

## ADMINISTRATIVE PANEL DECISION

Groupe Lactalis v. xx ee  
Case No. D2023-3561

### 1. The Parties

The Complainant is Groupe Lactalis, France, represented by Nameshield, France.

The Respondent is xx ee, United States of America.

### 2. The Domain Names and Registrar

The disputed domain names <lactalisapp.vip> and <lactalis.vip> are registered with Gname.com Pte. Ltd. (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 23, 2023. On August 24, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On August 25, 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 (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 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 August 28, 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 September 5, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 25, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 9, 2023.

The Center appointed Beatrice Onica Jarka as the sole panelist in this matter on October 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 Complainant is a French multi-national company, engaged in the food industry, particularly the dairy sector.

The Complainant has traded under the name “Lactalis” since 1999. LACTALIS group is the largest dairy products group in the world, with over 85,500 employees, 270 production sites, and a presence in over 51 different countries.

The Complainant owns several trademarks “LACTALIS” such as:

- The European Union trademark LACTALIS n° 1529833 registered on November 7th, 2002;
- The International trademark LACTALIS n° 900154 registered on July 27th, 2006;
- The International trademark LACTALIS n° 1135514 registered on March 6th, 2014;
- The European Union trademark LACTALIS n° 017959526 registered on May 22nd, 2019.

The Complainant is also the owner of a large domain names portfolio, including the same distinctive wording LACTALIS, such as <lactalis.com> registered on January 9th, 1999 and <lactalis.net> registered on December 28th, 2011.

The disputed domain names were registered on March 2, 2023 and they appear to be inactive.

#### 5. Parties' Contentions

##### A. Complainant

By the Complaint, the Complainant contends:

- concerning the identical and confusingly similar Policy element:
  - in regards to the disputed domain name <lactalis.vip>, that the disputed domain name is identical to its trademarks LACTALIS and its domain names associated, as it includes it in its entirety and the addition of the new gTLD “.vip” does not change the overall impression of the designation as being connected to the Complainant’s trademarks.
  - in regards to the disputed domain name <lactalisapp.vip>, that the disputed domain name is confusingly similar to its trademarks and branded services LACTALIS, as the addition of the term “app” is not sufficient to escape the finding that the disputed domain name is confusingly similar to the trademark LACTALIS and it does not change the overall impression of the designation as being connected to the Complainant’s trademark LACTALIS. Nor the addition of the new gTLD “.vip” changes the overall impression of the designation as being connected to the Complainant’s trademark.
- The Respondent has no rights or legitimate interests in respect of both disputed domain names, as it is not identified in the Whois database as having any naming connection to the disputed domain names and it is not related in any way with the Complainant.
- The disputed domain names are inactive and the Respondent has no demonstrable plan to use the disputed domain names.
- The disputed domain names were registered and are being used in bad faith, as they are confusingly similar to its trademarks LACTALIS, which has been already known and protected in numerous countries at the time of the registration of the disputed domain names.
- Given the distinctiveness of the Complainant’s trademarks and reputation, it is reasonable to infer that the Respondent has registered the disputed domain names with full knowledge of the Complainant’s trademarks.

- The disputed domain names are inactive and the Respondent has not demonstrated any activity in respect of the disputed domain names, and it is not possible to conceive of any plausible actual or contemplated active use of the disputed domain names by the Respondent that would not be illegitimate, such as by being a passing off, an infringement of consumer protection legislation, or an infringement of the Complainant's rights under trademark law.

## **B. Respondent**

Despite of being properly put on notice of the dispute, the Respondent did not reply to the Complainant's contentions.

## **6. Discussion and Findings**

### **A. Identical or Confusingly Similar**

The Complainant demonstrated it holds trademark rights in LACTALIS through several registrations worldwide.

By applying the (standing) test for confusing similarity as per section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), this Panel finds that following the straightforward comparison between the Complainant's trademark and both disputed domain names shows that the latter are identical and/or confusingly similar with the Complainant's LACTALIS trademark.

In regards to the disputed domain name <lactalis.vip>, the Panel finds that the disputed domain name is identical to the Complainant's trademark LACTALIS and its domain names associated, because it includes such mark in its entirety and only adds a new gTLD ".vip". (The Panel agrees with the Complainant that such addition does not change the overall impression of the designation as being connected to the Complainant's trademarks.)

In regards to the disputed domain name <lactalisapp.vip>, the Panel finds the disputed domain name is confusingly similar to the Complainant's trademark LACTALIS and the addition of the term "app" is not sufficient to escape the finding that the disputed domain name is confusingly similar to the trademark LACTALIS. (It also does not change the overall impression of the designation as being connected to the Complainant's trademark LACTALIS; same is applicable in regards to the addition of the new gTLD ".vip".)

Under these circumstances, the Panel concludes that the disputed domain names are confusingly similar to the Complainant's mark and the first element of the policy is therefore demonstrated.

### **B. Rights or Legitimate Interests**

As per section 2.1 of the [WIPO Overview 3.0](#), once the Complainant establishes a *prima facie* case against the Respondent under this ground, the burden of production of evidence shifts to the Respondent to rebut it.

In these proceedings, the Complainant has made several submissions in order to demonstrate that the Respondent would have no rights or legitimate interests in the disputed domain names. None of the submissions were rebutted by the Respondent.

From the evidence documenting the Complainant's submissions, the Panel notes the Respondent would be known by the trademark LACTALIS or by the disputed domain names. As mentioned, the disputed domain names fully incorporate the Complainant's LACTALIS trademark. Considering also that the Complainant's LACTALIS trademark has no specific significance but shows a strong distinctive character, this Panel agrees with the Complainant, that no disputed domain names legitimate use could be imagined.

The absence of use of the disputed domain names and the absence of response to the Complainant's submission represent another indication of lack of legitimate interests or rights.

Subsequently, the Panel finds that the Complainant has established its case under the second element of the Policy.

### **C. Registered and Used in Bad Faith**

In regards of the third element of the Policy, the Panel agrees with the Complainant that the Respondent must thus have known about the LACTALIS trademark when registering the disputed domain names and registered the disputed domain names with the intent to benefit of the notoriety of the Complainant. See section 3.2.2 of the [WIPO Overview 3.0](#).

The Panel finds also bad faith use of the Respondent is supported by several findings, among which considers the absence of use of the disputed domain names (See section 3.3 of the [WIPO Overview 3.0](#).) and the potential harm to the Complainant's well-known LACTALIS brand, fully recognizable in the disputed domain names.

The absence of response in the present proceedings is considered by the Panel as an additional element amounting to bad faith, notably because the Respondent did not rebut any of the Complainant's submissions.

Taking in consideration all circumstance of the case, the Panel finds that the Respondent has registered and is using the disputed domain names in bad faith and that the Complainant has established the third element 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 <lactalisapp.vip> and <lactalis.vip> be transferred to the Complainant.

*/Dr.Beatrice Onica Jarka/*

**Dr.Beatrice Onica Jarka**

Sole Panelist

Date: October 27, 2023