

ADMINISTRATIVE PANEL DECISION

L'Oréal v. Daniyar Kubatov

Case No. D2022-3776

1. The Parties

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

Respondent is Daniyar Kubatov, Kyrgyzstan.

2. The Domain Name and Registrar

The disputed domain name <monthly-digest-loreal.com> (the "Domain Name") is registered with DropCatch.com LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on October 10, 2022. On October 10, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On October 11, 2022, the Registrar transmitted by email to the Center its verification response confirming that 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 Respondent of the Complaint, and the proceedings commenced on October 17, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 6, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on November 8, 2022.

The Center appointed Marina Perraki as the sole panelist in this matter on November 15, 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

Complainant is a French industrial group specialized in the field of cosmetics and beauty. It has a portfolio of 36 brands, 21 research centers, employs 86,000 employees, and is present in 150 countries. Complainant's main website is located at "www.loreal.com" while the respective domain name <loreal.com> was registered on October 24, 1997.

Complainant owns a large number of trademark registrations for L'ORÉAL including the Kyrgyzstan Republic trademark registration No. 1533, L'ORÉAL (figurative), filed on November 15, 1960, and registered on November 14, 1994, for goods in international class 3 and the International trademark registration No. 184970, L'ORÉAL (figurative), registered on May 23, 1955 for goods in international classes 3 and 5.

The Domain Name was registered on August 14, 2020 and initially resolved, per Complaint, to a website purportedly being that of Complainant and reproducing the logo of Complainant as well as visuals and content (the "Website"). Per Complaint, the Website was listing Complainant's products and trademarks and citing one of Complainant's employees in the "A propos" section, *i.e.* "[...][@loreal.com](mailto:[...]@loreal.com)". Additionally, an email server was configured to the Domain Name. Subsequently, at the time of filing of the Complaint, the Website showed also the phrase "Site de fans" (fans website in English) at the top of each page, which however did not correspond to the rest of the content of the Website, which continued to be the one described above. Moreover, at the bottom of the Website, there were several links that redirected towards other websites, and one of them was configured with pornographic content (*i.e.* the link "amman escorts"), while the Website contained articles mentioning Complainant and competitors, links and photos.

Complainant sent a cease and desist letter to Respondent on May 12, 2021 and reminder, to which Respondent did not reply.

The Domain Name currently leads to an inactive website.

5. Parties' Contentions

A. Complainant

Complainant asserts that it has established all three elements required under paragraph 4(a) of the Policy for a transfer of the Domain Name.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists three elements, which Complainant must satisfy with respect to the Domain Name:

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

A. Identical or Confusingly Similar

The Domain Name incorporates Complainant's L'ORÉAL trademark in its entirety. This is sufficient to establish confusing similarity (*Magnum Piering, Inc. v. The Mudjackers and Garwood S. Wilson, Sr.*, WIPO Case No. [D2000-1525](#)).

The addition of the words "monthly", and "digest" intersected by a hyphen and the omission of the apostrophe does not prevent a finding of confusing similarity, as the L'ORÉAL trademark remains clearly recognizable within the Domain Name (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8).

The generic Top-Level Domain ("gTLD") ".com" is disregarded, as gTLDs typically do not form part of the comparison on the grounds that they are required for technical reasons (*Rexel Developpements SAS v. Zhan Yequn*, WIPO Case No. [D2017-0275](#); *Hay & Robertson International Licensing AG v. C. J. Lovik*, WIPO Case No. [D2002-0122](#)).

The Panel finds that the Domain Name is confusingly similar to Complainant's L'ORÉAL trademark.

Complainant has established Policy, paragraph 4(a)(i).

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

- (i) before any notice to Respondent of the dispute, Respondent's use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services; or
- (ii) Respondent (as an individual, business, or other organization) has been commonly known by the Domain Name, even if it has acquired no trademark or service mark rights; or
- (iii) Respondent is 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 or service mark at issue.

The Panel concludes that Respondent lacks rights or legitimate interests in respect of the Domain Name.

Respondent has not submitted any response and has not claimed any such rights or legitimate interests with respect to the Domain Name. As per Complainant, Respondent was not authorized to register the Domain Name.

Respondent has not demonstrated any preparations to use, or has not used the Domain Name or a trademark corresponding to the Domain Name in connection with a *bona fide* offering of goods or services.

On the contrary, as Complainant demonstrated, the Domain Name was used to host the Website to impersonate Complainant and attempt to mislead consumers into thinking that the goods purportedly offered for sale on the Website originate from Complainant. Such use demonstrates neither a *bona fide* offering of goods nor a legitimate interest of Respondent (*Arkema France v. Aaron Blaine*, WIPO Case No. [D2015-0502](#)).

The Domain Name falsely suggested that the Website is an official site of Complainant or of an entity affiliated to or endorsed by Complainant. The Website extensively reproduced, without authorization by Complainant, Complainant's trademark, without any disclaimer of association (or lack thereof) with Complainant.

Furthermore, the wording “Site de fans” (fans website in English) at the top of the page was a false information, as the rest of the content of the Website was the one described previously.

In addition, the nature of the Domain Name, comprising Complainant’s trademark in its entirety in combination with the words “monthly”, and “digest” intersected by a hyphen and the omission of the apostrophe, carries a risk of implied affiliation (See [WIPO Overview 3.0](#), section 2.5.1.).

The Panel finds that these circumstances do not confer upon Respondent any rights or legitimate interests in respect of the Domain Name.

Complainant has established Policy, paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that the following circumstances, “in particular but without limitation”, are evidence of the registration and use of the Domain Name in “bad faith”:

(i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or

(ii) that Respondent has 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 Respondent has engaged in a pattern of such conduct; or

(iii) that Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or

(iv) that by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent’s website or other online location, by creating a likelihood of confusion with Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of Respondent’s website or location or of a product or service on Respondent’s website or location.

The Panel concludes that Respondent has registered and used the Domain Name in bad faith.

Because the L’ORÉAL mark had been widely used and registered by Complainant before the Domain Name registration and enjoyed reputation worldwide, as repeatedly recognised (*L’Oréal, v. Hoang lan / Whois Privacy Protection Service, Inc.*, WIPO Case No. [D2016-0917](#); *L’Oréal S.A. v. Lianfa*, [DPW2014-0003](#); *L’Oréal v. Vitaly P Pak*, WIPO Case No. [D2013-0291](#)), the Panel finds it more likely than not that Respondent had Complainant’s mark in mind when registering the Domain Name (*Tudor Games, Inc. v. Domain Hostmaster, Customer ID No. 09382953107339 dba Whois Privacy Services Pty Ltd / Domain Administrator, Vertical Axis Inc.*, WIPO Case No. [D2014-1754](#); *Parfums Christian Dior v. Javier Garcia Quintas and Christiandior.net*, WIPO Case No. [D2000-0226](#)).

Respondent should have known about Complainant’s rights, as such knowledge is readily obtainable through a simple browser search (see *Caesars World, Inc. v. Forum LLC*, WIPO Case No. [D2005-0517](#); *Compart AG v. Compart.com / Vertical Axis Inc.*, WIPO Case No. [D2009-0462](#)).

Furthermore, the content of the Website gave the impression that it originated from Complainant, prominently displaying L’ORÉAL signs, thereby giving the false impression that the Website emanated from Complainant. This further supports registration in bad faith reinforcing the likelihood of confusion, as Internet users are likely to consider the Domain Name as in some way endorsed by or connected with Complainant ([WIPO Overview 3.0](#), section 3.1.4).

As regards bad faith use, Complainant demonstrated that the Domain Name was employed to host a website which appeared falsely to be that of Complainant.

The Domain Name has been operated by intentionally creating a likelihood of confusion with Complainant's trademark and business. This further supports the finding of bad faith use (*Arkema France v. Aaron Blaine, supra*; *Aktiebolaget Electrolux v. Priscilla Quaiotti Passos*, WIPO Case No. [D2011-0388](#) and [WIPO Overview 3.0](#), sections 3.1.4 and 3.2.1).

The Domain Name currently leads to an inactive website. The non-use of a domain name would not prevent a finding of bad faith (See *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#); [WIPO Overview 3.0](#), section 3.3).

Under these circumstances and on this record, the Panel finds that Respondent registered and used the Domain Name in bad faith.

Complainant has established 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 Domain Name <monthly-digest-loreal.com> be transferred to Complainant.

/Marina Perraki/

Marina Perraki

Sole Panelist

Date: November 29, 2022