

## ADMINISTRATIVE PANEL DECISION

LC Waikiki Mağazacılık Hizmetleri Ticaret Anonim Şirketi v. Muhammet Turabi

Case No. D2023-4280

### 1. The Parties

The Complainant is LC Waikiki Mağazacılık Hizmetleri Ticaret Anonim Şirketi, Türkiye, represented by Muhtaranlar Attorney Partnership, Türkiye.

The Respondent is Muhammet Turabi, Türkiye.

### 2. The Domain Name and Registrar

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

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 16, 2023. On October 16, 2023, 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 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 October 17, 2023, 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 amendment to the Complaint on October 20, 2023.

The Center verified that the Complaint together with the amendment to 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 30, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 19, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 20, 2023.

The Center appointed Emre Kerim Yardimci as the sole panelist in this matter on November 28, 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 Turkish apparel company, which owns the brand, LC WAIKIKI. The mark LC WAIKIKI is originated in 1988 in France where the Complainant bought LC WAIKIKI brand in 1997.

Since then, the Complainant has been distributing its products in many countries in the world through e-commerce, retail stores, and more, with LC WAIKIKI brand. The Complainant has 550 stores in Türkiye and 745 stores worldwide. The Complainant's commercial activity extends to 58 countries and 374 cities.

The Complainant owns numerous trademark registrations for LC WAIKIKI and LCW covering several jurisdictions, including Türkiye and Iran. Among others, the Complainant has following registrations:

- Turkish Trademark No. 2012 102942, LCW, registered on March 3, 2014;
- European Union Trademark No. 833269, LCW, registered on August 11, 1999;
- International Trademark registration No. 1168963, LCW, registered on December 31, 2012, extended to Iran
- Iranian Trademark No. 104607, LC WAIKIKI, registered on September 19, 2002.

The Complainant has also been owning and operating its website at "www.lcwaikiki.com" since 1999.

The disputed domain name was registered on April 1, 2022.

On January 23, 2023, the Complainant sent a cease-and-desist letter to the Respondent through the Registrar, without receiving any response.

The Complainant submitted evidence which shows that the disputed domain name is linked to a Persian website which contains the Complainant's registered trademark and purportedly offers to sell LC WAIKIKI branded products.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant asserts that the disputed domain name is identical or at least confusingly similar to the Complainant's trademark LCW and the addition of the geographical term "Iran" is not sufficient to distinguish the disputed domain name from the Complainant's mark.

The Complainant's considers that the Respondent has no rights or legitimate interests in respect of the disputed domain name, mainly because the Complainant has neither licensed nor otherwise authorized the Respondent to use its marks or to apply for or use any domain name incorporating the trademarks of the Complainant and the Respondent does not appear to be known by the disputed domain name.

The Complainant further states that the Complainant, as its company policy, stopped its direct and indirect operations in Iran including any affiliations or partners in Iran who is authorized to carry out business by way of using the LC WAIKIKI trademark at neither physical nor online stores.

The Complainant contends that the Respondent has registered and is using the disputed domain name in bad faith. It is clear that the Respondent was aware of the rights the Complainant has in the trademark at the time of its registration.

The Complainant claims that the Respondent is using the disputed domain name with the aim to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's trademark and for the purpose of disrupting the Complainant's business and targeting the Complainant's trademark.

## **B. Respondent**

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

## **6. Discussion and Findings**

Pursuant to paragraph 4(a) of the Policy, the Complainant is required to prove the presence of each of the following three elements to obtain the remedy it has requested:

- (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.

### **A. Identical or Confusingly Similar**

The Panel finds that the disputed domain name is confusingly similar to the registered LCW trademarks owned by the Complainant.

The Complainant's trademark is recognizable within the disputed domain name since the disputed domain name comprises the Complainant's trademark in its entirety, and the addition of the geographic term "Iran" does not prevent a finding of confusing similarity under the first element. (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 1.8).

As regards the generic Top-Level Domain ".com", it is typically disregarded under the confusing similarity test under the Policy.

Consequently, the Panel finds that the Complainants have shown that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

### **B. Rights or Legitimate Interests**

The onus is on the Complainant to make out at least a prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name, and it is then for the Respondent to rebut this case. See section 2.1 of the [WIPO Overview 3.0](#).

The Panel accepts the Complainant's submissions that the Respondent does not appear to be known by the disputed domain name, has not used, or made demonstrable preparations to use the disputed domain name in connection with a bona fide offering of goods or services, is not making a legitimate noncommercial or fair use of the disputed domain name, and has no consent from the Complainants to use its trademark.

The Respondent has not filed a Response.

The Complainant has made out its prima facie case under this element of the Policy and the Respondent has failed to rebut it. Accordingly, the Complainants succeed in relation to the second element of the Policy.

### **C. Registered and Used in Bad Faith**

At the time of registration of the disputed domain name, the Complainant's trademark LCW and LC WAIKIKI was famous trademark for a very long time throughout the world. As the Complainants submit, it is inconceivable that the Respondent would not have known of the Complainant's well-known mark.

The Panel finds that the Respondent is using the disputed domain name to intentionally attempt to attract for commercial gain Internet users to its website by creating a likelihood of confusion with the Complainant's famous trademarks:

As a matter of fact, considering;

- the use of the Complainants' famous trademark within the disputed domain name;
- the use of the Complainant's trademark; and
- the use of the Complainants' copyrighted photos on the website under the disputed domain name; and
- the fact that the Complainant is not operating in Iran as result of its company policy,

it is clear that the Respondent has targeted the Complainants and its famous trademarks to benefit its own commercial activities.

The Respondent's registration of the disputed domain name incorporating the Complainant's mark that is resolving to a website impersonating the Complainant's website clearly constitutes bad faith use, and registration.

Therefore, the only reason for the registration of the disputed domain name by the Respondent must have been with bad faith intent to use it to exploit, for commercial gain, the Complainant's reputation. The Respondent has used the disputed domain name for precisely that purpose.

Therefore, in the view of cumulative circumstances, the Panel finds that the requirement of registration and use in bad faith is satisfied, according to 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, <iranlcw.com>, be transferred to the Complainant.

*/Emre Kerim Yardimci/*

Emre Kerim Yardimci

Sole Panelist

Date: December 7, 2023