



香港國際仲裁中心

Hong Kong International Arbitration Centre

**.hk Domain Name Dispute Resolution**  
ARBITRATION PANEL DECISION

Complainant: Grundfos A/S  
Respondent: Henrik Steen Olsen  
Case Number: DHK-0500008  
Contested Domain Name: grundfos.hk  
Panel Member: Peter Bullock

---

**1. Parties and Contested Domain Name**

The Complainant is Grundfos A/S of Poul Due Jansens Vej 7, 8850 Bjerringbro, Denmark. The Respondent is an individual named Henrik Steen Olsen who, on obtaining the contested domain gave an address at "Gründ Fos, Hauptstasse 45, Berlin, Germany", but who is stated by the Complainant as being the same Mr Henrik Steen Olsen listed in the Danish Central Personal Registry as residing at Kajgårdsvej 6, 9970 Strandby, Denmark. The contested domain name is "grundfos.hk" ("Disputed Domain").

**2. Procedural History**

A Complaint in this matter was filed with the Hong Kong International Arbitration Centre ("HKIAC") dated 3 August 2005 in the prescribed form, received by HKIAC on 5 August 2005.

The HKIAC notified the Registrar of the Disputed Domain of the proceedings by email on 6 August 2005. The Registrar read this notification on 8 August 2005.

The Complaint was served upon the Respondent in the following ways:

- by the HKIAC by email on 9 August 2005 to the address ([henrik@restore.dk](mailto:henrik@restore.dk)) provided by the Respondent as the domain name contact email (according to the Complainant's WHOIS search on 8 July 2005);
- by the HKIAC by TNT Express Post to the address at Kajgårdsvej 6, DK-9970, Strandby, Denmark, sent on 16 August 2005, and stated as being delivered according to TNT's Consignment Tracker.

The Complaint clearly came to the attention of the Respondent as he emailed HKIAC on 6 September 2005 saying he had not had time to reply and asking for 10 further days to file a reply.

This constitutes valid service of these proceedings upon the Respondent.

No Response was filed with the HKIAC on or before the prescribed deadline (at the latest 7 September 2005).

The Panel was appointed on 12 September 2005, with papers being delivered to the Panelist on the same day.

### 3. Factual Background

#### For the Complainant

The Complainant holds some or all of the intellectual property assets of the Grundfos Group. The Grundfos Group was founded by Mr Poul Due Jensen in 1945 and is today ultimately owned by Poul Due Jensen's Foundation. The Grundfos Group is one of the largest manufacturers of circular pumps in the world producing more than 10 million pumps per year. By the end of 2004, the company had almost 12,500 employees and the net turnover in 2004 was DKK12,153 million. The Grundfos Group is represented by more than 50 companies around the world, including in Hong Kong by GRUNDFOS Pumps (Hong Kong) Ltd. The net sales in Hong Kong amounted to HK\$42.7 million in 2004.

The Complainant has three current trademark registrations in Hong Kong based on the name 'GRUNDFOS', each in Class No. 7.

#### For the Respondent

The Respondent registered the Disputed Domain on 11 September 2004.

### 4. Parties' Contentions

#### The Complainant

The Complainant asserts that the Disputed Domain (grundfos.hk) is identical or confusingly similar to the Complainant's trade mark GRUNDFOS registered in Hong Kong.

The Complainant further alleges that the Respondent has no rights or legitimate interests in respect of the Disputed Domain because:

- the Respondent is not actively using the Disputed Domain for a website
- the Respondent is a notorious serial cyber-squatter, having entered into a pattern of behaviour of registering domain names corresponding to trade marks and company names of other companies with the sole purpose of selling such domain names for more than the cost of registration. The Complainant provides evidence of the Respondent's previous such activity in respect of the following domains:

<imvamune.com>, which led to WIPO case D2004-0855

<taabel.com>, which led to WIPO case D2004-0178

<shoppingmatters.co.uk>

- the Respondent has not asserted any purported legitimate interest even in the face of the Complainant's cease and desist letter of 4 July 2005.

Finally, the Complainant alleges that the Disputed Domain has been registered and used in bad faith. In support the Complainant relies on:

- the Respondent's previous pattern of behaviour as a known cyber-squatter

- the fact that the effect of the Respondent's registration has been to prevent the Complainant from reflecting its trade mark in a corresponding domain name with the country code TLD.hk.

### The Respondent

The Respondent did not file a Response within the stipulated time (nor has any Response been delivered to the Panelist subsequently).

## 5. Findings

### A. Respondent in Default

The HKDNR Domain Name Dispute Resolution Policy Rules of Procedure ("Rules"), Paragraph 5(e) provide that: "*If a Respondent does not submit a timely Response, in the absence of exceptional circumstances as determined by the Provider at its sole discretion, the Arbitration Panel shall decide the dispute based upon the Complaint and evidence submitted therewith.*" The Panel finds no exceptional circumstances to exist, and will proceed to determine the dispute based upon the Complaint.

### B. The Language of the Proceedings

Paragraph 11(a) of the Rules provides:

*"Unless otherwise agreed by the Parties, the language of the arbitration proceedings shall be the language of the Registration Agreement, subject always to the authority of the Arbitration Panel to determine otherwise, having regard to all the circumstances of the arbitration proceeding."*

In the present case, the Disputed Domain was registered using the Roman alphabet. The Registrar is resident in Hong Kong, which has English as one of its official languages, and the Registrar's registration agreement is in English. The Complaint was drafted in English and the Complainant and the Panelist are conversant in English. The registration information given by the Respondent was given in English. All correspondence amongst HKIAC, the Registrar, the parties and the Panel is in English. The Respondent is apparently a resident of Denmark. The Respondent's request for further time was made in English.

The Panel has received no request from any interested party to deal with the matter in any language other than English. The Panel determines that the language of these arbitration proceedings shall be English. The Panel is able to understand those parts of the exhibits to the Complaint in Danish without official translation.

### C. Discussion and Findings

According to Paragraph 4a of the HKDNR Domain Name Dispute Resolution Policy (the "Policy") which is applicable hereto, the Complainant has the burden of proving that:

- (i) the Disputed Domain is identical or confusingly similar to a trade mark or service mark in Hong Kong in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the Disputed Domain; and
- (iii) the Disputed Domain has been registered and is being used in bad faith.

### 1. Identical/confusing similarity

The Disputed Domain, with the addition of ".hk" which is to be disregarded, is identical to the Complainant's Hong Kong registered trade marks GRUNDFOS.

The Panel finds the Complainant has satisfied the first condition under Paragraph 4 of the Policy.

### 2. Rights or Legitimate Interests of Respondent

The Complainant has alleged that the Respondent has no right or legitimate interest in respect of the Disputed Domain.

Although the Complainant has provided evidence that, as at 2 August 2005 the Disputed Domain was not used, the Panel found, when first searching the Disputed Domain on 12 September 2005 that the Disputed Domain resolved to a rudimentary home page for "Gründ Fos HK". The home page purports to advertise "Your Professional Industrial Designer", but no information or contact details are given of any business being undertaken or solicited.

Clearly the Complainant does have a legitimate interest in the mark "GRUNDFOS" in Hong Kong, and the Panel can fathom no possible legitimate connection or interest between the Respondent and the Disputed Domain. The Respondent has not answered the allegations put to him and the Panel has no reason to doubt the veracity of the Complaint.

Accordingly, the Panel finds that the Complainant has satisfied the second condition under Paragraph 4 of the Policy.

### 3. Bad faith

Henrik Olsen is a known cyber-squatter. In *Bavarian Nordic A/S v. Henrik Olsen, The Vamune Family*, WIPO Case No. D2004-0855, Olsen lost the right to retain the disputed domain <imvamune.com>. In an attempt to avoid losing the domain, he had "transferred" that domain to "The Vamune Family" which clearly did not exist.

The <imvamune.com> Decision contains the following:

*"In further support of the information of Henrik Olsen's activities as cyber-squatter, five cases from the Danish Klagenævnet for Domænenavne (the Danish Appeals Board for Domain Names) were enclosed as exhibits, in all of which included actions brought against Henrik Olsen. In all the cases Henrik Olsen has registered trademarks/names of other companies as domain names and afterwards tried to sell these to the company in question. The Appeals Board for Domain Names has in its decisions taken into account that Henrik Olsen engages in trade in domain names, and has in all cases decided that Henrik Olsen should transfer the domain name in question to the Complainant."*

*"Due to the reputation of the Complainant and Complainant's marks in the country where the registrant (Respondent) was located at the time of registration, the Panel finds that the registration of the contested domain name was done in bad faith."*

*The Panel further finds that it has been established that Henrik Olsen (the original Registrant) is engaged in a pattern of registering domain names containing trademarks of other companies.*

*The domain name has apparently not been used actively. As it has been stated in several other decisions under the UDRP, inactivity or passive holding can in specific cases be*

regarded as "use" within the meaning of Paragraph 4(a)(iii), which the Panel finds to be the case here."

Paragraph 4(b)(ii) of the Policy provides:

*"For the purposes of Paragraph 4(a)(iii), the following circumstances, in particular but without limitation, if found by an Arbitration Panel to be present, shall be evidence of the registration and use of a Domain name in bad faith:*

*...(ii) you have registered the Domain Name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding Domain Name, provided that you have engaged in a pattern of such conduct..."*

The pattern of Henrik Olsen's conduct has been well demonstrated and the blocking registration of <grundfos.hk> continues this pattern. The Disputed Domain has not been used actively. The Panel finds that Paragraph 4(b)(ii) of the Policy is satisfied and <grundfos.hk> was registered by the Respondent in bad faith.

In addition, the passive and unexplained domain registration constitutes bad faith following the decision in *Telstra Corporation Limited -v- Nuclear Marshmallows* WIPO Case No. D20000-0003.

## 6. Conclusions

Based on the above analysis, the Panel decides that: (1) the Disputed Domain is confusingly similar to a mark in which the Complainant has rights; (2) the Respondent has no right or legitimate interest in respect of the Disputed Domain; and (3) the Respondent has registered and has used the Disputed Domain in bad faith. Accordingly, pursuant to Paragraph 3 of the Policy, and at the Complainant's request, the Panel decides that the Disputed Domain **grundfos.hk** should be transferred to the Complainant.

Dated 26 September 2005.  
Hong Kong



---

Peter Bullock