

ADMINISTRATIVE PANEL DECISION

L'Oréal v. professional imam, ad wiz
Case No. D2024-3253

1. The Parties

The Complainant is L'Oréal, France, represented by Dreyfus & associés, France.

The Respondent is professional imam, ad wiz, Pakistan.

2. The Domain Name and Registrar

The disputed domain name <lo-real.shop> 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 8, 2024. On August 8, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 8, 2024, 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 (Not Disclosed) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 9, 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 12, 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 13, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 2, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on September 12, 2024.

The Center appointed Gareth Dickson as the sole panelist in this matter on September 26, 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 French industrial group specialised in the field of cosmetics and beauty. The Complainant began its business operations over a century ago and since then has undergone significant growth and expansion. Its field of activity encompasses a portfolio of 36 brands managed across four divisions, with a presence in 150 countries. The Complainant employs 86,000 individuals and operates 21 research centres globally.

The Complainant has been operating under the trade mark L'OREAL (or L'ORÉAL) (the "Mark"). It owns a number of trade mark registrations for the Mark, including:

- International trade mark number 394615 for L'OREAL, registered on December 12, 1972, designating various territories including Austria, Egypt, Italy, and Portugal, covering goods in classes 22 and 26;
- Pakistan trade mark number 101195 for L'OREAL, registered on February 1, 1993, covering goods in class 3;
- European Union trade mark number 000767285 for L'OREAL, registered on October 4, 1999, covering goods in class 25; and
- International trade mark number 1532645 for L'OREAL, registered on April 29, 2020, protected in various territories including China, Japan, India, Indonesia, Singapore, and Viet Nam, covering goods in classes 3 and 5.

The disputed domain name was registered on July 13, 2024. The Respondent is using the disputed domain name to direct to an online shop named "LOREAL" offering various products for sale, including cosmetic products in competition with the Complainant. Additionally, email servers have been set up on the disputed domain name.

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 submits that the disputed domain name is virtually identical or at least confusingly similar to the Mark, and argues that the addition of a hyphen and the use of the ".shop" generic Top-Level Domain ("gTLD") does not prevent a finding of confusing similarity. The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name, as there has been no authorisation or consent for the Respondent's use of the Mark, which is famous and well-known and whose use significantly predates the registration of the disputed domain name, and notes that the set-up of email servers on the disputed domain name increases the risk that the Respondent is engaged in a phishing scheme. The Complainant alleges that the disputed domain name was registered and is being used in bad faith.

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 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 trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Mark is recognizable within the disputed domain name. The inclusion of a hyphen and the absence of an apostrophe which, in any event, cannot be reproduced in a domain name, does not prevent a finding of confusing similarity. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.7 and 1.8.

The use of the gTLD ".shop" does not prevent a finding of confusing similarity either. [WIPO Overview 3.0](#), section 1.11.1.

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.

Panels have held that the use of a domain name for illegal activity can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. While the Complainant is right to be concerned that the Respondent might be engaged in, or might be preparing to engage in, a phishing scheme, there is no evidence before the Panel that the Respondent is in fact engaged in such activity or is preparing to do so and therefore the Panel makes no finding on this discrete issue. In any event, given the Panel's findings above, this issue is moot for this limb of the Policy in this Complaint.

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 notes that the Respondent has configured email servers on the disputed domain name and may be using them, or preparing to use them, for phishing activities. As stated above, however, there is no evidence before the Panel that the Respondent is engaged in such activity or preparing to become so engaged and therefore the Panel makes no finding in this regard.

Nonetheless, the disputed domain name is confusingly similar to the Complainant's famous Mark and directs Internet users to a website offering products in the Complainant's field of activity, without authorization, suggesting that the Respondent targeted the use of the Mark and the Complainant when registering the disputed domain name and is, more generally, intentionally attempting to mislead and attract, for commercial gain, Internet users by creating a likelihood of confusion with the Mark.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes 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 name <lo-real.shop> be transferred to the Complainant.

/Gareth Dickson/

Gareth Dickson

Sole Panelist

Date: October 18, 2024