

ADMINISTRATIVE PANEL DECISION

A.S. Watson (Health & Beauty Continental Europe), B.V. v. 123 123, 131
Case No. D2024-1391

1. The Parties

The Complainant is A.S. Watson (Health & Beauty Continental Europe), B.V., Netherlands (Kingdom of the), represented by Fencer BV, Belgium.

The Respondent is 123 123, 131, China.

2. The Domain Name and Registrar

The disputed domain name <iciparisxloutlet.shop> is registered with Web Commerce Communications Limited dba WebNic.cc (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 2, 2024. On April 3, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 3, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name that differed from the named Respondent (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 4, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed the amended Complaints on April 9, 2024, and April 16, 2024.

The Center verified that the Complaint together with the amended Complaints 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 April 17, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 7, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 8, 2024.

The Center appointed Dennis A. Foster as the sole panelist in this matter on May 15, 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

The Complainant is a Dutch company that since 1968 has sold perfume and beauty products in its Benelux “brick-and-mortar” shops and later on the Internet in its “web shops” and began using the trademarks ICI PARIS and ICI PARIS XL in 2002 after their acquisition. Through its subsidiary N.V. PARFUMERIE ICI PARIS XL, the Complainant claims rights to the following registered trademarks: Benelux trademark ICI PARIS, Registration (“Reg.”) No. 788894, Reg. Date May 21, 2015; European Union trademark ICI PARIS XL, Reg. No. 002564573, Reg. Date July 26, 2006; and Benelux trademark ICI PARIS XL, Reg. No. 753238, Reg. Date September 7, 2004. Moreover, the Complainant itself is owner of the registered international trademark ICI PARIS XL – DARE TO BE YOU, Reg No. 1382963, Reg. Date September 19, 2017.

In addition, the Complainant has a commercial Internet presence at <iciparisxl.nl>, <iciparisxl.be>, and <iciparisxl.lu>.

The Respondent is an unknown entity or individual that registered the disputed domain name on December 20, 2023. Thereafter, the Respondent’s website at the disputed domain name rapidly began to offer for sale beauty and perfume products similar to those that the Complainant sells in its own web shops. After the Complainant protested to the Registrar for the disputed domain name, the website at the disputed domain name was taken down.

5. Parties’ Contentions

A. Complainant

The disputed domain name contains the Complainant’s trademark ICI PARIS XL in its entirety. The additional word “outlet” is descriptive for the fact that products are sold at highly reduced prices. This additional word therefore does not prevent a finding of confusing similarity.

The Respondent does not have any rights or legitimate interests regarding the disputed domain name since the Complainant has in no way authorized the use of its trademarks by the Respondent. As a result, the conditions of the second UDRP element are also met.

The disputed domain name was registered and is being used in bad faith. Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith.

In the future, the Respondent probably intends to resume diverting Internet traffic from the Complainant to its own website business.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs this Panel to “decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”.

Paragraph 4(a) of the Policy requires that the Complainant must prove each of the following three elements to obtain an order that a domain name should be cancelled or transferred:

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

A. Identical or Confusingly Similar

In support of its contention that the disputed domain name is identical or confusingly similar to the Complainant's ICI PARIS and ICI PARIS XL trademarks, the Complainant has presented copies of several of its trademarks whose details were provided *supra*. As the Complainant contends, the Panel can see that the only change the Respondent has made to the Complainant's trademark for the disputed domain name was the addition of the word "outlet". Therefore, the disputed domain name remains confusingly similar to the Complainant's trademark. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.8.

The general Top-Level Domain ("gTLD") ".shop" is not to be taken into consideration when analyzing for identity or confusing similarity. [WIPO Overview 3.0](#), section 1.11.1. As a result, the Panel finds that the Complainant has carried its burden of proof at Policy paragraph 4(a)(i) to show that the disputed domain name is confusingly similar to a name in which the Complainant has trademark rights.

B. Rights or Legitimate Interests

Owing to the fact that it is difficult to prove a negative, the consensus in Policy decisions is that the Complainant need only make a prima facie case that the Respondent does not have rights or legitimate interests in the disputed domain name per Policy paragraph 4(a)(ii). It then is up to the Respondent to come forward and show that it does have rights and legitimate interests in the disputed domain name although the ultimate burden of proof remains on the Complainant. [WIPO Overview 3.0](#), section 2.1.

Here, the Complainant contends that it has not authorized the Respondent to use its trademarks in the disputed domain name. The Respondent has not come forward to file a response. Nonetheless, the Panel will peruse the record to see if there are facts that tend to show that the Respondent might have rights or legitimate interests in the disputed domain name per Policy paragraphs 4(c)(i, ii, iii).

Turning to Policy paragraph 4(c)(i), the Panel notes that the Respondent first used the disputed domain name to offer for sale beauty and perfume products comparable to those that the Complainant sells at its own web site. Such competing commercial use via a confusingly similar domain name incorporating in its entirety the Complainant's trademark cannot confer upon the Respondent rights or legitimate interests. Then the website was taken down and it now resolves to no content at all. The Panel finds that this use is not a bona fide offering of goods or services per Policy paragraph 4(c)(i), but is instead a bad faith use of the disputed domain name. The Panel will elaborate further in the Bad Faith section of this Decision below. [WIPO Overview 3.0](#), section 2.5.3.

As to Policy paragraph 4(c)(ii), the Panel does not see that the Respondent has been commonly known by the disputed domain name. And as for Policy paragraph 4(c)(iii), the Respondent certainly is not making a noncommercial or fair use of the disputed domain name.

Thus, the Panel finds that the Complainant has carried its burden of proof at Policy paragraph 4(a)(ii) to show that the Respondent does not have rights or legitimate interests in the disputed domain name.

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, could be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the Complainant's ICI PARIS and ICI PARIS XL trademarks are distinctive and they predate the date of registration of the disputed domain name. Given their incorporation in the disputed domain name, and particularly the use to which the disputed domain name was put, the Panel finds that it is not conceivable that the Respondent registered the disputed domain name without knowledge of the Complainant's trademarks, which indicates registration in bad faith.

The Panel also notes that the Respondent initially used the disputed domain name to allegedly sell perfume and beauty products similar to those that the Complainant sells at its own web site. The Panel finds this is a clear violation of the bad faith registration and use provisions at Policy paragraph 4(b)(iv): "by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location."

The Panel finds, then, that the Complainant has satisfied its burden of proof under 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 <iciparisxloutlet.shop> be transferred to the Complainant.

/Dennis A. Foster/

Dennis A. Foster

Sole Panelist

Date: May 29, 2024