

ADMINISTRATIVE PANEL DECISION

Société Anonyme des Galeries Lafayette v. James Moore, Resemin
Case No. D2022-2957

1. The Parties

The Complainant is Société Anonyme des Galeries Lafayette, France, represented by Dreyfus & associés, France.

The Respondent is James Moore, Resemin, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <galerieslafayette.com> (the “Domain Name”) is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 10, 2022. On August 10, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On August 11, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 16, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 5, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 6, 2022.

The Center appointed Willem J. H. Leppink as the sole panelist in this matter on September 15, 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 exploits a famous chain of department stores, specialized in city-center fashion retailing, promoting the French “Art of Living”. It is a market leader in France, but also operates in many cities outside France, included but not limited to Berlin, Beijing, Shanghai, Dubai, Doha, and Istanbul. The Complainant has been operating its business for over 120 years and currently employs 14,000 professionals.

The Complainant is the owner of several trademark registrations including, but not limited to the United States trademark registration GALERIES LAFAYETTE (word mark), with registration No. 4086463 and with a registration date of January 17, 2012, for services *inter alia* in class 35, and the International Registration for the same, with registration No. 1230007 and with a registration date of August 7, 2014, for goods and services in classes 18, 25, and 35, designating, *inter alia*, Australia, Norway, and Japan (both together in singular also referred to as the “GALERIES LAFAYETTE Trademark”).

For its official website, the Complainant uses the domain name <galerieslafayette.com>, which the Complainant registered on August 1, 1997.

The Domain Name was registered on March 31, 2022, and does not resolve to any active website.

5. Parties' Contentions

A. Complainant

The Complainant contends the following:

The Domain Name is confusingly similar to the Trademark. More specifically, the Domain Name is composed of the GALERIES LAFAYETTE Trademark in its entirety and only adds an extra letter “l” in between the two word elements of the Domain Name. By doing so, the Domain Name clearly mimics the Complainant’s existing domain name and deliberately introduces a mistyping. The mistyping and/or typo squatting of the Complainant’s Trademark and/or domain name causes confusion amongst the customers regarding the affiliation with or ownership by the Complainant.

The Respondent has no prior rights or legitimate interest in regard to the Domain Name. The Respondent is not in any way affiliated with the Complainant. Furthermore, the Respondent has not been authorized to use or register rights relating to The Complainant’s Trademark. The Respondent is also not commonly known by Domain Name. In addition to this, there is no legitimate noncommercial or fair use of the Domain Name whereas the Domain Name does not resolve to an active website.

Moreover, the Respondent has registered and uses the Domain Name in bad faith. The Respondent registered the Domain Name with prior knowledge of the Trademark in order to take predatory advantage of the Complainant’s reputation. Additionally, the Respondent has taken active steps to conceal its true identity by operating under a name that is not a registered business name. Lastly, the Domain Name is not being used for any genuine activities, considering the fact that the Domain Name resolves to an inactive website.

After investigations, the Complainant noticed that email servers were configured for the Domain Name and as such the situation is extremely damaging to the Complainant’s reputation and represents a security risk to its customers.

The Complainant has made some efforts to resolve this dispute matter amicably, by sending a cease and desist letter and several reminders.

B. Respondent

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

6. Discussion and Findings

Pursuant to paragraph 4(a) of the Policy, the Complainant must prove each of the following three elements:

- (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 Complainant has sufficiently proven to have rights in the Trademark.

The Domain Name consists of the Trademark in its entirety, only adding a very obvious misspelling, being the addition of an extra letter "L" before the second word element "LAFAYETTE". Therefore, the Trademark is clearly recognizable in the Domain Name and the misspelling as such does not prevent a finding that the Domain Name is confusingly similar to the Trademark.

Accordingly, the Panel finds that the Complainant has satisfied the requirement under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant in its Complaint and as set out above has established a *prima facie* case that the Respondent has no rights or legitimate interests in the Domain Name.

The Panel could not find any evidence by referring to the types of evidence set forth in paragraph 4(c) of the Policy from which the Panel might conclude that the Respondent has rights or legitimate interests in the Domain Name, such as:

- (i) use or preparation to use the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services prior to notice of the dispute; or
- (ii) being commonly known by the Domain Name (as an individual, business or other organization) even if the Respondent has not acquired any trademark or service mark rights; or
- (iii) making 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 *prima facie* case presented by the Complainant is enough to shift the burden of production to the Respondent to demonstrate that it has rights or legitimate interests in the Domain Name. However, the Respondent has not presented any evidence of any rights or legitimate interests it may have in the Domain Name, and the Panel is unable to establish any such rights or legitimate interests on the basis of the evidence in front of it.

The Complainant has asserted that the Respondent is not affiliated with the Complainant in any way. The Respondent has also not been authorized by the Complainant to register or use the Trademark. In addition to this, the Complainant asserted that there is no evidence that "galeriesllafayette" is the Respondent's name or that the Respondent is commonly known under this name.

Furthermore, the Respondent does not seem to make any use of the Domain Name as the Domain Name does not resolve to an active website. The Complainant has contended that email servers have been configured for the Domain Name, which would be an indication for possible phishing attempts. This has not been rebutted by the Respondent. In summary, the Panel considers that the Respondent is not making use of the Domain Name in connection with a *bona fide* offering of goods or services or for noncommercial or fair use purposes.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in relation to the Domain Name.

Therefore, the Panel is satisfied that the second element of the Policy has been met.

C. Registered and Used in Bad Faith

The Panel finds that the Respondent has registered and used the Domain Name in bad faith and refers to its considerations under section 6.B. above.

Taking into consideration the evidence filed by the Complainant, the Panel finds that the Trademark and the Complainant's activities are well known, if not famous, in many countries in the world. The Complainant is owner of numerous trademarks and is active in many countries in the world.

This is an obvious case of typosquatting and certainly lacking a Response, leads to a finding of registration and use in bad faith. Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith (see section 3.1.3 [WIPO Overview 3.0](#)).

Based on the available record, the Panel finds that the Respondent was likely aware of the existence of the Complainant's rights and/or activities at the time the Respondent registered the Domain Name. Moreover, there is no indication of any likely *bona fide* use of the Domain Name.

The fact that the Domain Name does not resolve to an active website, does not prevent a finding of bad faith under the doctrine of passive holding (see section 3.3 [WIPO Overview 3.0](#)).

A finding of bad faith is also supported by the configuration of email-servers being an indication of possible phishing. Finally, although the lack of a formal or substantive response by the Respondent, and also not responding to the cease and desist letter and reminders, as such cannot by itself lead to the conclusion that there is registration and use in bad faith, this nonetheless supports for the Panel to find that the registration and use of the Domain Name by the Respondent is in bad faith.

Therefore, the Panel is satisfied that the third element of the Policy is met.

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, <gallerieslafayette.com>, be transferred to the Complainant.

/Willem J. H. Leppink/

Willem J. H. Leppink

Sole Panelist

Date: September 28, 2022