

ADMINISTRATIVE PANEL DECISION

SoletLuna Holdings, Inc., Lifewave, Inc. v. lifewave italia, Ivo Coppola
Case No. D2024-4037

1. The Parties

The Complainants are SoletLuna Holdings, Inc., United States of America (“United States”) and Lifewave, Inc., United States, represented by ARC IP Law, P.C, United States.

The Respondents are lifewave italia, Italy and Ivo Coppola, Italy, represented by Siena Legal Alliance, Italy.

2. The Domain Name and Registrar

The disputed domain name <lifewaveurope.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 2, 2024. On October 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 Respondents (Ivo Coppola and GoDaddy.com, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainants on October 8, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amended Complaint on October 14, 2024.

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 Respondents of the Complaint, and the proceedings commenced on October 16, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 5, 2024. The Response was filed with the Center on October 29, 2024. On November 7, 2024, the Center commenced the Panel Appointment process. On November 25, 2024, the Second Respondent submitted proposed Supplemental Filings.

The Center appointed John Swinson as the sole panelist in this matter on November 13, 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 Complainants are both corporations organized under the law of the State of Georgia, United States. The First Complainant (SoletLuna Holdings, Inc.) owns the trademarks discussed below. The First Complainant has licensed the right to use these trademarks to the Second Complainant (LifeWave, Inc.).

The First Complainant owns a portfolio of international trademark registrations for the mark LIFEWAVE and LIFEWAVE with a design element, including European Union Registration Number 1279038 that has a registration date of September 9, 2015.

The Second Complainant markets and sells patches branded as LIFEWAVE patches. These patches are stated to improve wellness and sleep, increase energy, and assist in obtaining relief from minor aches and pains. The Second Complainant markets these patches on its website located at “www.lifewave.com”.

The disputed domain name was registered on March 9, 2024.

The website at the disputed domain name sells LIFEWAVE patches. The website does not fully identify the identity of the legal entity operating this website, other than using the term “Lifewave Europe” which does not appear to be a legal entity. No contact details are provided for the operator of this website. For example, the privacy policy on the website at the disputed domain name does not include contact details for the Respondents or its Data Protection Officer.

The Complainants originally filed the Complaint naming the Second Respondent (Ivo Coppola) and the Registrar (GoDaddy.com, LLC) as parties. When conducting the Registrar verification, the Registrar responded, “*The respondent, Ivo Coppola GoDaddy.com, LLC, is not the registrant of the domain name(s).*” The Complainants then amended the Complaint to remove the Registrar as a respondent and added “lifewave italia” as a respondent.

A Response was filed by the Second Respondent (Ivo Coppola). The Second Respondent is a pharmacist. The Second Respondent claims no association with the First Respondent (lifewave italia). The First and Second Respondents have different addresses in Italy (according to the Registrar’s records).

5. Parties’ Contentions

A. Complainants

The Complainants contend that they have satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainants contend that the Complainants have been using the LIFEWAVE trademark since 2004 and that this trademark is closely identified with the Complainants.

The Complainants also contend that the Respondents’ use and registration of the disputed domain name is a blatant attempt to trade on the goodwill of Complainants’ mark. Internet users have been and will be confused by the disputed domain name, leading to these internet users ultimately supporting the Respondents instead of the Complainants.

The Complainants assert that the Second Respondent is that true owner of the disputed domain name and that the Second Respondent "... who is a LifeWave Brand Partner, who is aware of Complainants' Intellectual Property rights and violating LifeWave's policies and procedures related to the registration of domain names, which he agreed to follow upon becoming a Brand Partner."

B. Respondents

The First Respondent did not reply to the Complainants' contentions.

The Second Respondent contends he did not register and is not involved with the disputed domain name, and that the Whois records do not name the Second Respondent. The Second Respondent has never contacted the First Respondent. The Second Respondent submits that "there is no concrete evidence of [the Second Respondent's] involvement in the actions contested by Complainants relate to the disputed domain name; nor can there ever be, because [the Second Respondent] is not involved."

The address of the First Respondent in the Registrar's records is a nail shop. The Second Respondent does not recognise the telephone number for the First Respondent.

In the Italian Business Registry, there is no company or other business entity named with "Lifewave Italia".

The Second Respondent claims to have lodged a police report regarding unauthorised use of his name by an unknown person to register the disputed domain name.

6. Discussion and Findings

To succeed, the Complainants 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.

The onus of proving these elements is on the Complainant.

A. Multiple Respondents

The Complaint lists two Respondents.

The Complaint does not address the relationship between the two named Respondents.

There is no evidence in the Complaint to associate the Second Respondent with the disputed domain name. The Complainants make unsupported allegations against the Second Respondent with no supporting evidence. The Second Respondent denies the allegations.

For the above reasons, the Complainant is dismissed against the Second Respondent. Below, the term "Respondent" means the First Respondent, "lifewave italia".

B. 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 Complainants' 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 Complainants have 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 entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms (here, "urope") may bear on assessment of the second and third elements, the Panel finds the addition of such term 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.

C. 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 Complainants have established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainants' 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.

The Respondent does not satisfy the Oki-Data test (*Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#)) because the Respondent did not accurately disclose the Respondent's relationship with the Complainants or include any disclaimers, as required by that test. On top of that, the composition of the disputed domain name gives the false impression that it is authorized or endorsed by the Complainants; [WIPO Overview 3.0](#) section 2.5.1. Moreover, it appears that the Respondent is not a real entity.

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

D. 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 the Respondent is using the disputed domain name to sell and advertise products that appear to be the Complainants' products. This strongly suggests that the Respondent was aware of the Complainants and their trademark when the Respondent registered the disputed domain name.

The use being made of the disputed domain name cannot be characterized as a good faith use of the disputed domain name. The website at the disputed domain name prominently featured the Complainants' products, in what appears to be a fraudulent online shop, with no disclaimer as to the Respondents' lack of relationship or affiliation with the Complainants and with no contact details provided for the Respondent. The Panel finds that the Respondent has intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainants' mark.

Based on the facts in the Complaint, which the Respondent does not rebut, the Panel finds that both paragraphs 4(b)(iv) of the Policy apply in the present case.

The Panel finds that the Complainants 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 <lifewaveurope.com> be transferred to the Complainants.

/John Swinson/

John Swinson

Sole Panelist

Date: November 27, 2024