

ADMINISTRATIVE PANEL DECISION

Groupe Lactalis v. 吴清儒 (wu qing ru)
Case No. D2023-4835

1. The Parties

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

Respondent is 吴清儒 (wu qing ru), China.

2. The Domain Name and Registrar

The disputed domain name <lactalis.info> is registered with Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn) (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on November 21, 2023. On November 22, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 23, 2023, the Registrar transmitted by email to the Center its verification response confirming that Respondent is listed as the registrant and providing the contact details.

On November 23, 2023, the Center informed the parties in Chinese and English, that the language of the registration agreement for the disputed domain name is Chinese. On November 23, 2023, Complainant requested English to be the language of the proceeding. Respondent sent an email in Chinese on November 23, 2023, requesting Chinese be the language of the proceeding.

The Center verified that 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 Respondent in English and Chinese of the Complaint, and the proceedings commenced on November 29, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 19, 2023. Respondent sent an email to the Center in Chinese on November 23, 2023, but did not submit any formal response. Accordingly, the Center notified the commencement of panel appointment process on December 26, 2023.

The Center appointed Yijun Tian as the sole panelist in this matter on January 4, 2024. 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

A. Complainant

Complainant, Groupe Lactalis, is a company incorporated in France. Founded in 1933, Complainant is a leading French multinational in the food industry, specializing in dairy since adopting the name “Lactalis” in 1999. As the world’s largest dairy products group, Complainant operates with 85,500 employees, 270 production sites, and a presence in 51 countries (Annex 3 to the Complaint).

Complainant has rights in the LACTALIS marks. Complainant is the owner of numerous LACTALIS trademarks worldwide, including the European Union trademark registration for LACTALIS, registered on November 7, 2002 (registration number: 1529833), and the International trademark registration for LACTALIS, registered on July 27, 2006 (registration number: 900154) (Annex 4 to the Complaint).

Complainant also operates domain names that contain the LACTALIS mark in its entirety, such as <lactalis.com> (registered on January 9, 1999), and <lactalis.net> (registered on December 28, 2011), (Annex 5 to the Complaint).

B. Respondent

Respondent is 吴清儒 (wu qing ru), China.

The disputed domain name <lactalis.info> was registered on November 2, 2023.

According to the Complaint and relevant evidence provided by Complainant, the disputed domain name was redirected to a “Dan.com” webpage where the disputed domain name is offered for sale for USD 950 (Annex 6 to the Complaint).

5. Parties’ Contentions

A. Complainant

Complainant contends that the disputed domain name is identical to Complainant’s trademark. The disputed domain name incorporates Complainant’s trademark in its entirety. The mere addition of the generic Top-Level Domain (“gTLD”) “.info” does not change the overall impression of the designation as being connected to the trademark LACTALIS.

Complainant contends that Respondent lacks rights or legitimate interests in the disputed domain name.

Complainant contends that the disputed domain name was registered and is being used in bad faith.

Complainant requests that the disputed domain name be transferred to it.

B. Respondent

Respondent did not formally reply to Complainant’s contentions.

6. Discussion and Findings

6.1. Language of the Proceeding

The language of the Registration Agreement for the disputed domain name <lactalis.info> is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

From the evidence presented on the record, no agreement appears to have been entered into between Complainant and Respondent to the effect that the language of the proceeding should be English. Complainant filed initially its Complaint and amended Complaints in English, and has requested that English be the language of the proceeding for the following reasons:

- (a) The choice of English as the language for the proceeding is influenced by its widespread use in international relations and as one of the working languages of the Center.
- (b) The disputed domain name is in Roman characters (ASCII), not in Chinese script.
- (c) Opting for Chinese proceedings would have incurred a significant translation cost for Complainant, surpassing the overall cost of these proceedings.
- (d) The Complaint is in English, but the Center notified Respondent in Chinese and provided them with the chance to respond and engage in the process in Chinese.
- (e) The Complaint is written in English for a better understanding of the Parties.

Respondent objected to Complainant's request. Respondent sent an email in Chinese on November 23, 2023, and requested that Chinese be the language of the proceeding for the following reasons:

- (a) Respondent's proficiency in English is severely inadequate for handling legal cases of this nature.
- (b) Respondent requests permission to respond in his more familiar language – Chinese.
- (c) Respondent acknowledges that this may require additional effort, but he firmly believes that taking this step is necessary to ensure a fair and just resolution of the case.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

On the record, Respondent appears to be located in China and thus presumably not a native English speaker, but considering the following aspects, the Panel has decided that the language of the proceeding shall be English: (a) the disputed domain name is registered in Latin characters, particularly in English (e.g., English word "info" (abbreviation of the English word "information"), rather than Chinese script; (b) the gTLD of the disputed domain name is ".info", so the disputed domain name seems to be prepared for users worldwide, particularly English speaking countries; (c) the webpages which the disputed domain name redirects to are in the French and English language, which contained English words, such as "Premium Domain for Sale!" and "Priced at Only \$950 for a Limited Time until November 30"; (d) the Center has notified Respondent of the language of the proceeding in both Chinese and English; (e) the Center also notified Respondent in both Chinese and English of the Complaint, and informed Respondent that it would accept a response in either English or Chinese, but Respondent chose not to file any response.

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

6.2 Substantive Issues: Three Elements

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between Complainant's trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the LACTALIS mark is reproduced within the disputed domain name. More specifically, accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which Respondent may demonstrate rights or legitimate interests in a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Respondent has not rebutted Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

More specifically,

(i) there has been no evidence adduced to show that Respondent used the disputed domain name in connection with a bona fide offering of goods or services. Respondent has not provided evidence of reasons to justify the choice of the term "Lactalis", Complainant's LACTALIS trademark, in the disputed domain name. There has been no evidence to show that Complainant has licensed or otherwise permitted Respondent to use the LACTALIS or to apply for or use any domain name incorporating the LACTALIS marks;

(ii) there has been no evidence adduced to show that Respondent has been commonly known by the disputed domain name. There has been no evidence adduced to show that Respondent has any registered trademark rights with respect to the disputed domain name. Respondent registered the disputed domain name in 2023, after the LACTALIS marks became widely known. The disputed domain name is identical to Complainant's LACTALIS marks; and

(iii) there has been no evidence adduced to show that Respondent was making a legitimate noncommercial or fair use of the disputed domain name. By contrast, the disputed domain name redirected to a “Dan.com” webpage where the disputed domain name is offered for sale for USD 950 (Annex 6 to the Complaint).

Furthermore, the Panel notes that the composition of the disputed domain name carries a high risk of implied affiliation with Complainant. [WIPO Overview 3.0](#), section 2.5.1.

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that Respondent has registered and used the disputed domain name in bad faith.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Based on the information provided by Complainant, the Panel finds that Complainant has a widespread reputation in the LACTALIS marks with regard to its products and services. It is not conceivable that Respondent would not have had Complainant’s trademark in mind at the time of the registration of the disputed domain name (in 2023). This has been reinforced by the fact that the disputed domain name is identical to Complainant’s LACTALIS trademark.

Respondent has used the websites redirected by the disputed domain name for offering the disputed domain name for sale for USD 950.

Thus, the Panel concludes that Respondent’s registration and use of the disputed domain name is primarily for the purpose of selling, renting, or otherwise transferring the disputed domain name to Complainant or to a competitor of Complainant, for valuable consideration likely in excess of the documented out-of-pocket costs directly related to the disputed domain name. Such use constitutes bad faith pursuant to paragraph 4(b)(i) of the Policy.

Based on the available record, the Panel finds the third element of the Policy has been established.

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 <lactalis.info> be transferred to Complainant.

/Yijun Tian/

Yijun Tian

Sole Panelist

Date: January 31, 2024