

ADMINISTRATIVE PANEL DECISION

Louis Vuitton Malletier v. Whois Privacy, Private by Design, LLC / Julien Colinet

Case No. D2022-3000

1. The Parties

The Complainant is Louis Vuitton Malletier, France, represented by Studio Barbero Spa, Italy.

The Respondent is Whois Privacy, Private by Design, LLC, United States of America (“U.S.”) / Julien Colinet, France.

2. The Domain Name and Registrar

The disputed domain name <louisvuitton.luxe> is registered with Porkbun LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 12, 2022. On August 15, 2022, 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 and contact information in the Complaint.

The Center sent an email communication to the Complainant on August 16, 2022 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 August 17, 2022.

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 August 23, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 12, 2022. Aside from four informal communications, the Respondent did not submit any formal response. Accordingly, the Center notified the Commencement of Panel Appointment Process.

The Center appointed Elise Dufour as the sole panelist in this matter on September 19, 2022. 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 Louis Vuitton Malletier, a French fashion house part of the multinational luxury goods conglomerate LVMH Moët Hennessy Louis Vuitton, known as LVMH. The origin of the Complainant dates back to over 165 years ago, when in 1854 the house of Louis Vuitton Malletier was founded in Paris by 33-year-old Louis Vuitton.

The LOUIS VUITTON trademark has been used by the Complainant for more than 165 years in connection with luxury leather goods, products of the high-fashion, accessories as well as fragrances and cosmetics.

The Complainant owns several trademark registrations in many countries including *inter alia* the following trademarks:

- International Trademark No. 416052 for LOUIS VUITTON (word mark), registered on June 19, 1975, for goods in classes 03, 06, 08, 13, 14, 16, 18, 20, 21, 24, 25, 28 and 34;
- International Trademark Registration No. 1096591 for LOUIS VUITTON (word mark), registered on April 6, 2011 and duly renewed, in classes 35, 38 and 41;
- European Union Trademark Registration No. 000015610 for LOUIS VUITTON (word mark), registered on March 16, 1998 and duly renewed, in classes 16, 18 and 25.

The Complainant has also registered numerous domain names reflecting its trademark LOUIS VUITTON. It operates its primary business website at “www.louisvuitton.com”.

The disputed domain name was registered on January 6, 2022. According to the evidence submitted by the Complainant, it used to resolve to a web page where the disputed domain name was offered for sale for an amount of USD 5,000. By clicking on “Buy Now!”, users were redirected to another page, where they could submit a minimum offer of USD 3,500 offer for the disputed domain name through an on-line form.

The disputed domain name now resolves to a blank page but has active mail exchange (MX) records.

5. Parties' Contentions

A. Complainant

The Complainant contends that (i) the disputed domain name is confusingly similar to the Complainant's trademarks; (ii) the Respondent has no rights or legitimate interests in the disputed domain name; and (iii) the Respondent registered and is using the disputed domain name in bad faith.

(i) The Complainant claims that the disputed domain name is identical to its well-known trademarks, since the disputed domain name reproduces its LOUIS VUITTON trademark without any alteration, and the addition of the Top Level Domain (“TLD”) in a domain name (“.luxe” in this case) being viewed as a standard registration requirement, which should be disregarded.

(ii) The Complainant states that the Respondent has no rights or legitimate interests in respect of the disputed domain name: the Complainant has not licensed or otherwise permitted the Respondent to use its trademark LOUIS VUITTON. The Respondent is not commonly known by the disputed domain name.

Finally, the fact that the disputed domain name resolved to a webpage where it was offered for sale for an amount well exceeding the mere out-of-pocket costs prevents any proof of *bona fide* or even fair use of the disputed domain name. As a final element within the frame of rights or legitimate interest, the Respondent did not reply to the cease-and-desist letter sent by the authorised representative of the Complainant.

(iii) In light of the fact that the trademark LOUIS VUITTON has been used extensively since the 1850s, including in the Respondent's country, the Respondent was undoubtedly aware of the existence of the Complainant's trademark and of the fact that the disputed domain name was confusingly similar to it at the time of registration. The Complainant also stresses that the Respondent's selection of the Top Level Domain ".lux" further demonstrates the Respondent's intent to target the Complainant, as the Complainant is active in the luxury industry. With respect to bad faith use, the Respondent originally pointed the disputed domain name redirected to a webpage where it was offered for sale for USD 5,000, with a minimum bid of at least USD 3,500, amounts which are both well in excess of the out-of-pocket costs directly related to the disputed domain name. Finally, for the Complainant, the passive holding of the disputed domain name (disputed domain name pointing to a blank page) does not prevent a finding of bad faith in view of i) the identity of the disputed domain name with the Complainant's well-known trademark, ii) the Respondent's lack of any legitimate interests in the disputed domain name, iii) the Respondent's concealing of its contact details in the public Whois records and iv) the implausibility of any good faith use to which the disputed domain name may be.

The Complainant requests transfer of the disputed domain name.

B. Respondent

The Respondent did not formally reply to the Complainant's contentions, but indicated in a series of communications that his goal was not to profit from the acquisition of this domain name, nor to harm the Complainant, that the disputed domain name was deactivated, that he owns many other domain names and has some plans for those domain names, that he received communications from a third party inquiring buying the disputed domain name (to which he did not reply because he was not interested in profiting from the disputed domain name), that he never acted in bad faith, that the website was activated by default when he purchased the disputed domain name, and that he was not against a transfer of the domain name as soon as possible, without any counterpart.

6. Discussion and Findings

The record show that the Parties in these proceedings were not able to settle their dispute prior to the issuance of a Panel decision. The Panel notes however, that in a communication dated August 24, 2022, the Respondent gave its consent to transfer the disputed domain name to the Complainant.

Having stated that, the Panel in this case will exercise its discretion to proceed to a substantive decision on the merits, as the Panel finds it appropriate, since it appears the Complainant has expressed a preference for a recorded decision.

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the disputed domain name, the Complainant must prove each of the following, namely that:

- i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- iii) the disputed domain name was registered and is being used in bad faith.

The Panel will further analyze the potential concurrence of the above circumstances.

A. Identical or Confusingly Similar

The Complainant submitted evidence, which incontestably and conclusively establishes rights in the trademark LOUIS VUITTON.

The disputed domain name wholly incorporates the Complainant's trademark LOUIS VUITTON without alteration, which is sufficient to determine that the disputed domain name is identical to the Complainant's trademark. The TLD in a domain name (".luxe" in this case) being viewed as a standard registration requirement, which should be disregarded.

The Panel therefore finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The burden of proof is on the Complainant to demonstrate a *prima facie* case that the Respondent does not have rights or legitimate interests in the disputed domain name. Once the Complainant has made out a *prima facie* case, the burden of production then shifts to the Respondent, which has then to demonstrate rights or legitimate interests in the disputed domain name.

On the basis of the submitted evidence, the Panel considers that the Complainant has successfully established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not commonly known under the disputed domain name, nor owns any registered rights on the disputed domain name or has been authorized by the Complainant to use the prior trademarks in any way.

The Panel does not find any indications that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name or has rights or legitimate interests in any other way in the disputed domain name. On the contrary, the fact that the disputed domain name resolved to a webpage where it was offered for sale for an amount well exceeding the mere out-of-pocket costs prevents any proof of *bona fide* or even fair use of the disputed domain name.

Furthermore, UDRP panels have found that domain names identical to a complainant's trademark carry a high risk of implied affiliation. See section 2.5.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)")

Therefore, the Panel finds that the Complainant has made a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has made some broad allegations but has not effectively proved otherwise.

Given these circumstances the Panel finds that the second element of the Policy has been satisfied.

C. Registered and Used in Bad Faith

With regards to the registration of the disputed domain name, the Panel finds that at the time of the registration, the Respondent knew or should have been aware of the existence of the Complainant's trademarks and activities. Indeed, given the fact that the Complainant's LOUIS VUITTON trademarks have been used extensively since the 1850s and are well known worldwide, the Respondent cannot credibly claim to have been unaware of the existence of the previous trademarks.

Therefore, the Panel is convinced that the disputed domain name was registered in bad faith by the Respondent.

The record shows that the disputed domain name was being actively offered for sale. The Panels finds this use to be in bad faith, taking into account i) the identity of the disputed domain name with the Complainant's well-known trademark, ii) the Respondent's lack of any legitimate interests in the disputed domain name,

iii) the Respondent's concealing of its contact details in the public Whois records and iv) the implausibility of any good faith use to which the disputed domain name may be.

As for the current use of the disputed domain name, given the circumstances described in the Complaint, the documentary evidence provided by the Complainant, and the brief verification carried out by the Panel of the blank page associated with the disputed domain name, the Panel finds that the passive holding of the disputed domain name does not prevent a finding of use in bad faith.

In the light of the above, it is not possible to conceive of any plausible actual or contemplated active use of the disputed domain name by the Respondent that would not be illegitimate. Further, the Respondent has not provided any rebuttal or participated in this proceeding by any means, failing to provide any credible good faith explanation as to the Respondent's registration of the disputed domain name that incorporates the Complainant's well-known trademarks.

Therefore, the Panel finds that the requirement of registration and use in bad faith is satisfied, according to the Policy, paragraph 4(a)(iii).

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 <louisvuitton.luxe> be transferred to the Complainant.

/Elise Dufour/

Elise Dufour

Sole Panelist

Date: October 3, 2022