

## **ADMINISTRATIVE PANEL DECISION**

Alfa Laval Corporate AB v. Mike Wagner, Wagner Ltd

Case No. D2024-4676

### **1. The Parties**

The Complainant is Alfa Laval Corporate AB, Sweden, represented by Advokatbyrån Gulliksson AB, Sweden.

The Respondent is Mike Wagner, Wagner Ltd, United States of America (“United States”).

### **2. The Domain Name and Registrar**

The disputed domain name <alfalqval.com> (the “Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 13, 2024. On November 13, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On November 13, 2024, the Registrar transmitted by email to the Center its verification response, disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 14, 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 November 18, 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 Respondent of the Complaint, and the proceedings commenced on November 22, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 12, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 13, 2024.

The Center appointed Ana María Pacón as the sole panelist in this matter on December 23, 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 was established in 1883 under the company name AB Separator, which was changed to Alfa-Laval AB in 1963. It is one of the world's leading global providers of products in the areas of heat transfer, separation, and gas and fluid handling across many industries, including but not limited to the marine, environmental, pharmaceutical, hygienic, food, and energy sectors. The Complainant claims it has developed considerable goodwill and a reputation for products and services of very high quality.

Relevant to this proceeding, the Complainant has registered the trademark ALFA LAVAL worldwide, including:

- International Registration No. 1111236 for ALFA LAVAL (word mark), registered on November 9, 2011, for products and services in classes 1, 3, 5, 6, 7, 9, 11, 14, 18, 21, 25, 28 and 37, designating many countries, including the United States;
- European Union Trademark Registration No. 003481702 for ALFA LAVAL (word mark), registered on March 3, 2005, for products and services in classes 1, 6, 7, 9, 11, 37 and 42;
- European Union Trademark Registration No. 001918176 for ALFA LAVAL (figurative), registered on December 3, 2001, for products and services in classes 1, 5, 6, 7, 9, 11 and 37;
- European Union Trademark Registration No. 018170847 for ALFA LAVAL (figurative), registered on June 24, 2020, for products and services in classes 1, 3, 5, 6, 7, 9, 11, 12, 14, 17, 22, 28, 37 and 42;
- United States Registration No. 4408991 for ALFA LAVAL (word mark), registered on October 1, 2013, for products and services in classes 1, 3, 5, 6, 7, 9, 11, 14, 21, and 37.

The Complainant also owns the domain name <alfalaval.com> which reflects its ALFA LAVAL trademark. This domain name was registered on May 12, 1997. It also claims to be the registrant of numerous domain names under various generic and country-code Top-Level Domains ("TLDs") that comprise its ALFA LAVAL trademark, such as: <alfalaval.us>, <alfalaval.co.uk>, and <alfalaval.cn>.

The Domain Name was registered on October 1, 2024. Currently, the Domain Name is inactive. At the time of filing of the Complaint, the Domain Name resolved to a parking website containing pay-per-click ("PPC") links related to various sectors of activity. The Complainant also provided evidence to show that the Respondent has used the Domain Name for sending emails impersonating a Complainant's employee in furtherance of a phishing scheme.

#### **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 argues that the Domain Name is almost identical to the Complainant's ALFA LAVAL trademark. Specifically, the Domain Name incorporates eight out of nine letters of the Complainant's trademark, with the only difference being the replacement of the third "a" in ALFA LAVAL with the letter "q". This difference is negligible and does not sufficiently distinguish the Domain Name from the Complainant's trademark. Furthermore, the lowercase letters "a" and "q" are visually very similar in certain fonts. The addition of the generic TLD ("gTLD") ".com" should be disregarded. Therefore, the Domain Name is confusingly similar to the ALFA LAVAL trademark, in which the Complainant has rights.

Additionally, the Complainant contends that the Respondent lacks any rights or legitimate interests in the Domain Name. No evidence of legitimate use has been found, as the Domain Name resolves to a parked page containing commercial links, thereby ruling out any bona fide offering of goods or services. On the contrary, the Domain Name has been used to commit fraud through Business Email Compromise (BEC) attacks, wherein the Respondent impersonated an employee of the Complainant to send fraudulent invoices and demand payments. Furthermore, the Respondent has deliberately hidden its identity, indicating a lack of intent to use the Domain Name legitimately. Thus, the Complainant concludes that the Respondent has no legitimate interests in the Domain Name.

Under paragraph 4(a)(iii), the Complainant asserts that the Respondent registered and is using the Domain Name in bad faith. The Domain Name resolves to a parked website displaying commercial links. The Respondent has further attempted to conceal its identity by registering the Domain Name through a privacy service. The use of the nearly identical Domain Name to defraud the Complainant's customer through phishing activities demonstrates bad faith registration. According to the Complainant, past UDRP panels have consistently found bad faith in similar circumstances.

The Complainant requests the transfer of the Domain Name.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **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 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 Panel finds the mark to be clearly recognizable within the Domain Name. A domain name consisting of an intentional misspelling of a trademark is considered confusingly similar to the mark for the purposes of the Policy. In the present case, the only difference between the ALFA LAVAL trademark and the Domain Name is the substitution of the original third letter "a" with a "q". See [WIPO Overview 3.0](#), section 1.9 and *Sanofi v Domains by Proxy, LLC / domain admin*, WIPO Case No. [D2013-0368](#).

Then there is the addition of the gTLD, here ".com". As is generally accepted, the addition of a gTLD such as ".com" is merely a technical registration requirement and as such is typically disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

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 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 such as those enumerated in the Policy or otherwise.

The Panel considers the following points based on the case record:

- Before any notice to the Respondent of the dispute, the Respondent did not use, nor has it made demonstrable preparations to use, the Domain Name in connection with a bona fide offering of goods or services. Paragraph 4(c)(i) of the Policy, and [WIPO Overview 3.0](#), section 2.2.
- The Respondent (as an individual, business, or other organization) has not been commonly known by the Domain Name. Paragraph 4(c)(ii) of the Policy, and [WIPO Overview 3.0](#), section 2.3.
- The Respondent is not making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark. Paragraph 4(c)(iii) of the Policy, and [WIPO Overview 3.0](#), section 2.4.
- The record contains no other factors demonstrating rights or legitimate interests of the Respondent in the Domain Name.

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

The Respondent has used the Domain Name for an impersonation scam. The Domain Name nearly identical to the Complainant's trademark and its domain name <alfalaval.com> previously resolved to a parked website displaying various commercial links. The Panel notes that the use of a domain name to host a parked page comprising PPC links does not represent a bona fide offering where such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users. Furthermore, the use of the Domain Name to impersonate the Complainant in furtherance of a phishing scheme, leveraging its trademark to defraud or confuse a Complainant's customer, demonstrates a lack of rights or legitimate interests on the part of the Respondent. See *Insured Aircraft Title Service, LLC v. Brain Jason, Felix Coker, Marcia Van, Mickey Stateler, Denise Baustert*, WIPO Case No. [D2023-1567](#).

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 acknowledges that the Complainant has demonstrated that its trademark, ALFA LAVAL, which is registered and widely recognized, enjoys global public awareness.

Several UDRP panels have concluded that registering a domain name with knowledge of another company's rights in the name and with the intent to divert traffic constitutes evidence of bad faith registration (see *Digital*

*Spy Limited v. Moniker Privacy Services and Express Corporation*, WIPO Case No. [D2007-0160](#); and *The Gap, Inc. v. Deng Youqian*, WIPO Case No. [D2009-0113](#)). This Panel finds it highly implausible that the Domain Name was registered in good faith, particularly since the Complainant owns and uses the nearly identical domain name <alfalaval.com> and given the Respondent's underlying use of the Domain Name to defraud the Complainant's customers.

Neither the fact that the Domain Name does not currently resolve to an active website nor the sponsored commercial links hosted at the website to which the disputed domain name previously resolved to prevent a finding of bad faith. Rather, the commercialization of the Domain Name and its current passive holding further reinforce the notion that there was no good faith explanation for the registration and use of the Domain Name.

Additionally, it is documented that the Respondent sought to conceal its true identity by using an identity-shielding service. In the Panel's view, this further corroborates the finding of bad faith in the circumstances of this case. See *Philip Morris USA Inc. v. Domain Admin, C/O ID#10760, Privacy Protection Service INC d/b/a PrivacyProtect.org / Andrejs B Pauls*, WIPO Case No. [D2017-0474](#).

Having reviewed the record, the Panel finds the Respondent's registration and use of the Domain Name constitutes bad faith under the Policy.

Accordingly, the Panel concludes that the Complainant has satisfied 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 Domain Name <alfalqval.com> be transferred to the Complainant.

*/Ana María Pacón/*

**Ana María Pacón**

Sole Panelist

Date: January 6, 2025