

ADMINISTRATIVE PANEL DECISION

L'Occitane International v. Carolina Rodrigues, Fundacion Comercio Electronico

Case No. D2024-3206

1. The Parties

The Complainant is L'Occitane International, Switzerland, represented by IP Twins, France.

The Respondent is Carolina Rodrigues, Fundacion Comercio Electronico, Panama.

2. The Domain Name and Registrar

The disputed domain name <locaitane.com> is registered with NameCheap, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on August 5, 2024. On August 6, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 12, 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 an amended Complaint on August 13, 2024.

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 August 23, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 12, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on September 16, 2024.

The Center appointed Iris Quadrio as the sole panelist in this matter on September 23, 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 – operating since 1976 – is part of the L'Occitane group, one of the global leaders in the sector of cosmetics which started operating since 1976. In fact, the Complainant conducts business in more than 90 countries around the world, with more than 3,000 salespoints, 1,300 shops and 9,000 employees.

The Complainant is currently listed on the Hong Kong Stock Exchange (“HKSE”) index. In 2024, the Complainant’s global net sales amounted to approximately EUR 2,541.9 million, with operational benefits of EUR 233.1 million, reflecting a 24.1% growth in the current year.

Moreover, the Complainant claims to have an active present in social media and has provided evidence on the number of followers in Facebook (6.3 million), TikTok (132,000) and Instagram (one million), as shown by annexes 8, 9 and 10 to the Complaint.

The Complainant and its affiliated companies own hundreds of trademarks worldwide, as per Annex 3 of the Complaint. In particular, the Complainant and its affiliated companies are the owner of the following trademarks containing the word “L'Occitane”: European Union Intellectual Property Office (EUIPO), Reg. No. 017171811, figurative mark L'OCCITANE EN PROVENCE for classes 3, 4, and 35, registered on February 2, 2018; United States Patent and Trademark Office (USPTO) Reg. No. 2021793, word mark L'OCCITANE for classes 3 and 5, registered on December 10, 1996; and international registration Reg. No. 1285957, figurative mark L'OCCITANE EN PROVENCE for classes 3, 4, and 35, registered on July 20, 2015.

In addition, the Complainant claims to own an important domain names portfolio, including, among others, its primary website “loccitane.com” registered since April 7, 1997 (as per its Annex 11).

Lastly, the disputed domain name <loccitane.com> was registered on June 25, 2024, and resolves to a parking page with pay-per-click (PPC) links.

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 name.

Notably, the Complainant claims that the disputed domain name is confusingly similar to its trademark L'OCCITANE on which the Complainant has prior rights.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name, nor is the Respondent related in any way to the Complainant. Neither license nor authorization has been granted to the Respondent to make any use of the Complainant’s trademark L'OCCITANE or apply for registration of the disputed domain name.

More specifically, the Complainant alleged that the Respondent has not used and/or has no demonstrable intention to use the disputed domain name except to create a likelihood of confusion with the Complainant’s trademark.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the disputed domain name, the Complainant must prove each of the following, namely that:

- (i) the disputed domain name is identical or confusingly similar with a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interest in respect of the disputed domain name; and
- (iii) the disputed domain name was registered and is 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 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 trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds that the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. The typosquatting practice of replacing the second "c" in L'OCCITANE for the letter "a" does not prevent the Panel to conclude that the disputed domain name is confusingly similar to the Complainant's trademark under [WIPO Overview 3.0](#), 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 name. 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 name such as those enumerated in the Policy or otherwise.

The Complainant has claimed not to have authorized, licensed, or permitted the Respondent to register or use the disputed domain name or to use the trademark L'OCCITANE nor is there any other evidence in the file suggesting that the Respondent has or could have rights or legitimate interests in the disputed domain name.

Even more, it does not seem that the Respondent made nor is making a legitimate noncommercial or fair use of the disputed domain name. In this regard, the Complainant demonstrated that the disputed domain name is parked with PPC links that redirect users to different websites. It is clear that by registering a domain name containing a misspelled version of the Complainant's trademark L'OCCITANE, the Respondent's intention is to generate confusion among consumers searching for the Complainant's website and to redirect them to links related to the Complainant's potential competitors from which the Respondent most probably derives commercial revenue.

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 such connection, the Complainant has submitted evidence to support that the trademark L'OCCITANE is widely known and was registered and used many years before the Respondent registered the disputed domain name. When registering the disputed domain name, the Respondent has targeted the Complainant's trademark L'OCCITANE to generate confusion among the Internet users and benefit from the Complainant's reputation under paragraph 4(b)(iv) of the Policy.

Therefore, the Panel is satisfied that the Respondent must have been aware of the Complainant and the Complainant's trademark L'OCCITANE when it registered the disputed domain name.

Consequently, and in accordance with section 3.1.4 of [WIPO Overview 3.0](#), the Panel considers that the inclusion of a term that is a typosquatted version of the Complainant's trademark L'OCCITANE in the disputed domain name creates a presumption that the disputed domain name was registered in bad faith.

Furthermore, the disputed domain name resolves to a PPC parking page with various links. The Panel finds therefore that the Respondent's use of the disputed domain name incorporating a term that is virtually identical to the Complainant's distinctive and well-known trademark L'OCCITANE is intended to attract and mislead Internet users when searching for the Complainant's website and to redirect them to websites from which the Respondent most probably derives commercial revenue.

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 name <locaitane.com> be transferred to the Complainant.

/Iris Quadrio/

Iris Quadrio

Sole Panelist

Date: October 7, 2024