

ADMINISTRATIVE PANEL DECISION

Lassonde Industries Inc. v. Lamber Felix
Case No. D2024-0755

1. The Parties

The Complainant is Lassonde Industries Inc., Canada, represented by BCF LLP, Canada.

The Respondent is Lamber Felix, Uganda.

2. The Domain Name and Registrar

The disputed domain name <lassonde-industriesinc.com> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 19, 2024. On February 21, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same date, 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 (Wambuga Nelson / REDACTED FOR PRIVACY, PrivacyGuardian.org llc) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 26, 2024, 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 the same date.

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 February 29, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 20, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 21, 2024.

The Center appointed John Swinson as the sole panelist in this matter on April 3, 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

The Complainant is a leading North American company in the development, production and sale of juices and fruit and vegetable beverages and other food products, and has operated under the trade name Lassonde Industries Inc. since 1981. Its predecessors-in-title have used the LASSONDE trade name and trademark since 1918.

The Complainant owns a portfolio of trademark registrations, including Canadian trademark registration number TMA659894 for the LASSONDE (device) trademark, registered on March 1, 2006.

The disputed domain name was registered on September 23, 2023.

The Respondent did not file a Response, so little information is known about the Respondent. According to the Registrar's records, the Respondent has an address in Uganda.

According to the Complainant, at one time, the disputed domain name redirected Internet users to the Complainant's website, "www.lassonde.com". At the present time, the disputed domain name does not resolve to an active website.

The Respondent used the disputed domain name to send emails with fraudulent purchase orders and fraudulent invoices. These invoices not only used the disputed domain name, but also the Complainant's LASSONDE trademark, the Complainant's logo, the Complainant's trade name and the Complainant's corporate postal address in Canada.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the Respondent does not appear to engage in any legitimate noncommercial or fair use of the disputed domain name, nor any use in connection with a bona fide offering of goods or services but is rather misrepresenting itself as the Complainant for apparent fraudulent purposes.

The Complainant states that the Complainant was the subject of a fraudulent scheme similar to the one in the present case, where the respondent was also located in Uganda. See *Lassonde Industries Inc. v. Wambuga Nelson*, WIPO Case No. [D2023-3722](#). The disputed domain name was registered 9 days after the Complainant filed the complaint in this previous case.

B. Respondent

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

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied, namely:

- (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 is being used in bad faith.

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 the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The 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 Complainant's trademark registrations include the term LASSONDE and design elements (and no other letters or words). To the extent that design elements would be incapable of representation in a domain name, these elements can be disregarded for purposes of assessing identity or confusing similarity under the first element. On this basis, trademark registrations with design elements would prima facie satisfy the requirement that the complainant show "rights in a mark" for further assessment as to confusing similarity.

"However [...] where the trademark registration entirely disclaims the textual elements (i.e., the scope of protection afforded to the mark is effectively limited to its stylized elements), panels may find that the complainant's trademark registration is insufficient by itself to support standing under the UDRP." [WIPO Overview 3.0](#), section 1.10. In this case, the Panel notes that the Complainant's trademark registrations identified in the Factual Background include a disclaimer stating that "The right to the exclusive use of the word LASSONDE is disclaimed apart from the trademark". In this regard, the Panel considers necessary to refer to the broader case context for the assessment under the first element in the present proceeding. [WIPO Overview 3.0](#), section 1.7. The Panel notes that the disputed domain name starts with the leading element LASSONDE, which corresponds in its entirety with the word element of the Complainant's trademark, followed by the terms "industries" and "inc", and that the disputed domain name has been used for the delivery of fraudulent invoices where the Complainant's trademark with its design elements were reproduced, in a clear attempt of impersonating the Complainant. Therefore, the Panel finds that the overall facts and circumstances of the case support a finding of confusing similarity, particularly as it appears that the Respondent seeks to target the Complainant and its trademark through the disputed domain name.

Although the addition of other terms (here, "industries" and "inc") may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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 the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). 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 available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the 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.

Panels have held that the use of a domain name for illegal activity, here impersonation and fraud, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Moreover, the fact that the disputed domain name once redirected to the Complainant’s official website carries with it a risk of implied affiliation, potentially conveying to unsuspecting Internet users the false belief that any website related thereto would be associated with or endorsed by the Complainant.

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.

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.

The Respondent is using the disputed domain name as part of a misleading email address to send fraudulent emails to potential clients and/or suppliers of the Complainant to present itself as the Complainant. Examples of such emails were provided in the Complaint. This is clear evidence of bad faith use of the disputed domain name.

Panels have held that the use of a domain name for illegal activity (here, impersonation and fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent’s registration and use of the disputed domain name constitutes bad faith under the Policy.

The current status of the disputed domain name (not resolving to an active website) does not prevent a finding of bad faith, given the Respondent’s failure to participate in this proceeding and the Respondent’s past (and potentially current) use of the disputed domain name as part of an email address used for fraudulent purposes. [WIPO Overview 3.0](#), section 3.3.

The Panel finds 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 name <lassonde-industriesinc.com> be transferred to the Complainant.

/John Swinson/

John Swinson

Sole Panelist

Date: April 17, 2024