

ADMINISTRATIVE PANEL DECISION

L'Oréal v. xuxu

Case No. D2023-4134

1. The Parties

The Complainant is L'Oréal, France, represented by Dreyfus & associés, France.

The Respondent is xuxu, China.

2. The Domain Name and Registrar

The disputed domain name <loreal-shopping.vip> is registered with Alibaba.com Singapore E-Commerce Private Limited (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on October 4, 2023. On October 4, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 7, 2023, 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 verified that 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 October 17, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 6, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on November 9, 2023.

The Center appointed Daniel Peña as the sole panelist in this matter on November 27, 2023. 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 French industrial group specialized in the field of cosmetics and beauty.

The Complainant owns the following trademarks:

-International trademark L'OREAL No. 1532645 registered on April 29, 2020, designating, *inter alia*, China, Indonesia, Singapore and Vietnam, and covering goods in classes 3 and 5;

-Hong Kong, China trademark L'OREAL No. 19580853, registered on May 22, 1958, duly renewed and covering goods in class 3.

The disputed domain name was registered on September 10, 2023, and resolves to an error page.

5. Parties' Contentions

A. Complainant

The Complainant employs 86,000 employees, with a portfolio of 36 brands, 21 research centers and is present in 150 countries.

The Complainant is well known in Hong Kong, China. L'Oréal Hong Kong was established in 1983 as a subsidiary of the Complainant. It offers 18 brands available in Hong Kong, China.

The disputed domain name reproduces in its entirety the Complainant's trademark.

The disputed domain name reproduces the Complainant's trademark with the addition of the term "shopping", which does not prevent any likelihood of confusion. On the contrary, such term increases the likelihood of confusion as it directly targets the Complainant's field of activity in the retailing business. The lack of apostrophe in the disputed domain name does not change the trademark pronunciation.

The Respondent is neither affiliated with the Complainant in any way nor has it been authorized by the Complainant to use and register its trademark, or to seek registration of any domain name incorporating said trademark.

The Respondent is not commonly known by the disputed domain name.

The disputed domain name used to resolve to a fraudulent website reproducing the Complainant's trademark and visuals, offering various products for sale which were likely to generate revenues, by creating a false affiliation with the Complainant.

The Complainant submits that given the Complainant's goodwill and renown, the Respondent have chosen the disputed domain name to deliberately cause confusion amongst Internet users as to its source in order to take unfair advantage of the Complainant's goodwill and reputation. Thus, the Respondent registered and used the disputed domain name in bad faith.

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 listed in paragraph 4(a) of the Policy have been satisfied: (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. Considering these requirements, the Panel rules as follows.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights. The Complainant has provided evidence of its rights in the trademark L'OREAL on the basis of its multiple trademark registrations. A trademark registration provides a clear indication that the rights in the trademark belong to the Complainant (see WIPO Overview on WIPO Panel Views on Selected UDRP Questions, ("[WIPO Overview 3.0](#)"), section 1.2.1).

It has also been established by prior UDRP panels that incorporating a trademark in its entirety into a domain name can be sufficient to establish that the domain name is confusingly similar to a trademark. Such findings were confirmed, for example, within section 1.7 of the [WIPO Overview 3.0](#). Mere addition of the term "shopping" as well as a hyphen in the disputed domain name does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's L'OREAL mark because the Complainant's L'OREAL mark remains clearly recognizable in the disputed domain name. As noted in [WIPO Overview 3.0](#), section 1.8: "Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity under the first element." Furthermore, the addition of the generic Top-Level Domain ("gTLD"), ".vip" is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test (see section 1.11 of [WIPO Overview 3.0](#)).

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the trademark in which the Complainant has rights, meaning that the Complainant has satisfied the requirement under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

In accordance with paragraph 4(a)(ii) of the Policy, the Complainant must prove that the Respondent has no rights or legitimate interests in the disputed domain name.

The Panel observes that there is no relationship, disclosed to the Panel or otherwise apparent from the record, between the Respondent and the Complainant. The Panel also finds that there is no indication that the Respondent is commonly known by the disputed domain name because the Respondent's name is "xuxu" which has no connection whatsoever with the L'OREAL trademark.

Furthermore, the disputed domain name previously resolved to a commercial website that allegedly offers the Complainant's goods without any disclaimer as to the relation with or authorization of the Complainant, exacerbating the user confusion as to the website's affiliation to the Complainant. Such use for deliberately attracting Internet users to its website in the mistaken belief that it is a website of the Complainant, or otherwise linked to or authorized by the Complainant supports a finding that the Respondent lacks rights to or legitimate interests in the disputed domain name. The disputed domain name currently resolves to an error page.

The Respondent did not submit a Response or attempt to demonstrate any rights or legitimate interests in the disputed domain name, and the Panel draws adverse inferences from this failure, where appropriate, in accordance with the Rules, paragraph 14(b).

The Panel concludes that the Respondent deliberately chose to include the Complainant's L'OREAL trademark in the disputed domain name, in order to achieve commercial gain by misleading third parties, and that such use cannot be considered as a legitimate noncommercial or fair use. The Panel further finds that the disputed domain name carries a risk of implied affiliation with the Complainant. See section 2.5.1 of the [WIPO Overview 3.0](#).

Given the above, the Panel finds that the Complainant has satisfied the requirement under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy stipulates that any of the following circumstances, *inter alia*, shall be considered as evidence of the registration and use of a domain name in bad faith: (i) circumstances indicating that the respondent registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or (ii) circumstances indicating that the respondent 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 the respondent has engaged in a pattern of such conduct; or (iii) circumstances indicating that the respondent registered the domain name primarily for the purpose of disrupting the business of a competitor; or (iv) circumstances indicating that the respondent is using the domain name to intentionally attempt to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on its website or location.

With regard to the bad faith at the time of registration, the Panel notes that "loreal" is not a common or descriptive term, but a renowned trademark in and to which the Complainant has demonstrated it has rights. The disputed domain name reproduces, without any authorization or approval, the Complainant's registered trademarks L'OREAL. Moreover, the disputed domain name is inherently misleading as it reproduces the Complainant's L'OREAL trademark together with the term "shopping".

In addition, owing to the substantial presence established worldwide, it is at the least very unlikely that the Respondent was not aware of the existence of the Complainant's trademarks when registering a domain name that entirely reproduces the Complainant's trademark. Therefore, it is more likely than not that the Respondent, when registering the disputed domain name, had knowledge of the Complainant's earlier rights to the L'OREAL trademark. The bad faith registration and use of the disputed domain name is also affirmed by the fact that the Respondent has not denied, or even responded to, the assertions of bad faith made by the Complainant in this proceeding. Furthermore, The Respondent appears to have chosen the disputed domain name in order to deliberately attract Internet users to the website misleading them to believe that it is the website of the Complainant, or otherwise linked to or authorized by the Complainant. That impression is only reinforced by the content of the Respondent's website whereby the Complainant's marks and content are included.

In this Panel's view, use in bad faith is evidenced also by the purported distribution and selling of the Complainant's products through the website to which the disputed domain name was directed, and the absence of a disclaimer disclosing the relationship between the Parties (or lack thereof). As such, the Panel is satisfied that by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website or of the products on its website. The fact that the disputed domain name currently resolves to an error page does not prevent a finding of bad faith.

Given the above, the Panel finds that the disputed domain name was registered and is being used in bad faith.

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 <loreal-shopping.vip> be transferred to the Complainant.

/Daniel Peña/

Daniel Peña

Sole Panelist

Date: December 11, 2023