions.

6. Discussion and Findings

As per paragraph 4(a) of the Policy, the Complainant must prove that:

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

Based on the evidence and arguments submitted, the Panel's findings are as follows:

A. Identical or Confusingly Similar

The evidence demonstrates that the Complainants are the owners of trademark registrations for LOGISBER FORWARDING, S.L. The figurative element is described in the trademark certification as, "Letters repeated by mirror effect or symmetrically in any position". For purposes of the first element, the relevant portion for comparison are the textual elements, given that the figurative elements are disregarded since they do not overtake the textual elements in prominence. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.10.

The Complainants argue that the dominant portion of their trademark is the LOGISBER element, which is reproduced in all capital letters, while the remaining textual components are underneath in smaller font, and the LOGISBER element is also reflected the figurative element described above.

The disputed domain name incorporates the dominant portion of Complainants' trademark LOGISBER FORWARDING, S.L. The generic Top-Level Domain "gTLD" ".org" can be disregarded here, since it is a technical requirement for registration purposes.

As numerous prior UDRP panels have recognized, the incorporation of a trademark in its entirety or a dominant feature of a trademark is sufficient to establish that a domain name is identical or confusingly similar to the complainant's mark. See section 1.7 of the [WIPO Overview 3.0](#).

The Panel finds that paragraph 4(a)(i) of the Policy has been proved by the Complainants, *i.e.*, the disputed domain name is confusingly similar to the Complainants' trademark LOGISBER FORWARDING, S.L.

B. Rights or Legitimate Interests

The Respondent has not submitted a response to the Complaint.

There is no evidence that the Respondent has any authorization to use the Complainants' trademarks or to register domain names containing the Complainants' trademark LOGISBER FORWARDING, S.L.

There is no evidence that the Respondent is commonly known by the disputed domain name.

There is no evidence that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name or that before any notice of the dispute, the Respondent has made use of, or demonstrable preparations to use the disputed domain names or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services.

Given the Complainant's ownership and use of the domain name <logisber.com>, the nature of the disputed domain name is such to carry a risk of implied affiliation that cannot constitute fair use. See section 2.5.1 of the [WIPO Overview 3.0](#).

Furthermore, the Complainants have provided evidence that the disputed domain name was used in connection with a fraudulent practice leading the users into believing that the Complainants are behind it. Such use can never confer rights or legitimate interests onto the Respondent. See section 2.13 of the [WIPO Overview 3.0](#).

For the above reasons, the Panel finds that the Complainants have made out an un rebutted *prima facie* case and the condition of paragraph 4(a)(ii) of the Policy has been satisfied, *i.e.*, the Respondent has no rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

The trademark LOGISBER FORWARDING, S.L. is used and has been registered by the Complainants and it predates the registration date of the disputed domain name.

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

This Panel finds that the disputed domain name reproduces the trademark LOGISBER FORWARDING, S.L. in its entirety with an apparent intention to confuse and/or deceive consumers/internet users.

It is clear to the Panel that the Respondent's intention with the registration of the disputed domain name was to impersonate the Complainants in a fraudulent email scheme whereby the Respondent emailed some of the Complainants' customers using the email signature displaying the Complainants' registered trademark BOLD LOGISTICS, and reproducing the same address as the registered Complainants' address and a similar phone number, and ultimately for some illicit commercial gain to the Respondent.

This confirms that the disputed domain name was registered and used in bad faith by the Respondent.

Moreover, the Respondent has chosen not to respond to the Complainants' allegations. According to the UDRP panel's decision in *The Argento Wine Company Limited v. Argento Beijing Trading Company*, WIPO Case No. [D2009-0610](#), "[t]he failure of the Respondent to respond to the Complaint further supports an inference of bad faith".

For the above reasons, the condition of paragraph 4(a)(iii) of the Policy has been satisfied, *i.e.*, the dispute domain name was registered and was used 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, <logisber.org>, be transferred to the Complainants.

/Mario Soerensen Garcia/

Mario Soerensen Garcia

Sole Panelist

Date: July 27, 2023