

ADMINISTRATIVE PANEL DECISION

Chateau Lafite Rothschild v. JDM Capital Corp.
Case No. D2022-3477

1. The Parties

The Complainant is Chateau Lafite Rothschild, France, represented by Plasseraud IP, France.

The Respondent is JDM Capital Corp., United States of America (“United States”), represented by Loeb & Loeb, LLP, United States.

2. The Domain Name and Registrar

The disputed domain name <châteaulafite.com> (the “Domain Name”) 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 September 20, 2022. On September 20, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On September 20, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 21, 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 September 26, 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 September 28, 2022.

On September 30, 2022, the Complainant forwarded to the Center email exchanges with the Respondent.

In accordance with the Rules, paragraph 5, the due date for Response was October 18, 2022. The Response was filed with the Center on October 18, 2022.

The Center appointed Ian Lowe as the sole panelist in this matter on October 31, 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 famous French wine estate established in the 18th century in Pauillac, Bordeaux, France. It is commonly known as “Château Lafite” and has been owned by members of the Rothschild family since the 19th century. Château Lafite Rothschild is an expensive, prestigious wine renowned globally.

The Complainant is the proprietor of numerous registered trademarks throughout the world comprising LAFITE, CHATEAU LAFITE ROTHSCHILD and CHÂTEAU LAFITE ROTHSCHILD, including International trademark number 237725, CHATEAU LAFITE-ROTHSCHILD and pictorial device, registered on November 23, 1960, International trademark number 395875, CHÂTEAU LAFITE ROTHSCHILD, registered on November 28, 1972, and International trademark number 649854 LAFITE registered on January 19, 1996 designating a number of territories including the United States.

The Complainant is also the owner of numerous domain names comprising “LAFITE” and “CHATEAULAFITE” including <chateaulafite.fr>, <chateau-lafite.com> and <lafite.com>.

The Domain Name was registered on May 14, 2022 as an internationalized domain name (IDN) mapped into the regular ASCII domain name <xn--chteaulafite-qbb.com>. The prefix encoding “xn--” and the special characters “-qbb” generate the “â”. “château” is the correct spelling of the French language word for “castle”. The Domain Name resolves to a parking page of the Registrar comprising links to webpages with what appear to be pay-per-click links to third party websites including competitors of the Complainant.

Immediately following service of the Complaint, on September 27, 2022 the Respondent’s representative sent an email to the Complainant offering to transfer the Domain Name to the Complainant in exchange for a full release of claims. That offer was not accepted.

5. Parties’ Contentions

A. Complainant

The Complainant contends that the Domain Name is identical or confusingly similar to its LAFITE, CHATEAU LAFITE ROTHSCHILD and CHÂTEAU LAFITE ROTHSCHILD trademarks, that the Respondent has no rights or legitimate interests in respect of the Domain Name, and that the Respondent registered and is using the Domain Name in bad faith within the meaning of paragraph 4(b) of the Policy.

B. Respondent

The Respondent denies that it has registered the Domain Name in bad faith and denies that there is any evidence of any of the indications in paragraph 4(b) of bad faith registration and use. It has neither offered the Domain Name for sale nor made any use of the Domain Name. It avers that it was unaware of the advertisements available at the website to which the Domain Name resolves, and that the Registrar had clearly set up the parking page on registration of the Domain Name without the Respondent’s knowledge or consent. It states that it has not benefitted in any way from any pay-per-click links.

The Respondent points out that immediately on receiving the Complaint it offered to transfer the Domain Name to the Complainant at no cost. In the Response it expressly consents to the remedy requested by the Complainant and agrees to transfer the Domain Name to the Complainant.

6. Discussion and Findings

As the Respondent notes in the Response, and as stated at section 4.10 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), where the respondent has given its consent on the record to the transfer sought by the complainant, many panels will order the requested remedy solely on the basis of such consent. However, where in cases where the respondent gives its consent but nevertheless expressly disclaims any bad faith, panels may find it appropriate to record a substantive decision on the merits. In this case, in light of the Respondent's denials, the Panel does find it appropriate to make a substantive determination.

For this Complaint to succeed in relation to the Domain Name the Complainant must prove that:

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

A. Identical or Confusingly Similar

The Respondent neither disputes that the Complainant has rights in its registered LAFITE, CHATEAU LAFITE ROTHSCHILD and CHÂTEAU LAFITE ROTHSCHILD trademarks, nor that the Domain Name is identical or confusingly similar to these trademarks. Ignoring the generic Top-Level Domain ("gTLD") ".com" the Domain Name (a) comprises the entirety of the LAFITE mark together with French language word for "Castle"; or (b) is identical to the CHATEAU LAFITE ROTHSCHILD mark save for the exclusion of the name "Rothschild". In the view of the Panel, these differences do not prevent a finding of confusing similarity.

Furthermore, as a result of its widespread and substantive reputation across the world in the term "Château Lafite", the Panel also finds that the Complainant has unregistered trademark rights in a name which is identical to the Domain Name.

Accordingly, the Panel finds that the Domain Name is identical or confusingly similar to trademarks in which the Complainant has rights

B. Rights or Legitimate Interests

The Complainant has made out a strong *prima facie* case that the Respondent could have no rights or legitimate interests in respect of the Domain Name, and the Respondent does not claim any such rights or legitimate interests. While the Domain Name resolves to a parking page with pay-per-click links, the Respondent denies that it has made any use of the Domain Name. Noting the nature of the Domain Name, the Panel cannot conceive of any legitimate use by the Respondent of the Domain Name under the Policy.

In the circumstances, the Panel finds that the Respondent does not have any rights or legitimate interests in respect of the Domain Name.

C. Registered and Used in Bad Faith

In light of the nature of the Domain Name and the undoubted notoriety of the Complainant and its trademarks, the Panel is in no doubt that the Respondent had the Complainant and its trademarks in mind when it registered the Domain Name. The Panel cannot conceive of any legitimate or good faith use by the Respondent of the Domain Name. Although the Respondent disclaims any knowledge or intent in the Domain Name resolving to a parking page and pay-per-click links, section 3.5 of the [WIPO Overview 3.0](#) notes that neither the fact that such links are generated by a third party such as a registrar, nor the fact that

the respondent itself has not directly profited, would by itself prevent a finding of bad faith.

The Respondent postulates that in fact it has made no use of the Domain Name. However, even if the links are not generated directly by the Respondent, the Respondent's "inaction" or alleged non-use would not affect the Panel's finding of bad faith. [WIPO Overview 3.0](#) points out at section 3.3 that panelists have consistently found that such inaction or non-use does not prevent a finding of bad faith. Factors that panelists take into account, whilst looking at all the circumstances, include "(i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put".the Complainant's trademarks are very distinctive and well-known; the Respondent has not provided any evidence of actual or contemplated good-faith use; the Respondent registered the Domain Name using a proxy service concealing its identity; and there is no good faith use to which the Domain Name could be put.

Accordingly, the Panel finds that the Domain Name has been 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 Domain Name <châteaulafite.com> be transferred to the Complainant.

/Ian Lowe/

Ian Lowe

Sole Panelist

Date: November 9, 2022