

ADMINISTRATIVE PANEL DECISION

Secrets de Loly v. fe fe, fe
Case No. D2024-0552

1. The Parties

The Complainant is Secrets de Loly SAS, France, represented by Aurore Sauviat Avocate, France.

The Respondent is fe fe, fe, France.

2. The Domain Names and Registrar

The disputed domain names <lessecretsdeloly.com> and <lessecretsdelolyy.com> are registered with Hostinger Operations, UAB (the “Registrar”).

3. Procedural History

The Complaint was filed initially for the disputed domain name <lessecretsdeloly.com> with the WIPO Arbitration and Mediation Center (the “Center”) on February 7, 2024. On February 7, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name <lessecretsdeloly.com>. On February 8, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for this disputed domain name which differed from the named Respondent (Privacy Protect LLC (privacyprotect.org)) and contact information in the Complaint. The Center sent an email communication to the Complainant on the same day, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. On February 9, 2024, the Complainant notified the Center that it wanted to add a second disputed domain name to the Complaint, the second disputed domain name <lessecretsdelolyy.com>.

The Complainant filed an amended Complaint on February 12, 2024, showing the amended Respondent details and the second disputed domain name.

On February 14, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the second disputed domain name which differed from the named Respondent (Privacy Protect LLC (privacyprotect.org)) and contact information in the Complaint and confirmed that it was the same Respondent as for the first disputed domain name.

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 Respondent of the Complaint, and the proceedings commenced on February 15, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 6, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 7, 2024.

The Center appointed Vincent Denoyelle as the sole panelist in this matter on March 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

Given that no Response was filed, the following facts are based on the submissions in the Complaint and the Annexes to the Complaint.

The Complainant specializes in the creation, manufacture, distribution and sale of cosmetics and related services.

The Complainant is the owner of several registered trade marks for LES SECRETS DE LOLY including the following:

- French Trade Mark n°4852930 LES SECRETS DE LOLY filed on March 16, 2022 and registered on July 8, 2022¹;
- International Trade Mark n°1705711 LES SECRET DE LOLY filed and registered on November 18, 2022.

The Complainant is also the owner of the domain name <secretsdeloly.com>.

The disputed domain name <lessecretsdeloly.com> was registered on January 21, 2024. The disputed domain name <lessecretsdelolyy.com> was registered on February 7, 2024.

At the time of filing the Complaint, the disputed domain names directed to fraudulent websites cloning the Complainant's official website and facilitating the collection of personal data of unsuspecting Internet users.

The only information known about the Respondent is as disclosed by the Registrar although such information is clearly inaccurate.

5. Parties' Contentions

A. Complainant

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

Notably, the Complainant contends that the disputed domain names are almost identical to the LES SECRETS DE LOLY trade mark in which the Complainant has rights.

¹ This trademark is owned by the founder of the Complainant.

The Complainant submits that the Respondent is making a non-legitimate use of the disputed domain names with a clear intent to obtain commercial gain by misleadingly diverting consumers.

The Complainant contends that the Respondent registered and is using the disputed domain names in bad faith with the sole purpose of defrauding Internet users.

B. Respondent

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

6. Discussion and Findings

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 trade mark and each disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

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

The entirety of the trade mark is reproduced within the disputed domain name <lessecretsdeloly.com>. Accordingly, the disputed domain name <lessecretsdeloly.com> is identical to the LES SECRETS DE LOLY trade mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel finds that the trade mark LES SECRETS DE LOLY is recognizable within the second disputed domain name <lessecretsdelolyy.com> as it incorporates the Complainant's trade mark in its entirety with the mere doubling of the letter "y" at the end. Accordingly, the disputed domain name <lessecretsdelolyy.com> is confusingly similar to the LES SECRETS DE LOLY trade mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. and section 1.9.

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.

Panels have held that the use of a domain name for an illegal activity such as here, a fraudulent impersonation of the Complainant and the cloning of its official website, 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.

In the present case, the Panel finds that the Respondent must have known of the Complainant at the time of registration of the disputed domain names as (i) all search results for the term “les secrets de loly” on Google relate to the Complainant at least on the first two pages, (ii) the Respondent registered the second disputed domain name on the day the initial Complaint was filed, (iii) the disputed domain names directed to websites imitating the Complainant’s website and (iv) the Respondent provided inaccurate registration details to the Registrar for the registration of the disputed domain names as the name is unlikely to correspond to a real name and the address is incorrect as the city, postcode and region do not match.

As for use of the disputed domain names in bad faith, previous panels have consistently held that the use of a domain name for illegal activities such as here, the cloning of the Complainant’s website and the fraudulent impersonation of the Complainant, 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 constitute bad faith under the Policy.

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, <lessecretsdeloly.com> and <lessecretsdelolyy.com>, be transferred to the Complainant.

/Vincent Denoyelle/

Vincent Denoyelle

Sole Panelist

Date: March 26, 2024