

ADMINISTRATIVE PANEL DECISION

Tetra Laval Holdings & Finance S.A v. Tetra Pak World
Case No. D2024-2358

1. The Parties

1.1 The Complainant is Tetra Laval Holdings & Finance S.A, Switzerland, represented by Aera A/S, Denmark.

1.2 The Respondent is Tetra Pak World, Pakistan.

2. The Domain Name and Registrar

2.1 The disputed domain name <tetrapakmachinesandspareparts.com> (the “Domain Name”) is registered with OnlineNic, Inc. d/b/a China-Channel.com (the “Registrar”).

3. Procedural History

3.1 The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 10, 2024. On June 11, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On June 13, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details. The Center sent an email communication to the Complainant on June 13, 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 amended Complaint on June 14, 2024.

3.2 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”).

3.3 In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on June 18, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 8, 2024.

3.4 The Respondent sent an email communication to the Center on June 18, 2024. It stated as follows:

“Dear

I can sell all these things in 1,000,000 USD.”

3.5 On July 10, 2024, the Center commenced the panel appointment process.

3.6 The Center appointed Matthew S. Harris as the sole panelist in this matter on July 15, 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

4.1 The Complainant is a Swiss corporation that is part of the Tetra Laval Group. The Tetra Pak Group is a multinational food processing and packaging company founded in 1947 in Sweden by Ruben Rausing. The Tetra Pak Group develops, markets and sells equipment for processing, packaging and distribution of food products. The Tetra Pak Group employs more than 25,000 people and operates in more than 160 countries worldwide, including United States of America (“United States”) and Pakistan.

4.2 The Complainant is the owner of numerous registered trade marks around the world that comprise or incorporate the term “TETRA PAK”. They include:

(i) Swedish trade mark registration no. 71196 for TETRA PAK as a word mark, registered in 1951 in classes 6, 7, 16, 17, 20, and 21;

(ii) United States trade mark registration no. 586,480 in respect of TETRA PAK as typeset words registered in 1954 in class 16; and

(iii) Pakistan trade mark registration no. 18007 in respect of TETRA PAK registered in 1952 in respect of “packaging and packing machines and other kinds of machines included in class 7 and parts of such machines”.

4.3 The Complainant has been successful in a large number of proceedings under the Policy including *Tetra Laval Holdings & Finance S.A. v. Tetra Pak Global PH-AU, Gerald Smith*, WIPO Case No. [D2012-0847](#), *Tetra Laval Holdings & Finance S.A. v. Kilt Kully, Huy*, WIPO Case No. [D2019-0802](#), *Tetra Laval Holdings & Finance v. ddd First, Analiz*, WIPO Case No. [D2019-2864](#), *Tetra Laval Holdings & Finance S.A. v. Whois Agent (693439573) Whois Privacy Protection Service, Inc./ József Buda*, WIPO Case No. [D2020-3105](#), *Tetra Laval Holdings & Finance S.A. v. WhoisGuard Protected, WhoisGuard, Inc./Zetao Wang*, WIPO Case No. [D2021-0559](#), and *Tetra Laval Holdings & Finances S.A. v. Whols Agent, Whols Privacy Protection Service, Inc. / Trupper Mexico*, WIPO Case No. [D2022-2490](#).

4.4 A more recent proceeding commenced by the Complainant under the Policy is *Tetra Laval Holdings & Finance SA v. Hasty Engineer, Hasty Engineers (Pvt.) Ltd*, WIPO Case No. [D2024-1968](#) in respect of the domain name <tetrapakworld.com>, where the Complainant was also successful.

4.5 The Domain Name was registered on December 3, 2021. It has been used since registration for a website offering goods and services under the name “TPMS LLC” in the field of “Food & Beverages Technology and Industrial Automation”. This includes services and spare parts in respect of Tetra Pak products but also products, services, and spare parts related to other brands including Alfa Laval, ABB, GE Fanuc, Siemens, and Omron, among others. It claims to have offices in various locations including Lahore, Pakistan, Magdeburg, Germany, Dubai and Sharjah, United Arab Emirates, and Jeddah, Saudi Arabia.

5. Parties' Contentions

A. Complainant

5.1 The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

5.2 In this respect, it contends that TETRA PAK is a well-known trade mark within the Tetra Pak Group's field of business and that the Domain Name comprises that mark in combination with the text "machinesandspareparts". It is alleged that the Complainant's world-wide business, including in the United States and Pakistan, means that the Respondent "was more likely than not aware" of the Complainant's trade mark.

5.3 The Complainant claims that the Domain Name has been used intentionally to divert consumers to what it describes as an unauthorised website.

5.4 The Complainant also contends that the email address disclosed by the Registrar in respect of the Domain Name has also been used in connection with the <tetrapakworld.com> domain name, the subject of case [D2024-1968](#). The Complainant claims that products purchased by the Complainant from the website operating from the <tetrapakworld.com> domain name were past their "use before date" or were "either repackaged or inauthentic". The Complainant, therefore, expresses a concern that the Respondent's activities from the Domain Name involve a product safety risk. It also claims that the websites operating from the Domain Name and from the <tetrapakworld.com> domain name, contain "no truthful mention of the business relationship between the Complainant and the Respondent".

5.5 The Complainant also refers to a letter before action sent to the registrant of the <tetrapakworld.com> domain name to which the registrant replied, offering to sell the domain name to the Complainant for USD 1 million. The Complainant alleges that as the owner of that domain name and the Domain Name are linked, that provides further evidence of bad faith registration and use.

5.6 The Complainant also contends that the contact details provided support a finding of bad faith registration and use since they involve a combination of elements that suggest both a United States and Pakistan address.

B. Respondent

5.7 No formal response was filed by the Respondent in the present proceeding, although it did send an email as set out in the Procedural History section of this decision.

6. Discussion and Findings

A. Identical or Confusingly Similar

6.1 It is generally 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 trade mark and the disputed domain name (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7).

6.2 The Complainant has shown rights in respect of the TETRA PAK trade marks for the purposes of the Policy (see [WIPO Overview 3.0](#), section 1.2.1).

6.3 The entirety of the trade marks are reproduced within the Domain Name. Accordingly, the Domain Name is confusingly similar to the mark for the purposes of the Policy (see [WIPO Overview 3.0](#), section 1.7).

6.4 Although the addition of other terms in a domain name may bear on the assessment of the second and third elements, the Panel finds the addition of the term “machinesandspareparts”, which is likely to be read as the words “machines and spare parts”, in the Domain Name does not prevent a finding of confusing similarity between Domain Name and the marks for the purposes of the Policy (see [WIPO Overview 3.0](#), section 1.8).

B. Rights or Legitimate Interests

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

6.6 In the present case the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the 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 Domain Name.

6.7 However, dealing with the issue more directly, the Panel is satisfied that the Domain Name has been registered with the intention of drawing Internet users to a website operated by the Respondent that offers products and services not only associated with the Complainant, but those of other manufacturers. Further, the Panel accepts that the website operating from the Domain Name does not expressly describe the nature of the relationship between the operator of that website and the Complainant.

6.8 As is recorded in section 2.8.1 of the [WIPO Overview 3.0](#):

“Panels have recognized that resellers, distributors, or service providers using a domain name containing the complainant’s trademark to undertake sales or repairs related to the complainant’s goods or services may be making a bona fide offering of goods and services and thus have a legitimate interest in such domain name. Outlined in the ‘Oki Data test’, the following cumulative requirements will be applied in the specific conditions of a UDRP case:

- (i) the respondent must actually be offering the goods or services at issue;
- (ii) the respondent must use the site to sell only the trademarked goods or services;
- (iii) the site must accurately and prominently disclose the registrant’s relationship with the trademark holder; and
- (iv) the respondent must not try to ‘corner the market’ in domain names that reflect the trademark.”

6.9 Accordingly, the Respondent’s activities fail to satisfy the second and third of the Oki Data requirements.

6.10 In the opinion of the Panel not only do these activities not confer a right or legitimate interest for the purposes of the Policy, but constitute prima facie evidence that a right or legitimate interest does not exist.

6.11 The Panel also accepts the Complainant’s contention that the Domain Name and the domain name <tetrapakworld.com> are controlled by the same person. The Panel notes that the Complainant has advanced a case that the Respondent has sold products from a website, using the <tetrapakworld.com> domain name, that are out of date and potentially counterfeit products. If correct, such activities cannot confer rights or legitimate interests on a respondent, and would also further evidence a lack of such rights or interests (see [WIPO Overview 3.0](#), section 2.13.1). However, there is no need to decide this issue in order to find in favour of the Complainant in the case of this aspect of the Policy.

6.12 The Panel, accordingly, finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

6.13 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.

6.14 The Respondent's actions in offering products and services that are unconnected fall within the scope of the example of such circumstances set out in paragraph 4(b)(iv) of the Policy. Further the Panel is satisfied that the Domain Name was registered with that activity in mind. In this respect, not only does the content of the website operating from the Domain Name evidence that the Respondent was aware of the Complainant's mark and business, but the Domain Name itself can only be sensibly read as involving a reference to the Complainant's mark and business.

6.15 Another factor which points to bad faith is the Respondent's use of a false address in the case of the registration details for the Domain Name, that simultaneously suggests that the Respondent is located in the United States and Pakistan (see [WIPO Overview 3.0](#), section 3.2.1).

6.16 Lastly, the Panel notes that instead of filing a Response, the Respondent sent an email to the Center that offers to sell the Domain Name to the Complainant for USD 1 million. Whether or not it was with such a sale in mind that the Domain Name was initially registered (such that paragraph 4(b)(i) of the Policy is potentially engaged), or whether this is a later opportunistic attempt to profit from the registration, is unclear. However, it at the very least suggests that the Respondent is actively attempting to take unfair financial advantage of the association between the Domain Name and the Complainant's marks. That also supports a finding of bad faith registration and use.

6.17 The Panel, therefore, finds that the Complainant has established the third element of the Policy.

7. Decision

7.1 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 <tetrapakmachinesandspareparts.com> be transferred to the Complainant.

/Matthew S. Harris/

Matthew S. Harris

Sole Panelist

Date: July 19, 2024