

## **ADMINISTRATIVE PANEL DECISION**

**PEGASE v. 士大夫 阿斯顿, and Chris Lessly**  
Case No. D2023-4643

### **1. The Parties**

The Complainant is PEGASE, France, represented by MIIP MADE IN IP, France.

The Respondents are 士大夫 阿斯顿, United States of America, and Chris Lessly, China.

### **2. The Domain Names and Registrar**

The disputed domain names <lahalleoutlet.shop> and <lahallesale.shop> are registered with Dynadot Inc (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on November 8, 2023. On November 9, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On November 10, 2023, the Registrar 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 disclosed) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 13, 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 amended Complaint on November 15, 2023.

The Center verified that the Complaint together with the amended 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 Respondents of the Complaint, and the proceedings commenced on November 28, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 18, 2023. The Respondents did not submit any response. Accordingly, the Center notified the Respondents' default on January 4, 2024.

The Center appointed Mihaela Maravela as the sole panelist in this matter on January 12, 2024. 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**

According to information in the Complaint, the Complainant is a company organized under the laws of France and is active in the fashion industry. The Complainant is the holder of many trademarks registered all around the world for services related to women, men and children fashion, including the International trademark LA HALLE FASHION, SHOES & BAGS registered on March 19, 2015, having registration number 1254519. The Complainant is also the owner of the domain name <lahalle.com> which it uses as its official website.

The disputed domain names were registered on November 1, 2023 and do not resolve to active websites at the date of the Decision. According to unrebutted evidence with the Complaint, the disputed domain names were used, prior to the Complaint being filed, to resolve to websites purporting to sell fashion items, displaying the Complainant's trademark and logo, and having the look and feel of the Complainant's official website.

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

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

The Complainant contends that it has satisfied each of the elements required under the Policy for the transfer of the disputed domain names.

Notably, the Complainant contends that the disputed domain names reproduce the LA HALLE trademarks of the Complainant in a leading position. They also include descriptive terms like "sale" and "outlet", which are descriptive terms in relation to the fashion industry.

With respect to the second element, the Complainant contends that the Respondents have no right, including trademark rights, in respect of the name LA HALLE. The Respondents have not been authorized by the Complainant to use the trademark LA HALLE or to register any domain name incorporating the trademark LA HALLE. There is no legal or business relationship between the Complainant and the Respondents. Initially, both disputed domain names pointed to a mirror website which looked like an official e-shop offering LA HALLE items to buy, and also other items bearing other trademarks of the Complainant.

As regards the third element, the Complainant argues that its trademark LA HALLE is highly distinctive in relation with the Complainant's activity, namely, selling clothing, shoes and fashion accessories. Since its foundation in 1981, the Complainant and its trademark LA HALLE has experienced significant growth and has gained in notoriety. LA HALLE products are sold throughout all France national territory, and notably through its more than 800 boutiques, thanks to the support of its 6,400 employees; 15.5 million visitors a year reach its official website. As regards the use, the Respondents are intentionally attempting to take advantage of the Complainant's well-known trademark LA HALLE to generate profits with the disputed domain names which are confusingly similar to the Complainant's prior trademarks. Before their deactivation, the disputed domain names were used as a mirror website of the Complainant's one, and offered for sale products branded LA HALLE, LH, LIBERTO, CREEKS and MOSQUITOS (although the Respondents are not an authorized reseller); the websites also identically reproduced the "About us" section of the Complainant's website, so that the Internet users be misled and wrongly believe that they are buying goods on the official website or affiliated website to the Complainant.

## B. Respondents

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

## 6. Discussion and Findings

### 6.1 Preliminary issue: Consolidation of Domain Names and of Respondents

The Panel will first deal with the question of whether the different domain name disputes should be consolidated in single proceedings. The consolidation of multiple domain name disputes under paragraph 3(c) or 10(e) of the Rules may be appropriate where the particular circumstances of a case indicate that common control is being exercised over the disputed domain names or the websites to which the disputed domain names resolve and the panel, having regard to all of the relevant circumstances, determines that consolidation would be procedurally efficient and fair and equitable to all parties.

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 the present case, the Panel finds that the consolidation of the domain name disputes is justified as, *inter alia*: (i) the disputed domain names were registered with the same registrar; (ii) the disputed domain names were registered on the same day at close intervals of each other, (iii) the disputed domain names are similar in construction in that they incorporate the dominant part of the Complainant's trademark "LA HALLE" and an additional term, respectively, "outlet" and "sale", which are both used in the fashion industry, with the same Top-Level Domain ".shop", (iv) it appears that false identity information was given at the registration of both disputed domain names, (v) both disputed domain names formerly resolved to websites with the same content which is a mirror site of the Complainant's one, and are currently both inactive, (vi) both disputed domain names share the same IP address.

The Panel finds that the consolidation is fair to the Parties, and the Respondents have been given an opportunity to object to consolidation through the submission of pleadings to the Complaint, but have chosen not to try to rebut the consolidation (see [WIPO Overview 3.0](#), section 4.11.2). Based on the Complaint, the Panel finds that it is more likely than not that the disputed domain names are in common control of one entity or person; hence, the Panel grants the consolidation for the disputed domain names (and will refer to the Respondents as the "Respondent").

### 6.2 Substantive Issues

No response has been received from the Respondent in this case. Accordingly, the Panel considers it can proceed to determine the Complaint based on the statements and documents submitted by the Complainant as per paragraph 15(a) of the Rules. The applicable standard of proof in UDRP cases is the "balance of probabilities" or "preponderance of the evidence", and the Panel can draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2 of the [WIPO Overview 3.0](#).

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 names are 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 names, and (iii) the disputed domain names have been registered and are being used in bad faith.

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

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain names. [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds that the distinctive part, being LA HALLE, of the Complainant's mark is recognizable within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the Complainant's mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, respectively, "outlet" and "sale", may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

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

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain names. The Respondent has not rebutted the Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain names such as those enumerated in the Policy or otherwise.

There is no evidence that the Respondent is using the disputed domain names in connection with a *bona fide* offering of goods or services.

Rather, according to the unrebutted evidence provided by the Complainant, the websites at the disputed domain names allegedly offered for sale the Complainant's branded goods at significantly discounted prices, reproducing the Complainant's trademarks and logo, as well as product images from the Complainant's websites. Under these circumstances, it is reasonable to infer that the products offered on the websites at the disputed domain names were most likely counterfeits of the Complainant's products. Even if the products were genuine, the lack of a prominent and accurate disclaimer on the website at the disputed domain names as to their relationship with the trademark owner or the lack thereof, would falsely suggest to Internet users that the websites to which the disputed domain names resolved are owned by the Complainant or at least affiliated to the Complainant, contrary to the fact.

Panels have held that the use of a domain name for illegal activity, here likely sale of counterfeit goods, impersonation/passing off, or other types of fraud can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel finds the second element of the Policy has been established.

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

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

The Complainant's registration and use of the relevant trademarks predate the date at which the Respondent registered the disputed domain names. The disputed domain names resolved to websites reproducing the Complainant's trademarks and purportedly offering for sale the Complainant's products but at a much lower price. Given the distinctiveness of the Complainant's trademarks, it is reasonable to infer that the Respondent has registered the disputed domain names with full knowledge of the Complainant's trademarks, and to target those trademarks. The use of the term "sale" or "outlet" reinforces the impression that the disputed domain names are an outlet or shop of the Complainant.

The disputed domain names resolved to websites which copied the look and feel of the Complainant's official website, display the Complainant's trademarks, logo, and product images, ostensibly offering the Complainant's products at a much lower price. As such, the disputed domain names suggest affiliation with the Complainant in order to attract consumers and offer products that appear to be counterfeit.

Panels have held that the use of a domain name for illegal activity, such as the sale of counterfeit goods or impersonation/passing off, or other types of fraud constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain names constitutes bad faith under paragraph 4(b)(iv) of the Policy.

Moreover, the Respondent has not formally participated in these proceedings and has failed to rebut the Complainant's contentions or provide any evidence of actual or contemplated good-faith use, and indeed none would seem plausible. Although at the time of filing of the Complaint, the disputed domain names were inactive, considering the circumstances of this case, the Panel finds that such non-use of the disputed domain names does not prevent a finding of bad faith under the doctrine of passive holding (see section 3.3 of the [WIPO Overview 3.0](#)).

The Panel finds that the Complainant has established the third element of 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 names <lahalleoutlet.shop> and <lahallesale.shop> be transferred to the Complainant.

*/Mihaela Maravela*

**Mihaela Maravela**

Sole Panelist

Date: January 24, 2024