

ADMINISTRATIVE PANEL DECISION

Loewe, S.A. v. Hiauziau Kiauaizja, Client Care, Web Commerce
Communications Limited
Case No. D2023-1078

1. The Parties

Complainant is Loewe, S.A., Spain, represented by Domainoo, France.

Respondents are Hiauziau Kiauaizja, United States of America and Client Care, Web Commerce Communications Limited, Malaysia (the “Respondent” or the “Respondents”).

2. The Domain Names and Registrars

The disputed domain name <loewemalaysia.com> is registered with Alibaba.com Singapore E-Commerce Private Limited.

The disputed domain name <loewephilippines.com> is registered with Dynadot, LLC (the “Registrar”).

Hereafter the “Domain Names”.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 10, 2023. On March 10, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On March 11 and on March 13, 2023, the Registrars transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Not available/ Redacted for privacy) and contact information in the Complaint. The Center sent an email communication to Complainant on March 14, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on March 17, 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 Respondent of the Complaint, and the proceedings commenced on March 28, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 17, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on April 18, 2023.

The Center appointed Marina Perraki as the sole panelist in this matter on April 25, 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. Procedural Issue: Consolidation of Domain Names

The Panel has considered the possible consolidation of the Complaint for the Domain Names. According to WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2, "Where a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario".

In this case, the Panel notes the following features of the Domain Names and arguments submitted by Complainant in favor of the consolidation:

- the Domain Names lead to identical websites;
- the Domain Names share the same naming pattern, namely they reproduce the trademark LOEWE of Complainant, in combination with an Asian country name and the generic Top-Level Domain ("gTLD") ".com"; and
- the Domain Names were registered on the same date.

Considering all the above, the Panel notes that, as Complainant has argued, there appears *prima facie* to be one single Respondent, providing fake ID details. Furthermore, named Respondents did not submit any arguments to rebut this inference.

The Panel finds therefore that consolidation is fair to both Parties, as the Respondents have been given an opportunity to object to consolidation through the submission of pleadings to the Complaint but have chosen not to respond (see [WIPO Overview 3.0](#), sections 4.11.1 and 4.11.2; *Virgin Enterprises Limited v. LINYANXIAO aka lin yanxiao*, WIPO Case No. [D2016-2302](#)).

5. Factual Background

Complainant is a renowned luxury fashion house part of the LVMH Group active in the field of ready-to-wear, leather goods, footwear, fashion accessories, and perfumes. Since the creation of the LOEWE brand in 1846, Complainant has developed a mastery for leather goods and craftsmanship sold through 230 stores and points of sale across the world and also online through Complainant's main website at "www.loewe.com".

Complainant is the owner of numerous LOEWE trademark registrations worldwide including:

- the International trademark registration No 1512965, LOEWE (word), registered on March 19, 2020, for goods in international class 9,
- the International trademark registration No 1556365, LOEWE (word), registered on September 8, 2020, for goods in international class classes 3 and 4,

- the Malaysian trademark registration No. 97003184, LOEWE (word), registered on March 13, 2004, for goods in international class 25, and
- the Philippine trademark registration No. 4-2014-009629 LOEWE (word), registered on November 27, 2014, for goods in international class 18.

Complainant is also the owner of domain name registrations for LOEWE including <loewe.com> and many country code Top Level Domains including <loewe.jp>, <loewe.sg>, <loewe.kr> and <loewe.fr>.

The Domain Names were registered on September 15, 2022, and lead to identical websites (the Websites) mimicking that of Complainant, using Complainant's intellectual property rights and purportedly selling ready-to-wear, leather goods and footwear under the LOEWE trademarks of Complainant. Per the Complaint, the goods sold on the Websites are counterfeit and Complainant sent a warning letter to Respondent stating that, to which Respondent did not reply.

6. 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 Names.

B. Respondent

Respondent did not reply to the Complainant's contentions.

7. Discussion and Findings

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

- (i) the Domain Names are 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 Names; and
- (iii) the Domain Names have been registered and are being used in bad faith.

A. Identical or Confusingly Similar

Complainant has demonstrated rights through registration and use on the LOEWE trademark. The Panel finds that the Domain Names are confusingly similar to the LOEWE trademark of Complainant.

The Domain Names incorporate the said trademark of Complainant 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 "malaysia" and "philippines" respectively does not prevent a finding of confusing similarity, as the LOEWE trademark remains clearly recognizable ([WIPO Overview 3.0](#), section 1.8).

The 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](#)).

The Panel finds that the Domain Names are confusingly similar to the LOEWE trademark.

Complainant has established paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Names, 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 Names or a name corresponding to the Domain Names 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 Names, 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 Names, 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 Names.

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

There is no evidence that Respondent has been commonly known by the Domain Names.

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

Furthermore, per Complainant, the Websites are used for the offering of products purporting to be Complainant's products, but which Complainant identifies as counterfeit products.

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

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 Names in "bad faith":

- (i) circumstances indicating that Respondent has registered or has acquired the Domain Names primarily for the purpose of selling, renting, or otherwise transferring the Domain Names 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 Names; or
- (ii) that Respondent has registered the Domain Names in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding Domain Names, provided that Respondent has engaged in a pattern of such conduct; or

- (iii) that Respondent has registered the Domain Names primarily for the purpose of disrupting the business of a competitor; or
- (iv) that by using the Domain Names, 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 Names in bad faith. Because the LOEWE trademark had been widely used and registered at the time of the Domain Names registration by Respondent and enjoyed reputation, and noting the composition of the Domain Names, the Panel finds that Respondent had Complainant's trademark in mind when registering the Domain Names (*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](#)).

Furthermore, the content of the Websites gives the impression that they originate from Complainant, prominently displaying LOEWE signs on the Website, thereby giving the false impression that the Websites emanate from Complainant. This further supports registration in bad faith reinforcing the likelihood of confusion, as Internet users are likely to consider the Domain Names as in some way endorsed by or connected with Complainant ([WIPO Overview 3.0](#), section 3.1.4).

The above further affirms that Respondent knew of Complainant and chose the Domain Names with knowledge of Complainant and its industry (*Safepay Malta Limited v. ICS Inc*, WIPO Case No. [D2015-0403](#)).

As regards bad faith use, the Domain Names were employed to host the Websites which appear falsely to be those of Complainant, a clear indication that they are being used in bad faith (*Sydbank A/S v. Syd Bank*, WIPO Case No. [D2015-0324](#); *Twitter, Inc. v. Whois Agent, Whois Privacy Protection Service, Inc. / Domain Support*, WIPO Case No. [D2015-1488](#); [WIPO Overview 3.0](#), section 3.4). The Domain Names operate by intentionally creating a likelihood of confusion with Complainant's trade mark and business as to the source, sponsorship, affiliation, or endorsement of the Websites to which they lead. This also is indicative of bad faith registration and use (*Oculus VR, LLC v. Sean Lin*, WIPO Case No. [DCO2016-0034](#); [WIPO Overview 3.0](#), section 3.1.4).

Furthermore, per the Complaint, counterfeit versions of Complainant's goods are offered for sale on the Websites (*Bayerische Motoren Werke AG v. Domains by Proxy, LLC / Alfred Kolinz, bmwupdate*, WIPO Case No. [D2017-2450](#), *Bayerische Motoren Werke AG (BMW) v. Balog Sebastian*, WIPO Case No. [D2017-1407](#)).

Under these circumstances, the Panel finds that Respondent has registered and is using the Domain Names in bad faith.

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

8. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that Domain Names, <loewemalaysia.com> and <loewephilippines.com>, be transferred to the Complainant.

/Marina Perraki/

Marina Perraki

Sole Panelist

Date: May 9, 2023