

ADMINISTRATIVE PANEL DECISION

Pegase v. Timor Bilich
Case No. D2022-0196

1. The Parties

The Complainant is Pegase, France, represented by Inlex IP Expertise, France.

The Respondent is Timor Bilich, Israel.

2. The Domain Name and Registrar

The disputed domain name <lehalle.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 20, 2022. On January 21, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 24, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on January 25, 2022, 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 January 25, 2022.

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 January 27, 2022. In accordance with the Rules, paragraph 5, the due date for Response was February 16, 2022. The Respondent sent informal email communications on January 31, 2022, and February 16, 2022. The Center informed the Parties of its commencement of Panel appointment process on February 17, 2022.

The Center appointed Adam Taylor as the sole panelist in this matter on February 23, 2022. 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 and its predecessors have operated the LA HALLE fashion brand since 1981. The Complainant's products are distributed throughout France via a network of stores and through the Complainant's website at "www.lahalle.com".

The Complainant owns many trade marks for or based on LA HALLE including figurative International Registration No. 808508, registered on July 15, 2003, in class 24, and word mark International Registration No. 1205422, registered on January 20, 2014, in classes 18, 25 and 35.

The disputed domain name was registered on December 13, 2021.

Thereafter the disputed domain name was used for a Registrar parking page with general pay-per-click ("PPC") links.

On December 23, 2021, the Complainant sent a legal letter to the Respondent via the Registrar's abuse email address. No response was received.

5. Parties' Contentions

A. Complainant

The following is a summary of the Complainant's contentions.

The disputed domain name is confusingly similar to the Complainant's trade mark. The only difference is that the letter "a" in "la" has been changed to "e". The letters "a" and "e" are visually similar and switching letters in this manner is common typo-squatting practice.

The Respondent has no rights or legitimate interests in respect of the disputed domain name.

The Complainant has not authorised the Respondent to use its trade marks in any way.

The Respondent does not own any relevant registered trade marks.

The Respondent has not actively used the disputed domain name.

The disputed domain name was registered and is being used in bad faith.

The Respondent set out to mislead Internet users and take advantage of the Complainant's earlier trade mark.

The Complainant's mark is distinctive when used in connection with clothing and accessories.

The mark is also well-known, as shown by its dominance of Google search results for "LA HALLE" as well as by the Complainant's extensive media coverage and its many social media followers.

The Respondent could easily have discovered the Complainant's mark was a famous brand, and registered as a trade mark, by carrying out free online searches.

The Respondent's use of the disputed domain name for a parking page with PPC links indicates that the disputed domain name was registered to create a likelihood of confusion with the Complainant's mark for commercial purposes.

The Respondent's activation of email servers indicates that the Respondent likely registered the disputed domain name in bad faith for the purposes of emailing, spamming or phishing purposes, as it is difficult to imagine a legitimate use of the disputed domain name for email.

The lack of a response to the Complainant's legal letter and the use of false registrant contact information are further indicators of bad faith.

B. Respondent

The following is a summary of the Respondent's contentions.

The Respondent registered the disputed domain name "legally" for a "personal project", but the Respondent has not yet had a chance to do anything with the disputed domain name.

The Respondent has not carried out any business with the Complainant and is not otherwise connected with the Complainant.

The Respondent does not understand the Complaint. It would have been more appropriate if the Complainant had contacted the Respondent "normally" rather than sending letters from lawyers. The Respondent will involve his lawyer unless he is sent communications in "normal language".

6. Discussion and Findings

Under the Policy, the Complainant is required to prove on the balance of probabilities that:

- the disputed domain name is identical or confusingly similar to a trade mark in which the Complainant has rights;
- the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- the disputed domain name has been registered and is being used in bad faith.

A. Preliminary Issue - Informal Response

The Response is in the form of two emails to the Center, which do not comply with the formal requirements set out in paragraph 5 of the Rules. For example, there is no statement of truth. The Panel has nonetheless decided to admit the Response in accordance with its powers under paragraph 10(d) of the Rules but to bear in mind the Response's non-compliance with the Rules, including in particular the absence of a statement of truth, when weighing up the Respondent's assertions in this case.

B. Identical or Confusingly Similar

The Complainant has established rights in the mark LA HALLE by virtue of its registered trade marks as well as unregistered trade mark rights deriving from its extensive and longstanding use of that mark.

The only difference between the mark and the disputed domain name is the substitution of the letters "a" for "e", *i.e.*, turning "la" into "le".

Section 1.9 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)) makes clear that a domain name which consists of a common, obvious, or intentional misspelling of a trade mark is considered by UDRP panels to be confusingly similar to the relevant mark for purposes of the first element. This stems from the fact that the domain name contains sufficiently recognisable aspects of the relevant mark.

For the above reasons, the Panel concludes that the disputed domain name is confusingly similar to the Complainant's trade mark and that the Complainant has therefore established the first element of

paragraph 4(a) of the Policy.

C. Rights or Legitimate Interests

As explained in section 2.1 of [WIPO Overview 3.0](#), the consensus view is that, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If not, the complainant is deemed to have satisfied the second element.

Here, the Complainant has not licensed or otherwise authorised the Respondent to use its trade mark.

Paragraph 4(c) of the Policy gives examples of circumstances which, if proved, suffice to demonstrate that a respondent possesses rights or legitimate interests.

As to paragraph 4(c)(i) of the Policy, there is no evidence of any use of the disputed domain name for a *bona fide* offering of goods or services.

The disputed domain name has been used for a Registrar parking page with PPC links to goods and services which bear no obvious relation to any descriptive meaning of the disputed domain name. In the Panel's view such use of the disputed domain name could not of itself confer rights or legitimate interests.

The Respondent says that he registered the disputed domain name for an unspecified "personal project" but claims that he has "not yet had a chance" to do anything with the disputed domain name.

As explained in section 2.2 of [WIPO Overview 3.0](#), where a respondent relies on future plans, clear contemporaneous evidence of *bona fide* pre-complaint preparations is required. While, depending on the circumstances, such evidence may not need to be particularly extensive, it must go beyond a mere statement of a claimed intention. Also, because business plans and operations can take time to develop, previous UDRP panels have not necessarily required evidence of intended use to be available immediately after registration of a domain name, but the passage of time may be relevant in assessing whether purported demonstrable preparations are *bona fide* or pretextual.

Here, while only a relatively short time has elapsed since registration of the disputed domain name, the Respondent has provided no evidence at all in support of the alleged project or even an explanation of what the intended use of the disputed domain name actually was.

In these circumstances, the Panel considers that the Respondent has failed to establish demonstrable preparations for a *bona fide* offering of goods or services in accordance with paragraph 4(c)(i) of the Policy.

Nor is there any evidence that paragraphs 4(c)(ii) or (iii) of the Policy apply in the circumstances of this case.

For the above reasons, the Panel concludes that the Complainant has established the second element of paragraph 4(a) of the Policy.

D. Registered and Used in Bad Faith

The Panel notes the following:

1. As mentioned above, the Respondent had not explained his purpose in registering the disputed domain name, beyond claiming that it was for an unspecified "personal project".
2. It seems unlikely that the Respondent selected the disputed domain name in connection with the dictionary meaning of the French word "halle" (meaning "hall" in English), not least because the disputed domain name is prefixed by the wrong definite article in French – "le" instead of "la".

3. The Respondent does not deny knowledge of the Complainant, which has established a substantial reputation in France, or dispute the Complainant's assertion that the disputed domain name constitutes a typosquatting variation of the Complainant's mark.

In these circumstances, the Panel considers that, on the balance of probabilities, the Respondent registered the disputed domain name in bad faith.

The Panel finds that the use of the disputed domain name for a Registrar parking page with PPC links constitutes use in bad faith in accordance with paragraph 4(b)(iv) of the Policy. Section 3.5 of [WIPO Overview 3.0](#) makes clear that respondents cannot disclaim responsibility for "automatically" generated PPC links on their websites and that neither the fact that such links are generated by a third party such as a registrar, nor the fact that the respondent itself may not have directly profited, would by itself prevent a finding of bad faith.

The likelihood of confusion is not diminished by the likelihood that at some point users arriving at the Respondent's site will realise that the site is not connected with the Complainant. Paragraph 4(b)(iv) of the Policy is concerned with the intentional attracting of Internet users. Here, the disputed domain name creates an implied risk of affiliation with the Complainant.

For the above reasons, the Panel considers that the Complainant has established the third element of paragraph 4(a) 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, <lehalle.com>, be transferred to the Complainant.

/Adam Taylor/

Adam Taylor

Sole Panelist

Date: March 8, 2022