

ADMINISTRATIVE PANEL DECISION

La Roche-Posay Laboratoire Pharmaceutique v. Nguyễn Đình Minh,
Tuyen Nguyen Thanh, and Phan Truong
Case No. D2022-0189

1. The Parties

The Complainant is La Roche-Posay Laboratoire Pharmaceutique, France, represented by Dreyfus & associés, France.

The Respondents are Nguyễn Đình Minh, Tuyen Nguyen Thanh, and Phan Truong, Viet Nam.

2. The Domain Names and Registrars

The disputed domain name <laroche-posay.store> (“Disputed Domain Name”) is registered with Mat Bao Corporation (the “Registrar”).

The disputed domain names <laroche-posay.life>, <laroche-posay.shop>, <laroche-posay-th.shop>, <laroche-posay-thailand.shop>, <laroche-posay.life>, <laroche-posay.online>, <sale-laroche.shop>, <laroche-posaysunscreen.live>, <sale-laroche-posay-thailand.shop>, <laroche-posay-th.net>, <laroche-posay-th.shop>, and <sale-laroche-posay-thailand.shop> (“Disputed Domain Names”) are registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on January 19, 2022. On January 20, 2022, the Center transmitted by email to the Registrars a request for registrar verification in connection with the Disputed Domain Names. On January 20, 2022 and January 21, 2022, the Registrars transmitted by email to the Center their verification responses disclosing registrants and contact information for the Disputed Domain Names which differed from the named Respondents and contact information in the Complaint¹. The Center sent an email communication to the Complainant on January 21, 2022 providing the registrants and contact information disclosed by the Registrars, and inviting the Complainant to: (i) submit an amended Complaint and provide relevant arguments or evidence demonstrating that all named Respondents are, in fact, the same entity and/or that all the Disputed Domain Names are under common control; and/or (ii) file a separate Complaint for any Disputed Domain Name(s) for which it is not possible to demonstrate that all named Respondents are in fact the same entity and/or that

¹ At the time of the filing of the Complaint, the Respondents identities were masked by a privacy service.

all Disputed Domain Name are under common control and indicate (by short amendment or reply email) which Disputed Domain Name(s) will no longer be included in the current Complaint. The Complainant filed an amended Complaint in English on January 25, 2022 including the arguments/evidence demonstrating that the named Respondents are the same person or at least all the Disputed Domain Names are under common control.

On January 25, 2022, the Center transmitted an email communication to the Parties in English and Vietnamese regarding the language of the proceeding. On January 26, 2022, the Complainant submitted a request that English be the language of the proceeding. The Respondents did not comment on the language of the proceeding.

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 Respondents in English and Vietnamese of the Complaint, and the proceedings commenced on February 1, 2022. In accordance with the Rules, paragraph 5, the due date for Response was February 21, 2022. The Respondents did not submit any response. Accordingly, the Center notified the Respondents' default on February 23, 2022.

The Center appointed Pham Nghiem Xuan Bac as the sole panelist in this matter on March 2, 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, La Roche-Posay Laboratoire Pharmaceutique, is a French company manufacturing dermatological products based upon thermal spring water. Founded in 1975, the Complainant has been pioneering dermatology, working in close partnership with many dermatologists. The Complainant is a subsidiary of the industrial group L'Oréal, a French industrial group specialized in the field of cosmetics and beauty and is the first cosmetics group worldwide.

The Complainant owns many LA ROCHE POSAY trademark registrations for dermatological and cosmetic products around the world, including in Viet Nam, where the Respondents reside, under International Registrations No. 1281149 registered on October 14, 2015, and No. 1533143 registered on April 24, 2020, among others.

The Complainant also owns numerous domain names under generic Top-level Domains ("gTDLs") and country code Top-Level Domains ("ccTLDs") containing its trademark LA ROCHE-POSAY, among which are the domain names <laroche-posay.com>, registered on October 21, 1996, <laroche-posay-th.com> registered on December 21, 2009 and <laroche-posay.com.vn> registered on January 8, 2021.

The Respondents, in between June and July 2021, registered thirteen Disputed Domain Names, namely <laroche-posay.life>, <laroche-posay.shop>, <laroche-posay-th.shop>, <laroche-posay-thailand.shop>, <laroche-posay.life>, <laroche-posay.store>, <laroche-posay.online>, <sale-laroche.shop>, <laroche-posaysunscreen.live>, <sale-laroche-posay-thailand.shop>, <laroche-posay-th.net>, <laroche-posay-th.shop> and <sale-laroche-posay-thailand.shop>. As of the date of this Decision, all the Disputed Domain Names resolve to the same website showing a notification (in Vietnamese) that "your domain name is successfully pointed". However, as submitted by the Complainant, the Disputed Domain Names, except the Disputed Domain Name <sale-laroche-posay-thailand.shop>, used to resolve to other websites of the Respondents, via which sunscreen products under the Complainant's LA ROCHE-POSAY trademarks were advertised and offered for sale.

In July 2021, the Complainant sent a notification to the hosting company, requesting the deactivation of the websites configured on the Disputed Domain Names, blocking requests to the Registrars asking them to put the Disputed Domain Names on status client hold, as well as a Cease and Desist letter to the Respondents via the Registrars. However, the ISPs did not take actions as requested, and the Respondents did not respond to the Cease and Desist letter.

5. Parties' Contentions

A. Complainant

The Complainant contends that each of the three elements specified in paragraph 4(a) of the Policy are satisfied in the present case, as follows:

(i) The Disputed Domain Names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

The Complainant contends that the trademark LA ROCHE POSAY enjoys a worldwide reputation, and the Complainant owns numerous registrations for this trademark around the world. Furthermore, the previous UDRP panels considered the Complainant's trademark to be well-known or famous.

The Complainant contends that the Disputed Domain Names reproduce the trademark LA ROCHE POSAY in its entirety with the addition of the letters "th" (*i.e.* country code for Thailand), the geographical term "Thailand" intersected by a hyphen, the generic term "sale", and the misspelled term "sunscreen", which does not prevent any likelihood of confusion.

The Complainant submits that the addition of the gTLD extensions, such as ".life", ".shop", ".live", ".store", ".online", and ".net" are not to be taken into consideration when examining the identity or similarity between the Complainant's trademark and the Disputed Domain Names.

(ii) The Respondents have no rights or legitimate interests in respect of the Disputed Domain Names.

The Complainant contends that the Respondents have no rights or legitimate interests in respect of the Disputed Domain Names, by arguing that the Respondents are neither affiliated with the Complainant in any way nor have they been authorized by the Complainant to use and register its trademark, or to seek registration of any domain name incorporating the said trademark. The Respondents cannot claim prior rights or legitimate interest in the Disputed Domain Names, as the Complainant's LA ROCHE POSAY trademarks precede the registration of the Disputed Domain Names for years.

Second, there is no evidence that the Respondents may be commonly known by the name LA ROCHE POSAY, or the Respondents have a history of using, or have made demonstrable preparations to use the Disputed Domain Names in connection with a *bona fide* offering goods or services.

Third, the Respondents are making a non-legitimate use of the Disputed Domain Names, with intent for commercial gain to misleadingly divert consumers from the Complainant's official website. In addition, email servers have been configured on the majority of the Disputed Domain Names and thus, there might be a risk that the Respondents are engaged in a phishing scheme.

Furthermore, the Complainant submits that the Respondents did not reply to the Complainant's Cease and Desist Letter and registered the Disputed Domain Names with a privacy shield service. Thus, such behaviors highlight the fact that the Respondents have no rights and legitimate interests with regard to the Disputed Domain Names.

Finally, given the Complainant's goodwill and renown worldwide, and the nature of the Disputed Domain Names, it is not possible to conceive a plausible circumstance in which the Respondents could legitimately

use the Disputed Domain Names.

(iii) The Disputed Domain Names were registered and are being used in bad faith.

First, the Complainant submits that the Disputed Domain Names are registered in bad faith by arguing that: (i) the Respondents were aware of the existence of the Complaint and its well-known LA ROCHE POSAY trademark, as well as the unlawfulness of the registrations of the Disputed Domain Names as the Complainant's trademark registrations significantly predate the registrations of the Disputed Domain Names; (ii) the Respondents registered twelve Disputed Domain Names through a privacy shield service to hide their identities and contact details, thus preventing the Complainant from contacting them.

Second, the Complainant submits that the Disputed Domain Names are being used in bad faith.

The Complainant contends that there is little doubt that the Respondents were not aware that the Complainant and its trademark LA ROCHE-POSAY have a strong reputation and are widely known throughout the world. In this regard, the Respondents used the Disputed Domain Names to direct Internet users and generate more traffic to fraudulent websites in Thai reproducing the Complainant's logo and visuals without authorization and offering sunscreen products at low prices. Consequently, the Respondents are using the Disputed Domain Names to intentionally attempt to attract, for commercial gain, Internet users to the websites under the Disputed Domain Names, by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation or endorsement of the Respondents' websites or a service on the Respondents' websites.

The Complainant also contends that passive holding does not preclude a finding of bad faith, thus the state of inactivity does not mean that the Disputed Domain Names are used in good faith. Further, the Respondents have not yet replied and simply disregarded all communication attempts and notices given by the Complainant, which can be considered relevant in a finding of bad faith.

Moreover, the Complainant submits that there might be a risk that the Respondents are engaged in a phishing scheme because email servers have been configured on the majority of the Disputed Domain Names. The use of an email address with the Disputed Domain Names presents a significant risk where the Respondents could aim at stealing valuable information from the Complainant's clients or employees.

Therefore, the Complainant contends that the Respondents should be considered to have registered and to be using the Disputed Domain Names in bad faith.

Consequently, the Complainant contends that the three elements under the Policy have been established and requests for a transfer of the Disputed Domain Names to the Complainant.

B. Respondents

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

6. Discussion and Findings

6.1. Procedural Issues

A. The Respondents' Identity

The Panel notes that at the time the Complaint was filed on January 19, 2022, the Respondents were identified as "Privacy service provided by Withheld for Privacy ehf" and "Nguyễn Đình Minh". On January 20, 2022 and January 21, 2022, the Registrars transmitted by email to the Center, disclosing the underlying registrants as: (i) "Tuyen Nguyen Thanh" in respect of the Disputed Domain Names <laroche-posay.life>, <laroche-posay.online>, <laroche-posaysunscreen.live>, <laroche-posay-th.net>; (ii) "Phan Truong" in respect

of the Disputed Domain Names <larocheposay.life>, <laroche-posay.shop>, <laroche-posay-th.shop>, <larocheposay-th.shop>, <laroche-posay-thailand.shop>, <sale-laroche.shop>, <sale-laroche-posay-thailand.shop>, <sale-larocheposay-thailand.shop>; and (iii) “Nguyễn Đình Minh” in respect of the Disputed Domain Name <laroche-posay.store> in their verification responses to the requests of the Center.

The Center sent an email communication to the Complainant on January 21, 2022, providing the underlying registrants disclosed by the Registrars and inviting the Complainant to:

(i) submit an amended Complaint and provide relevant arguments or evidence demonstrating that all named Respondents are, in fact, the same entity and/or that all the Disputed Domain Names are under common control; and/or

(ii) file a separate Complaint for any Disputed Domain Name(s) for which it is not possible to demonstrate that all named Respondents are in fact the same entity and/or that all Disputed Domain Name are under common control and indicate (by short amendment or reply email) which Disputed Domain Name(s) will no longer be included in the current Complaint.

On January 25, 2022, the Complainant filed the amended Complaint, adding the underlying registrants and providing evidence that the named Respondents are the same person or at least all the Disputed Domain Names are under common control.

In accordance with paragraph 4.4, the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), the Panel determines the Respondents in this case be the underlying registrants as disclosed by the Registrars and named in the amended Complaint.

B. Consolidation of the Respondents

The Complainant has requested that the Complaint be consolidated against all of the Respondents of all the Disputed Domain Names.

Paragraph 10(e) of the Rules provides for the consolidation of multiple domain name disputes: “A Panel shall decide a request by a Party to consolidate multiple domain name disputes in accordance with the Policy and these Rules.” Under paragraph 4.11.2 of the [WIPO Overview 3.0](#), proceedings against more than one respondent may be consolidated where “(i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties”.

In this particular case, the undisputed evidence indicates that all of the Disputed Domain Names are subject to common control. Particularly:

First, except that the Disputed Domain Name <laroche-posay.store> was registered with the Mat Bao Registrar, twelve out of thirteen Disputed Domain Names were registered with the same Registrar, NameCheap, Inc., and protected by the same privacy shield service located in Capital Region, Iceland. Further, all the Disputed Domain Names were created from June 2021 to July 2021, and all the Respondents appear to be located in Viet Nam.

Second, it is demonstrated by the Complainant in the Annex 1 that, except the Disputed Domain Name <sale-laroche-posay-thailand.shop>, twelve remaining Disputed Domain Names used to resolve to the same website with almost identical layouts and contents. As of the date of this Decision, all the Disputed Domain Names resolve to the same website showing a notification (in Vietnamese) that “your domain name is successfully pointed”. In addition, all the Disputed Domain Names share the same IP Address (*i.e.* 13.229.38.226) provided by the same hosting provider.

Further, in this instant case, the Respondents did not submit any response thus, did not refute the Complainant’s consolidation request. The Panel also finds that consolidation would avoid unnecessary

duplication of time, effort and expense and ultimately would be fair and equitable to all parties (*e.g. Fulham Football Club (1987) Limited, et. al v. Domains by Proxy, Inc./ Official Tickets Ltd*, WIPO Case No. D2009-0331).

Based on the foregoing, the Panel is satisfied that all the Disputed Domain Names are subject to common control, and it would be fair and equitable to all parties to proceed with the consolidation.

C. Language of the Proceeding

The Complaint was filed in English. On January 20, 2022, the Registrar, NameCheap, Inc., informed that the language of registration agreements for twelve Disputed Domain Names (*i.e.* <larocheposay.life>, <laroche-posay.shop>, <laroche-posay-th.shop>, <laroche-posay-thailand.shop>, <laroche-posay.life>, <laroche-posay.online>, <sale-laroche.shop>, <larocheposaysunscreen.live>, <sale-larocheposay-thailand.shop>, <larocheposay-th.net>, <laroche-posay-th.shop>, <sale-laroche-posay-thailand.shop>) is English. On January 21, 2022, the Registrar, Mat Bao, confirmed that the language of the registration agreement for remaining Disputed Domain Name (*i.e.* <laroche-posay.store>) is Vietnamese.

As the Complaint was filed in English, the Center, in its notification dated January 25, 2022, invited the Complainant to submit either (i) satisfactory evidence of an agreement between the Complainant and the Respondents to the effect that the proceeding should be in English, or (ii) submit the Complaint translated into Vietnamese, or (iii) a substantiated request for English be the language of the proceeding by January 28, 2022.

On January 26, 2022, the Complainant submitted a request that English be the language of the proceeding. According to paragraph 11(a) of the Rules, unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

Similar to previous UDRP decisions, the Panel finds that the spirit of paragraph 11(a) is to ensure fairness in the selection of language by giving full consideration to the Parties' level of comfortability with each language, the expenses to be incurred, and the possibility of delay in the proceeding in the event translations are required and other relevant factors (*see, e.g., Deutsche Messe AG v. Kim Hyungho*, WIPO Case No. [D2003-0679](#)).

In the present case, the Panel takes into account the circumstances of the proceeding, including, but not limited to:

(i) the fact that the Complainant, a French entity, does not appear to be able to communicate in Vietnamese, and therefore, if the Complainant was required to have the documents translated into Vietnamese, the proceeding would be unduly delayed, and the Complainant would have to incur substantial expenses for translation;

(ii) the fact that twelve of the thirteen Disputed Domain Names in this case are registered at a US-based Registrar and subject to English language registration agreements, and that as mentioned above, all these thirteen Disputed Domain Names are subject to common control, indicating that the underlying registrants of all the Disputed Domain Names have knowledge of the English language;

(iii) the Respondents did not object for English to be the language of the proceeding, and did not submit a Response in neither English nor Vietnamese.

Therefore, for the purpose of easy comprehension of the Complainant (ultimately, the party solely taking part in the proceeding) of the Panel's decision without any necessity of translations, and in the interest of fairness to both Parties as well as the Panel's obligation under paragraph 10(c) of the Rules, which provides that "the Panel shall ensure that the administrative proceeding takes place with due expedition", the Panel hereby

decides, under paragraph 11(a) of the Rules, that the language of the proceeding shall be English and shall render its decision in English.

D. The Respondents' Failure to Respond

The Respondents' failure to file a Response does not automatically result in a decision in favor of the Complainant (see, e.g., *Tradewind Media, LLC d/b/a Intopic Media v. Jayson Hahn*, WIPO Case No. D2010-1413, and *M. Corentin Benoit Thiercelin v. CyberDeal, Inc.*, WIPO Case No. [D2010-0941](#)). However, the Panel may draw appropriate inferences from the Respondents' default.

6.2. Substantive Issues

A. Identical or Confusingly Similar

The Complainant is required to establish the two following elements: (1) that it has trademark rights, and, if so, (2) that the Disputed Domain Names are identical or confusingly similar to its trademark.

First, the Panel finds that the Complainant has evidenced that it has rights in and to the trademarks LA ROCHE POSAY, which were registered in a number of countries before the registration of the Disputed Domain Names. In addition, it is evidenced in and similar to the other UDRP decisions that the LA ROCHE POSAY trademarks are well known for dermatological and cosmetic products.

Secondly, the Panel finds that the LA ROCHE-POSAY trademarks remain clearly recognizable in the Disputed Domain Names:

- Five (5) Disputed Domain Names <larocheposay.life>, <laroche-posay.shop>, <laroche-posay.life>, <laroche-posay.store> and <laroche-posay.online> incorporate entirely the Complainant's LA ROCHE POSAY trademarks, in which the Complainant has exclusive rights. Further, in the Panel's view, the hyphen in the Disputed Domain Names does not prevent findings of confusing similarity between the Complainant's trademarks and the Disputed Domain Names.

- Seven (7) Disputed Domain Names <larocheposay-th.shop>, <laroche-posay-thailand.shop>, <larocheposaysunscreen.live>, <sale-larocheposay-thailand.shop>, <larocheposay-th.net>, <laroche-posay-th.shop> and <sale-larocheposay-thailand.shop> also incorporate entirely the Complainant's LA ROCHE POSAY trademarks. The difference between these Disputed Domain Names and the trademarks LA ROCHE POSAY is the addition of the geographical terms/letters "th/thailand" (which refer to Thailand) and/or the dictionary term "sale" or the misspelled word "sunscreen". In this regard, the Panel finds that the said difference cannot prevent the findings of confusing similarity between the Complainant's trademarks and the Disputed Domain Names. See [WIPO Overview 3.0](#), section 1.8. Further, it is well established that the addition of a geographical term and/ or a dictionary term to a trademark does not prevent confusing similarity, as it was found in previous UDRP decisions (see, e.g., *Supercell Oy v. See Privacy Guardian.org / Mediastack*, WIPO Case No. [D2017-2177](#); *Johnson & Johnson v. Tung Nguyen*, WIPO Case No. D2017-1635; *Philip Morris Products S.A. v. Halil Cakir*, WIPO Case No. [D2018-1656](#); *Continental Exchange Solutions Inc. DBA Ria Financial v. Red Soul*, WIPO Case No. [D2013-1690](#); *SAP AG v. Subba Rao Parvathaneni*, WIPO Case No. [D2010-1813](#)).

- The remaining Disputed Domain Name <sale-laroche.shop> contains the distinctive element "LA ROCHE" of the Complainant's trademarks and a descriptive word "sale". In comparison between this Disputed Domain Name and the Complainant's trademarks, and in consideration of the well-known status of the trademarks LA ROCHE POSAY, the Panel finds that this Disputed Domain Name is still confusingly similar to the trademarks LA ROCHE POSAY.

Finally, the Panel finds, similarly to other UDRP panels, that the addition of the gTLDs ".life", ".shop", ".store", ".online", ".live" and ".net" to the Disputed Domain Names does not constitute an element as to avoid confusing similarity for the Policy purposes (see, e.g., *Volkswagen AG v. Privacy Protection Services*, WIPO

Case No. [D2012-2066](#); *The Coca-Cola Company v. David Jurkiewicz*, WIPO Case No. DME2010-0008; *Telecom Personal, S.A. v. NAMEZERO.COM, Inc.*, WIPO Case No. [D2001-0015](#); *F Hoffmann-La Roche AG v. Macalve e-dominios S.A.*, WIPO Case No. [D2006-0451](#); *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)).

Based on the foregoing findings, the Panel finds that all Disputed Domain Names are confusingly similar to the Complainant's LA ROCHE POSAY trademarks, and paragraph 4(a)(i) of the Policy is established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy lists circumstances, in particular but without limitation, which, if found by the Panel to be proved, demonstrate the Respondents' rights or legitimate interests in the Disputed Domain Names for the purposes of paragraph 4(a)(ii) of the Policy, including:

“(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.”

Noting the facts and arguments set out above, the Panel finds that the Complainant has made out a *prima facie* case that the Respondents have no rights or legitimate interests in the Disputed Domain Names. The Respondents did not reply to the Complainant's contentions and, therefore, did not refute the Complainant's contentions.

The consensus of previous UDRP panels is that while the overall burden of proof in UDRP proceedings is on the complainant, once a *prima facie* case is made, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating his rights or legitimate interests in the disputed domain name (see e.g., *Document Technologies, Inc. v. International Electronic Communications Inc.*, WIPO Case No. [D2000-0270](#); *Julian Barnes v. Old Barn Studios Limited*, WIPO Case No. [D2001-0121](#)). In this instant case, the Panel finds that the Respondents have failed to meet that burden since no response was submitted for evidence to the contrary.

Regarding paragraph 4(c)(i) of the Policy, the Panel finds, in light of the Complainant's asserted facts, that no license, permission or authorization of any kind to use the Complainant's trademark has been granted to the Respondents. There is no evidence available that the Respondents hold any registered or unregistered trademark rights in any jurisdiction. Thus, the Panel finds that the Respondents have no rights in the trademark LA ROCHE POSAY.

A reseller or distributor may be making a *bona fide* offering of goods and services and thus have rights or legitimate interests in a domain name if its use meets certain requirements, which are described in the *Oki Data* case, including:

- the Respondents must actually be offering the goods or services at issue;
- the Respondents must use the site to sell only the trademarked goods (otherwise, there is the possibility that the Respondents are using the trademark in a domain name to bait consumers and then switch them to other goods);
- the site itself must accurately disclose the Respondents' relationship with the trademark owner; and

- the Respondents must not try to “corner the market” in all relevant domain names, thus depriving the trademark owner of the ability to reflect its own mark in a domain name.

In this particular case, it is well proved and evidenced by the Complainant that except the Disputed Domain Name <sale-laroche-posay-thailand.shop>, twelve remaining Disputed Domain Names used to resolve to the online shops of the Respondents, as shown in Annex 1 of the Complaint. On such websites, the Panel finds the Respondents did not place any statement or disclaimer disclosing accurately their relationship with the Complainant. Further, the websites under the Disputed Domain Names also reproduced the Complainant's logo and visuals without authorization and offered sunscreen products at low prices, under the name of the Complainant. This fact further demonstrates the Respondents' intention to create an impression of a false association with the Complainant. For all foregoing reasons, the Panel finds the Respondents' use of the Disputed Domain Names cannot be considered a *bona fide* offering of goods or services.

In addition, the Panel finds that there is no evidence of the Respondents being commonly known by the Disputed Domain Names. Further, it is evident that the Respondents are not making a legitimate noncommercial or fair use of the Disputed Domain Names, but instead, aims at commercial gain by misleadingly diverting consumers to its websites by riding on the fame of the trademark LA ROCHE POSAY.

Accordingly, the Panel finds that the Respondents have no rights or legitimate interests in respect of the Disputed Domain Names, and the second element under paragraph 4(a)(ii) of the Policy is established.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy identifies, in particular but without limitation, four circumstances which, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith, including:

“(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.”

The above four circumstances are not exhaustive and bad faith may be found by the Panel alternatively.

The Panel finds that the Complainant has put forth sufficient evidence that the Respondents have registered and used the Disputed Domain Names in bad faith. The Respondents did not reply to the Complainant's contentions and, therefore, did not refute the Complainant's contentions.

The Panel further finds that the Complainant's LA ROCHE POSAY trademark has been registered in many jurisdictions throughout the world and enjoys significant reputation. The Complainant's LA ROCHE POSAY trademark has been registered and used in, among others, Viet Nam where the Respondents possibly reside. In this respect, the Panel believes that the Respondents must have known and be aware of the

rights in the prior well-known LA ROCHE POSAY trademark and the associated products by the time of the registrations of the Disputed Domain Names.

On the date of this Decision, the Panel finds that the Disputed Domain Names are resolving to the same website showing notification (in Vietnamese) “your domain name is successfully pointed”, which can be considered as inactive websites. However, it is well proved and evidenced by the Complainant that all websites under the Disputed Domain Names, except the Disputed Domain Name <sale-laroche-posay-thailand.shop>, used to offer sunscreen products at low prices, branded with the Complainant’s LA ROCHE-POSAY trademark. In addition to the adoption of the Complainant’s LA ROCHE-POSAY trademark as a uniquely distinctive part in the Disputed Domain Names, the Respondents used the Complainant’s trademark and visuals on the websites, and no disclosure of the actual relationship with the Complainant was presented. The Panel finds that the Respondents’ actual use of the Disputed Domain Names misleads consumers and confuses them by making them believe that the respective websites are associated, fostered or recommended by the Complainant.

The fact that the Disputed Domain Names, including <sale-laroche-posay-thailand.shop>, currently resolve to inactive websites does not prevent a finding of bad faith registration and use.

With the said facts, the Panel opines that the Respondents’ purpose in registering the Disputed Domain Names is to capitalize on the reputation and goodwill of the Complainant’s trademark, and thus generate unjustified revenues. Such misleading behavior is indicative of bad faith within the meaning of paragraph 4(b) of the Policy, on the part of the Respondents.

In light of the foregoing, the Panel finds that the Disputed Domain Names were registered and are being used by the Respondents in bad faith, and the third element under paragraph 4(a)(iii) of the Policy is established.

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 Names, <laroche-posay.life>, <laroche-posay.life>, <laroche-posay.online>, <laroche-posay.shop>, <laroche-posay.store>, <laroche-posay-sunscreen.live>, <laroche-posay-thailand.shop>, <laroche-posay-th.net>, <laroche-posay-th.shop>, <laroche-posay-th.shop>, <sale-laroche-posay-thailand.shop>, <sale-laroche-posay-thailand.shop>, <sale-laroche.shop> be transferred to the Complainant.

/Pham Nghiem Xuan Bac/

Pham Nghiem Xuan Bac

Sole Panelist

Date: March 16, 2022