

ADMINISTRATIVE PANEL DECISION

PEGASE v. Lee Sulei

Case No. D2023-5356

1. The Parties

The Complainant is PEGASE, France, represented by MIIP – MADE IN IP, France.

The Respondent is Lee Sulei, China.

2. The Domain Name and Registrar

The disputed domain name <lahalleoutlet.com> is registered with Dynadot Inc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 26, 2023. On December 27, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 27, 2023, 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 (REDACTED FOR PRIVACY, Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 3, 2024, 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 January 5, 2024.

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 January 11, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 31, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 5, 2024.

The Center appointed Iris Quadrio as the sole panelist in this matter on February 26, 2024. 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 French-based company operating in the fashion industry since 1981, owner of the brand LA HALLE.

The Complainant is the owner of the trademarks LA HALLE OUTLET in many jurisdictions, including International registration No. 1210766 for LA HALLE OUTLET registered on April 8, 2014, for cl. 18, 25, and 35; France Registration No. 4038183 for LA HALLE OUTLET registered on January 31, 2014, for cl. 18, 25, and 35; International registration No. 1213360 for LA HALLE MODE, CHAUSSURES & MAROQUINERIE (figurative) registered on April 10, 2014, for cl. 8, 25, and 35; and International registration No. 486315 for LA HALLE AUX VETEMENTS registered on July 6, 1984, for cl. 25. (Collectively, the “LA HALLE” trademarks).

The Complainant’s products are sold under the LA HALLE trademarks throughout France, and notably through more than 800 boutiques, thanks to the support of its 6400 employees. The Complainant is also owner of other fashion brands sold in La Halle stores, such as, LH LIBERTO, CREEKS, and MOSQUITOS.

The Complainant further claims to have an online presence through, among others, its primary website “www.lahalle.com”, which receives 15.5 million visitors a year. In addition, the Complainant promotes its products through social media in which it has 500,000 followers on Facebook and 106,000 followers on Instagram.

Lastly, the disputed domain name was registered in November 2023, and initially resolved to a website offering for sale LA HALLE, CREEKS, and MOSQUITOS products at discounted prices. However, it currently resolves to an inactive website.

5. Parties’ Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

The Complainant states that the disputed domain name is confusingly similar to its trademarks LA HALLE trademarks.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name, nor is he related in any way to the Complainant. Neither license nor authorization has been granted to the Respondent to make any use of the Complainant’s trademarks.

More specifically, the Complainant alleged that the Respondent has not used and/or has no demonstrable intention to use the disputed domain name except to create a likelihood of confusion with the Complainant’s trademark. In fact, the Complainant claims that the Respondent has selected the disputed domain name only to intentionally lead Internet users to believe they are accessing the Complainant’s website, which amounts to registration and use in bad faith.

Finally, the Complainant has requested the Panel to issue a decision ordering the transfer of the disputed domain name to the Complainant.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the disputed domain name, the Complainant must prove each of the following:

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

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.7.

The Complainant has shown rights in respect of a trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entire mark LA HALLE OUTLET is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

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

The Complainant has claimed not to have authorized, licensed, or permitted the Respondent to register or use the disputed domain name or to use the LA HALLE trademarks nor is there any other evidence in the file suggesting that the Respondent has or could have rights or legitimate interests in the disputed domain name. Also, the Complainant has prior rights in the LA HALLE trademarks which clearly precede the Respondent's registration of the disputed domain name.

Even more, it does not seem that the Respondent made nor is making a legitimate noncommercial or fair use of the disputed domain name. On the contrary, the Respondent's initial use of the disputed domain name appeared to be merely intended to benefit from the Complainant's reputation by confusing Internet users and leading them to believe that the site to which the disputed domain name resolved was associated to the Complainant. Hence, as established in section 2.5 of [WIPO Overview 3.0](#): "Fundamentally, a respondent's use of a domain name will not be considered 'fair' if it falsely suggests affiliation with the trademark owner;

the correlation between a domain name and the complainant's mark is often central to this inquiry." Currently, the Panel has confirmed that disputed domain name resolves to an inactive website; however, given the identical nature of the disputed domain name, such composition carries a high risk of implied affiliation that cannot constitute fair use since it effectively suggests association with or endorsement by the Complainant, contrary to the fact. [WIPO Overview 3.0](#), section 2.5.1.

The Complainant submitted sufficient evidence to demonstrate that the Respondent initially used the disputed domain name for a website displaying the Complainant's trademarks and purportedly related to the Complainant. This clearly indicates the Respondent's intention to mislead Internet users looking for the Complainant's services and to commit illegal activities, such as impersonation, and other types of fraud. Panels have held that the use of a domain name for illegal activity can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In such connection, the Complainant has submitted evidence to support that the LA HALLE trademarks are widely known and were registered and used many years before the Respondent registered the disputed domain name. Thus, when registering the disputed domain name, the Respondent most likely knew of and has targeted the Complainant's LA HALLE trademarks to generate confusion among the Internet users. Indeed, the Complainant has demonstrated that when searching for "La Halle" on Google, all the results led to the Complainant or to content related to the Complainant.

Therefore, the Panel is satisfied that the Respondent must have been aware of the Complainant and the Complainant's LA HALLE trademarks when it registered the disputed domain name. Consequently, and in accordance with section 3.1.4 of [WIPO Overview 3.0](#), the Panel considers that the inclusion of the Complainant's LA HALLE trademarks in the disputed domain name creates a presumption that the disputed domain name was registered on a bad faith basis.

Likewise, based on the evidence provided by the Complainant (see annex 8) the disputed domain name initially resolved to a commercial website that reproduced merely the same content of the Complainant's official website and marketed the Complainant's products. This clearly intended to attract and mislead Internet users when searching for the Complainant's website and to direct them to a website from which the Respondent most probably derived commercial revenue by creating a likelihood of confusion with the Complainant's trademark. Clearly, the Respondent should have known about the existence of the Complainant when registering the disputed domain name.

Lastly, while the disputed domain name no longer resolves to an active website, such non-use does not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Here, given the totality of the circumstances, particularly the notoriety of the Complainant's trademarks and the identical composition of the disputed domain name, both factors rendering any plausible good faith use of the disputed domain name highly unlikely, the Panel finds that the Respondent's current passive holding of the disputed domain name does not prevent a finding of bad faith.

The Panel finds that the Complainant has established the third element 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 <lahalleoutlet.com> be transferred to the Complainant.

/Iris Quadrio/

Iris Quadrio

Sole Panelist

Date: March 11, 2024