

ADMINISTRATIVE PANEL DECISION

La Chaine Info v. Whoisprotection.cc / luo fang kun
Case No. D2022-2250

1. The Parties

The Complainant is La Chaine Info, France, represented by AARPI Scan Avocats, France.

The Respondent is Whoisprotection.cc, Malaysia / luo fang kun, China.

2. The Domain name and Registrar

The disputed domain name <lcitest.com> is registered with Mat Bao Corporation (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 21, 2022. On June 22, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 23, 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 June 29, 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 June 29, 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 July 13, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 2, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 3, 2022.

The Center appointed Andrew D. S. Lothian as the sole panelist in this matter on August 16, 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 is a company providing television news in France, and is part of the TF1 group. The LCI news channel (standing for “La Chaîne Info”, or in English, “The News Channel”) was launched in 1994 and has been broadcast ever since, accessible free of charge since 2016 via digital terrestrial television, cable or satellite. It is the second largest news channel in France. It is also available on the Complainant’s website, which had traffic of 14 million Internet users in May 2022, and covers all major events live, 24 hours a day, seven days a week. The Complainant’s visibility becomes particularly important at times of political events, such as the recent presidential elections in France. The Complainant has millions of likes and followers on social media, and 200 billion views on YouTube.

The Complainant has regularly used the LCI trademark to denote its services since the early 1990s, including on its commercial buildings, television studio sets, official websites and advertising materials. As a result, its LCI trademark is well-known.

The Complainant is the owner of a variety of continuously used registered trademarks for the LCI mark, including, for example, French Registered Trademark No. 94523091 for the combined device and word mark LCI, filed on June 3, 1994, in Classes 9, 26, 35, 38 and 41. The Complainant is also the owner of a variety of corresponding domain names including < Ici.fr >, registered on July 8, 1996.

The disputed domain name was registered on April 8, 2022. Little is known of the Respondent apart from the fact that it appears to be based in China. The website associated with the disputed domain name points to a page featuring pornography.

5. Parties’ Contentions

A. Complainant

In summary, the Complainant contends as follows:

Identical or confusingly similar

The generic Top-Level domain “.com” is of no distinguishing effect and must be removed from the analysis. The disputed domain name incorporates the LCI trademark in its entirety, differing only by the addition of the generic term “test”. This term does not eliminate confusing similarity, as demonstrated in previous cases under the Policy which involve a trademark coupled with the word “test”.

Rights or legitimate interests

The Respondent is not currently and has never been known by the disputed domain name. The Complainant does not know the Respondent, and the Respondent is not related in any way to the Complainant’s business, nor is it one of its distributors. Use of the Complainant’s mark would require an express authorization but the Complainant has never licensed, authorized, or otherwise permitted the Respondent to register a domain name incorporating its trademark, nor allowed it to make any use of same to distinguish its own business. Previous cases under the Policy have suggested that the use of a domain name reproducing a well-known third party trademark to redirect to a pornographic site is not a *bona fide* use.

Registered and used in bad faith

The disputed domain name has been registered in bad faith. It is highly unlikely that the Respondent was unaware of the Complainant when it registered the disputed domain name as the Complainant’s mark had been registered and actively used in France and elsewhere since the 1990s, garnering a strong reputation for its services. It is highly unlikely that the Respondent’s choice of the disputed domain name was purely

coincidental since all the results from a simple Internet search using the keywords “Ici” or “Ici test” denote the Complainant’s website or business. The notoriety of the Complainant’s LCI mark raises a *prima facie* presumption that the Respondent registered the disputed domain name for the purpose of selling it to the Complainant or to one of its competitors. The word “Ici” is not a common word in any language but is precisely the initials of the Complainant’s name. The absence of any right or legitimate interest of the Respondent should indicate that the disputed domain name has not been registered in good faith. The Respondent has deliberately concealed its identity, affirming its bad faith. The registration and use of a domain name which is evidently connected with a famous or well-known trademark, by someone with no connection with said trademark, suggests opportunistic bad faith.

The disputed domain name has been used in bad faith. Previous panels have consistently held that the use of a domain name to redirect to a pornographic website does not constitute good faith use. The inevitable consequence is that consumers searching for the Complainant’s website may access the disputed domain name, which will inevitably tarnish the Complainant’s image.

B. Respondent

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

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied:

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

A. Identical or Confusingly Similar

The first element analysis under the Policy is usually conducted in two parts. First, the Panel ascertains whether the Complainant has UDRP-relevant rights in a trademark, which may be registered or unregistered. Secondly, the domain name concerned is compared with such trademark, typically on a straightforward side-by-side basis, in which the Top-Level Domain (“TLD”) of said domain name (in the disputed domain name, “.com”) is usually disregarded as being only a technical requirement. Confusing similarity may be found if the trademark is recognizable within the domain name concerned, whether or not accompanied by other terms. Identity may be found if the trademark is identical to the domain name concerned (with the exception of the TLD), having disregarded any special characters, including punctuation or spaces, which cannot be reproduced in a domain name.

In the present case, the Panel finds that the Complainant has UDRP-relevant rights in its LCI registered trademark. The Complainant’s mark is a combined word and device mark, and, to the extent that it contains design elements, these may be severed from the word component (on this topic, see section 1.10 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”)). The word component of said mark is the three letters LCI. Comparing the mark to the disputed domain name, it may be seen that it is reproduced in its entirety, and is fully recognizable notwithstanding the presence of the additional word “test”. On the effect of the addition of such terms to a trademark, whether descriptive, meaningless, or otherwise, see section 1.8 of the [WIPO Overview 3.0](#). The Respondent has not filed a Response in this case and therefore has made no comment regarding either the Complainant’s trademark rights or as to the question of identity or confusing similarity between the disputed domain name and the Complainant’s mark.

In all of these circumstances, the Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights and therefore that the Complainant has carried its burden in respect of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy lists several ways in which the Respondent may demonstrate rights or legitimate interests in the disputed domain name:

“Any of the following circumstances, in particular but without limitation, if found by the Panel to be proved based on its evaluation of all evidence presented, shall demonstrate your rights or legitimate interests to the domain name for purposes of paragraph 4(a)(ii):

- (i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or
- (iii) you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.”

The consensus of previous decisions under the Policy is that a complainant may establish this element by making out a *prima facie* case, not rebutted by the respondent, that the respondent has no rights or legitimate interests in a domain name. In the present case, the Panel finds that the Complainant has established the requisite *prima facie* case based on its submissions as outlined in the Complainant's contentions above, reinforced by the extensive evidence supplied with the Complaint. Notably, the Complainant's LCI mark is extremely well-known and has a strong online presence, including on social media, while the Complainant has not authorized the Respondent to use this in any way. Furthermore, the Respondent is using the disputed domain name, which features the Complainant's well-known mark, to point to a pornographic website which could not, in those particular circumstances, be considered to be a *bona fide* offering of goods or services.

No Response has been filed by the Respondent and there are therefore no submissions or evidence put forward in rebuttal seeking to demonstrate any rights or legitimate interests in the disputed domain name. As far as the Panel is concerned, the use of the Complainant's well-known and longstanding trademark in the manner contended calls for an explanation from the Respondent, which is lacking here. The Respondent has chosen to remain silent in the face of the Complainant's contentions and, as far as the Panel is concerned, this suggests that there is no reasonable explanation that would be available to the Respondent consistent with it being able to claim rights or legitimate interests in the disputed domain name.

The Panel has considered whether the phrase “lci test” might have some meaning independently of the Complainant's mark which might relate to the Respondent's chosen commercial activities. However, no such meaning is obvious to the Panel and it would be for the Respondent to put this forward and to support it with appropriate evidence, which it has failed to do. In the absence of such, it appears reasonably probable to the Panel that the Respondent is intentionally making use of the substantial notoriety of the Complainant's mark to increase traffic to, and to maximize the online exposure of, the Respondent's website. In the circumstances of the present case, such use cannot confer rights or legitimate interests upon the Respondent.

In all of these circumstances, the Panel finds that the Respondent has failed to rebut the Complainant's *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name, and therefore that the Complainant has carried its burden in respect of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides four, non-exclusive, circumstances that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

- “(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out of pocket costs directly related to the domain name; or
- (ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or
- (iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location.”

In the present case, there is no evidence before the Panel which would suggest that the Respondent’s selection of the disputed domain name was made without knowledge of the Complainant’s LCI mark and without intent to target the same. The Complainant’s LCI mark is very well-known (in particular, as the Complainant is a major 24-hour global news broadcaster, it may reasonably be inferred that it is well-known globally) and has a substantial online presence which it is reasonable to infer would have come to the Respondent’s knowledge. The Internet traffic to the Complainant’s official site is significant, and it is likely to be of benefit to an operator of a pornographic website such as the Respondent to divert even a small portion of this to such site by way of the likelihood of confusion that arises from the inclusion of the Complainant’s well-known mark in the disputed domain name. In the face of the Complainant’s submissions and substantial supporting evidence as to the fame of its mark, it would be for the Respondent to attempt to convince the Panel that it registered and used the disputed domain name independently and without knowledge of the Complainant. Yet despite the Complainant’s allegations of bad faith registration and use, the Respondent has chosen to remain silent.

The Panel finds that by using the disputed domain name, the Respondent has intentionally attempted to attract Internet users to its website by creating a likelihood of confusion with the Complainant’s mark. This constitutes registration and use in bad faith in terms of paragraph 4(b)(iv) of the Policy. Nevertheless, the categories of bad faith registration and use are not closed, and the Panel considers that the linking of a well-known mark that is entirely unrelated to adult material, such as that of the Complainant, with pornographic content can be regarded as “unseemly conduct” constituting tarnishment under the Policy (see *Dover Downs Gaming & Entertainment, Inc. v. Domains By Proxy, LLC / Harold Carter Jr, Purlin Pal LLC*, WIPO Case No. [D2019-0633](#)). Such tarnishment is sufficient on its own to constitute evidence of a respondent’s bad faith (see section 3.12 of the [WIPO Overview 3.0](#)).

In all of these circumstances, the Panel finds that the disputed domain name was registered and is being used in bad faith, and therefore that the Complainant has carried its burden in terms of paragraph 4(a)(iii) 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, <lcitest.com>, be transferred to the Complainant.

/Andrew D. S. Lothian/

Andrew D. S. Lothian

Sole Panelist

Date: August 30, 2022