

ADMINISTRATIVE PANEL DECISION

Husqvarna AB v. Host Master, 1337 Services LLC
Case No. D2023-3776

1. The Parties

The Complainant is Husqvarna AB, Sweden, represented by Zacco Sweden AB, Sweden.

The Respondent is Host Master, 1337 Services LLC, Saint Kitts and Nevis.

2. The Domain Names and Registrar

The disputed domain names <husqvarnafr.com> and <husqvarnauk.com> (the “Disputed Domain Names”) are registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 11, 2023. On September 11, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Names. On September 11, 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 September 12, 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 amendment to the Complaint on September 12, 2023.

The Center verified that the Complaint together with the amendment to the 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 13, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 3, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 4, 2023.

The Center appointed Michael D. Cover 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.

The Complainant has submitted that the Disputed Domain Names are subject to common control and that a consolidation would be fair and equitable to all parties in this Complaint and has requested that the Panel consolidate the disputes against the Disputed Domain Names into a single proceeding, which the Panel now does pursuant to paragraph 3(c) of the Rules.

4. Factual Background

The Complainant is a Swedish company group founded in 1689, and is a leading manufacturer of products and solutions for forest, park and garden management. Its product range includes robotic lawnmowers, chainsaws, trimmers, riding lawnmowers and garden irrigation. The Complainant is also involved in the market for equipment and diamond tools for the construction and stone industries.

The Complainant's products and solutions mainly are sold under the HUSQVARNA and GARDENA brands via direct sales, dealers and retailers to customers and professional users in more than 100 countries and sales in 2022 amounted to SEK 54 billion and the group of which the Complainant is part has approximately 14,400 employees in 40 countries, further details being set out in Annex 4 to the Complaint. The Complainant's group is listed on the Stockholm Stock Exchange.

The Complainant's HUSQVARNA trademark was first applied for and then registered in Sweden in 1972, in the United States of America in 1973, and in the European Union in 1996, and has also been registered in other jurisdictions around the world for several years. The Complainant owns *inter alia*, the European Union trademark HUSQVARNA, registration number 000137554, registered on April 7, 1999. The Complainant operates its official website at "www.husqvarnagroup.com" and owns other domain names which incorporate the trademark HUSQVARNA.

The Disputed Domain Name <husqvarnafr.com> was registered on April 20, 2023, and the Disputed Domain Name <huaqvarnauk.com> was registered on July 6, 2023. The Disputed Domain Names resolve to websites, which purport to offer the Complainant's products and services.

5. Parties' Contentions

A. Complainant

Identical or Confusingly Similar

The Complainant submits that the Disputed Domain Names are confusingly similar to the Complainant's HUSQVARNA trademarks. The Complainant notes that the HUSQVARNA trademark is included in its entirety in the Disputed Domain Names and is clearly recognizable, followed by the geographical designations "fr" and "uk" respectively.

The Complainant submits that it is well-established under the Policy that a domain name that consists of a combination of a well-known trademark and a descriptive and/or geographic term shall be considered confusingly similar to the relevant trademark and cites various previous UDRP decisions in that regard, including *BHP Billiton Innovation Pty Ltd v. Oloyi*, WIPO Case No. [D2007-0284](#) (<bhpbillitonusa.com>). The Complainant continues that the addition of the generic Top-Level Domain ("gTLD") ".com" does not have any impact on the overall impression of the dominant portion of the Disputed Domain Names and is therefore irrelevant when determining the confusing similarity between the Complainant's HUSQVARNA trademark and the Disputed Domain Names. The Complainant also submits that there is a considerable risk that the

trade public will perceive that the Disputed Domain Names are either domain names owned by the Complainant or that there is some commercial relationship between the Respondent and the Complainant and that, by using the Complainant's trademark in the Disputed Domain Names, the Respondent exploits the goodwill and image of the Complainant's trademark, which may result in dilution and other damage to that trademark.

The Complainant concludes that, referring to the above, the Disputed Domain Names must be considered confusingly similar to the Complainant's HUSQVARNA trademark.

Rights or Legitimate Interests

The Complainant notes that the owner of the Disputed Domain Names was redacted for privacy.

The Complainant continues that, to the Complainant's knowledge, no license of any kind has been given by the Complainant to the Respondent to use the trademark HUSQVARNA and that the Complainant has found no information indicating that the Respondent is somehow trading under a name corresponding to the Disputed Domain Names.

The Complainant states that the Respondent is not, based on available information, an authorized representative of the Complainant's products or services and has never had a business relationship with the Complainant and that no evidence has been found indicating that the Respondent is using the name Husqvarna as a company name or that it has any legal rights to the name.

The Complainant then states that the Respondent is not using the Disputed Domain Names in connection with a *bona fide* offering of goods or services and, instead, the Respondent has intentionally chosen the Disputed Domain Names based on the Complainant's trademarks and fame and used the Disputed Domain Names to host fraudulent and unauthorized websites, impersonating the Complainant and the Complainant's business. The Complainant submits that this is done by prominently displaying the Complainant's trademark logotype at the top of the relevant websites and by using such wording as "Husqvarna Garden and Forest UK" and "Copyright 2023 © France". The Complainant submits that the Respondent actively has been attempting to create the false impression that the Disputed Domain Names are somehow connected to the Complainant and that, under such circumstances, a potential visitor will risk assuming that the Disputed Domain Names are somehow connected with the Complainant. The Complainant also submits that, in its opinion, the Disputed Domain Names are intended to be confusingly similar to the Complainant's own domain names, namely <husqvarna.fr> and <husqvarna.uk>.

The Complainant concludes that the Respondent has attempted to exploit the Complainant's name by deceiving individuals and companies for its own gain and, for the foregoing reasons, the Complainant argues that the Respondent has no rights or legitimate interests in the Disputed Domain Names.

Registered and Used in Bad Faith

The Complainant notes that the registrations of its HUSQVARNA trademark predate the registration of the Disputed Domain Names in April and July 2023 respectively by a considerable margin and concludes that it is obvious that the Respondent was fully aware, at the time of registration of the Disputed Domain Names, of the Complainant's well-reputed company and well-known trademark and that this motivated the Respondent to register and use the Disputed Domain Names.

The Complainant also states that the Complainant issued a cease and desist letter to the Respondent, requesting that the Respondent transfer the Disputed Domain Name <husqvarnafr.com> to the Complainant. The Complainant notes that there was no response, despite several reminders. The same is true regarding the later registration of the Disputed Domain Name <husqvarnauk.com>, says the Complainant.

The Complainant submits that the Respondent must have noticed the Complainant's concerns with the Respondent's registration and use of the Disputed Domain Names but has chosen to ignore the attempted contacts of the Complainant.

The Complainant concludes that it is the Complainant's view that, the Respondent, by registering and using the Disputed Domain Names, has intentionally attempted to attract, for commercial gain, a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation or endorsement of the Respondent and that the Disputed Domain Names must therefore be considered to have been registered and used in bad faith.

The Remedy Requested by the Complainant

The Complainant requests that the Panel issue a Decision that that the Disputed Domain Names be transferred to the Complainant.

B. Respondent

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

6. Discussion and Findings

The Complainant must establish on the balance of probabilities that the Disputed Domain Names are identical or confusingly similar to a trademark in which the Complainant has rights; that the Respondent has no rights or legitimate interests in the Disputed Domain Names; and that the Disputed Domain Names have been registered and are being used in bad faith.

A. Identical or Confusingly Similar

Based on the available record, the Panel finds that the Complainant has shown registered rights in its HUSQVARNA trademark. The Panel finds that the entirety of the Complainant's trademark HUSQVARNA is reproduced within the Disputed Domain Names and that, accordingly, the Disputed Domain Names are confusingly similar to that trademark for the purposes of the Policy. The addition of other terms such as "fr" and "uk" does not prevent a finding of confusing similarity between the Complainant's HUSQVARNA trademark and the Disputed Domain Names. The addition of the gTLD ".com" also does not prevent a finding of confusing similarity, as the addition of that gTLD is a technical requirement of registration.

Based on the available record, the Panel finds that the requirements of paragraph 4(a)(i) of the Policy have been met.

B. Rights or Legitimate Interests

The Panel accepts that the Respondent has not been authorized, licensed or otherwise permitted by the Complainant to register or use the Disputed Domain Names. Having reviewed the record, the Panel finds that the Complainant has established a *prima facie* case that the Respondent has no rights or legitimate interests in the Disputed Domain Names. The Respondent has not rebutted the Complainant's *prima facie* case by demonstrating rights or legitimate interests in the Disputed Domain Names by, before any notice to the Respondent of the dispute, made use or demonstrable preparations to use the Disputed Domain Names or a name corresponding to in connection with a *bona fide* offering of goods or services nor has the Respondent been commonly known by the Disputed Domain Names nor has the Respondent made a legitimate noncommercial or fair use of the Disputed Domain Names, without intent for commercial gain, to misleadingly divert consumers or to tarnish the trademark at issue.

Moreover, the composition of the Disputed Domain Names is inherently misleading as it effectively impersonates or suggests sponsorship or endorsement by the Complainant.

Based on the available record, the Panel finds that the second element of the Policy, paragraph 4(a)(ii), has been met that the Respondent has no rights or legitimate interests in the Disputed Domain Names.

C. Registered and Used in Bad Faith

It is a reasonable inference that the Respondent knew of the Complainant's company, well-known trademark and reputation at the time of the registration of the Disputed Domain Names, particularly noting the Respondent's use of the Complainant's trademark on the websites at the Disputed Domain Names, and that the Disputed Domain Names were hence registered in bad faith.

With regard to use of the Disputed Domain Names, this has taken the form of the Disputed Domain Names resolving to websites that purportedly feature the Complainant's products and services without any prominent and accurate disclaimer regarding the relationship between the Complainant and the Respondent. This is contrary to paragraph 4(b)(iv) of the Policy, which states that by using the Disputed Domain Names, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Respondent's websites, by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation or endorsement of the Respondent's websites or of a product or service on the Respondent's websites.

Based on the available record, the Panel finds that the third element of the Policy has been established and that the Respondent has registered and is using the Disputed Domain Names in bad faith and that the provisions of the Policy, paragraph 4(a)(iii) have been met.

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, <husqvarnafr.com> and <husqvarnauk.com>, be transferred to the Complainant.

/Michael D. Cover/

Michael D. Cover

Sole Panelist

Date: October 27, 2023