

## **ADMINISTRATIVE PANEL DECISION**

LR Health & Beauty Systems GmbH v. Whols Privacy Service,  
Private by Design, LLC / Privacy Guardian, See PrivacyGuardian.org  
Case No. D2022-2691

### **1. The Parties**

The Complainant is LR Health & Beauty Systems GmbH, Germany, represented by Jonas Rechtsanwalts-gesellschaft mbH, Germany.

The Respondent is Whols Privacy Service, Private by Design, LLC, United States of America (“United States”) / Privacy Guardian, See PrivacyGuardian.org, United States.

### **2. The Domain Name and Registrar**

The disputed domain name <lr-health-beauty.systems> is registered with Porkbun LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 22, 2022. On July 22, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 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. On August 2, 2022, the Center requested a clarification by the Registrar, to which the Registrar responded the same day. The Center sent an email communication to the Complainant on August 2, 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 amendment to the Complaint on August 3, 2022.

The Center verified that the Complaint together with the amendment to the 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 5, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 25, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 26, 2022.

The Center appointed Assen Alexiev as the sole panelist in this matter on September 14, 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 was established in 1985. It is a European direct sales enterprise that distributes German health and beauty products and has thousands of independent business partners worldwide.

The Complainant is the owner of the following trademark registrations for the sign “LR” (the “LR trademark”):

- the German trademark LR with registration No. 2079005, registered on September 26, 1994, for goods and services in International Classes 3, 14 and 25; and
- the German trademark LR with registration No. 302013032593, registered on July 18, 2013, for goods and services in International Classes 3, 4, 5, 6, 7, 8, 9, 11, 14, 16, 18, 20, 21, 24, 25, 26, 27, 29, 30, 32, 35, 36, 38, 41, 42, 44 and 45.

The Complainant is the owner of the following trademark registrations for the sign “LR HEALTH & BEAUTY SYSTEMS” (the “LR HEALTH & BEAUTY SYSTEMS trademark”):

- the German trademark LR HEALTH & BEAUTY SYSTEMS with registration No. 30644164, registered on November 24, 2006, for goods and services in International Classes 3, 5, 8, 9, 14, 18, 20, 21, 25, 27, 29, 30, 35, 38, 42, 45; and
- the International trademark LR HEALTH & BEAUTY SYSTEMS with registration No. 939691, registered on January 15, 2007, for goods and services in International Classes 3, 5, 9, 14, 18, 21, 25, 29, 30, 35, 38 and 42.

The Complainant is also the owner of the domain name <lrworld.com> registered on March 21, 2000, which resolves to the Complainant’s main website.

The disputed domain name was registered on June 17, 2019. It resolves to a website that is very similar to an older version of the Complainant’s website.

#### **5. Parties’ Contentions**

##### **A. Complainant**

The Complainant states that the disputed domain name is confusingly similar to its LR trademark and is identical to its LR HEALTH & BEAUTY SYSTEMS trademark and to its company name, as it includes all their word elements. The Complainant notes that the only differences between the disputed domain name and the Complainant’s trademarks are that the “&” sign and the figurative design elements of the Complainant’s trademarks are missing, and that the element “systems” is added by using the identical “.systems” top level domain (“TLD”). According to the Complainant, these minor differences are not sufficient to avoid the likelihood of confusion between the disputed domain name and the Complainant’s trademarks. The Complainant adds that the website at the disputed domain name is an exact copy of an earlier version of the Complainant’s website in several language versions. The Complainant concludes that the use of the disputed domain name by the Respondent, regardless of whether it is used for a website or for correspondence, would set up a false assumption in Internet users that its owner is the Complainant or is connected to the Complainant.

According to the Complainant, the Respondent has no rights or legitimate interests in respect of the disputed domain name, as it has not used it in connection with a *bona fide* offering of goods or services or for any legitimate noncommercial or fair use without intent for commercial gain to misleadingly divert consumers or to tarnish the Complainant’s trademarks. Rather, the Respondent has connected it to an exact copy of an

earlier version of the Complainant's website featuring outdated information. The Complainant adds that it has not permitted anyone to use its company name or its LR and LR HEALTH & BEAUTY SYSTEMS trademarks to apply for the registration of the disputed domain name or to operate a website that is an exact copy of an earlier version of its own website.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. According to it, the disputed domain name was registered to disrupt the Complainant's business, to sell it to the Complainant, or to attract, for commercial gain, Internet users to the website at the disputed domain name, by creating a likelihood of confusion with the Complainant's trademarks as to the source. The Complainant notes that the fact that the website at the disputed domain name is an exact copy of an earlier version of its own website indicates not only trademark violations, but also violations of regulations regarding the information about the operator provided on the website.

The Complainant maintains that its business is disrupted by the registration and use of the disputed domain name, because the information on the website is outdated and creates an unprofessional impression, and lacks information that is required by law such as the information regarding the operator of the website and other legal notices, which puts the Complainant at risk to be subject to complaints or demands from authorities and competition or consumer organizations. The Complainant notes that the contact form on the website does not forward the messages received to the Complainant, thereby misleading the consumers and creating the impression that the Complainant does not react to messages. The Complainant concludes that there is a high risk that it would thus miss business opportunities and lose consumer satisfaction.

## **B. Respondent**

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

## **6. Discussion and Findings**

Pursuant to the Policy, paragraph 4(a), the Complainants must prove each of the following to justify the transfer of the disputed domain name:

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

In this case, the Center has employed the required measures to achieve actual notice of the Complaint to the Respondent, in compliance with the Rules, paragraph 2(a), and the Respondent was given a fair opportunity to present its case.

By the Rules, paragraph 5(c)(i), it is expected of a respondent to: "[r]espond specifically to the statements and allegations contained in the complaint and include any and all bases for the Respondent (domain-name holder) to retain registration and use of the disputed domain name [...]."

### **A. Identical or Confusingly Similar**

The Complainant has provided evidence that it is the owner of the LR and LR HEALTH & BEAUTY SYSTEMS trademarks and has thus established its rights in this trademark for the purposes of the Policy.

As noted by the Complainant, the disputed domain name incorporates all word elements of the LR and LR HEALTH & BEAUTY SYSTEMS trademarks with the addition of hyphens between "lr", "health" and "beauty", while their "systems" element is reproduced through the use of the ".systems" TLD, so there is also a dot between "beauty" and "systems" in the disputed domain name. These minor differences do not preclude a finding of confusing similarity between the disputed domain name and the Complainant's trademarks. See

section 1.7 and 1.11.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)).

In view of the above, the Panel finds that the disputed domain name is confusing similar to the LR and LR HEALTH & BEAUTY SYSTEMS trademarks in which the Complainant has rights.

### **B. Rights or Legitimate Interests**

While the overall burden of proof in UDRP proceedings is on the complainant, UDRP panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often-impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. See section 2.1 of the [WIPO Overview 3.0](#).

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name, because it has not been authorized by the Complainant to use the LR and LR HEALTH & BEAUTY SYSTEMS trademarks or to register the disputed domain name, and has not used it in connection with a *bona fide* offering of goods or services. The Complainant points out that the Respondent operates a website at the disputed domain name that appears as belonging to the Complainant in an attempt to confuse and attract Internet users to it. The Complainant has thus established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name.

The Respondent has not submitted a Response or advanced any argument in its defense, and has not disputed the contentions of the Complainant.

The disputed domain name is confusingly similar to the LR and LR HEALTH & BEAUTY SYSTEMS trademarks and to the Complainant’s company name, and as shown by the evidence submitted by the Complainant and not disputed by the Respondent, it resolves to a website that is indeed very similar, if not identical, to an older version of the Complainant’s own website, features the Complainant’s trademarks and company name, and describes the activities of the Complainant. This website may indeed lead visitors to believe that it is the official website of the Complainant itself.

The above leads the Panel to the conclusion that the Respondent knew the Complainant and targeted it when registering the disputed domain name, and has registered and used it in an attempt to impersonate the Complainant and deceive Internet users that the website at the disputed domain name is operated by the Complainant and that the services offered on it are offered by the Complainant. This may disrupt the Complainant’s business or negatively affect its reputation. The Panel does not regard such conduct as legitimate or giving rise to rights or legitimate interests of the Respondent in the disputed domain name.

Therefore, the Panel finds that the Respondent does not have rights or legitimate interests in the disputed domain name.

### **C. Registered and Used in Bad Faith**

Paragraph 4(b) of the Policy lists four illustrative alternative circumstances that shall be evidence of the registration and use of a domain name in bad faith by a respondent, namely:

“(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 web site 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 website or location or of a product or service on your web site or location.”

As discussed above in this decision, the disputed domain name is confusingly similar to the Complainant's LR and LR HEALTH & BEAUTY SYSTEMS trademarks and to the Complainant's company name. It is being used for a website replicating an earlier version of the Complainant's own website without disclosing the lack of relationship between the Parties. In the circumstances, it appears that the Respondent has targeted the Complainant in an attempt to unfairly capitalize on the Complainant's goodwill for commercial gain by attracting Internet users to the Respondent's website and deceiving them that they are dealing with the Complainant itself.

This satisfies the Panel finds that the disputed domain name was registered and is being used in bad faith.

## **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 <lr-health-beauty.systems> be transferred to the Complainant.

*/Assen Alexiev/*

**Assen Alexiev**

Sole Panelist

Date: September 28, 2022