

ADMINISTRATIVE PANEL DECISION

DUCASSE DEVELOPPEMENT SA v. Sergey Tayban

Case No. D2024-4914

1. The Parties

The Complainant is DUCASSE DEVELOPPEMENT SA, Belgium, represented by Cabinet Germain & Maureau, France.

The Respondent is Sergey Tayban, Ukraine.

2. The Domain Name and Registrar

The disputed domain name <lechocolat-alalducasse.com> is registered with NameCheap, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on November 27, 2024. On November 27, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 27, 2024, 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, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 28, 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 November 29, 2024.

The Center verified that the Complaint and 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 December 4, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 24, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 27, 2024.

The Center appointed Willem J. H. Leppink as the sole panelist in this matter on January 8, 2025. 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 following facts are undisputed.

The Complainant is part of the group of companies affiliated to Alain Ducasse, a distinguished chef and restaurateur.

The Complainant is the owner of several trademarks worldwide, such as but not limited to the following registrations:

- The International Trademark Registration ALAIN DUCASSE (word mark), with registration number 588791, designating inter alia Ukraine and with a registration date of July 15, 1992 for goods and services in classes 8, 11, 16, 18, 20, 21, 24, 25, 29, 30, 32, 33, 41 and 42;
- The European Union trademark registration ALAIN DUCASSE (word mark), with registration number 000865717, with a registration date of August 16, 1999 for goods and services in classes 29, 30 and 42;
- The International Trademark Registration LE CHOCOLAT ALAIN DUCASSE MANUFACTURE A PARIS (combined word / device mark), with registration number 1295375, designating inter alia China, Japan, Monaco, Switzerland, and the United States of America and with a registration date of January 28, 2016 for goods and services in classes 30, 32, and 43;
- The European Union trademark registration LE CHOCOLAT ALAIN DUCASSE MANUFACTURE A PARIS (combined word / device mark), with registration number 014635825 and with a registration date of January 21, 2016 for goods and services in classes 30, 32 and 43.

The abovementioned trademark registrations will hereinafter also be referred to in singular as the "Complainant's trademark".

The Complainant claims it is also the owner of multiple domain names, including and not limited to: <chocolatalainducasse.co.uk> , <chocolat-alainducasse.com> , <chocolatalainducasse.fr> , <lechocolatalainducasse.jp> , <lechocolatalainducasse.uk> , <leschocolats-alainducasse.com> and operates websites to which these domain names resolve.

All of the Complainant's trademark registrations were registered before the disputed domain name, which was registered on November 1, 2024.

At the time the Complaint was filed and currently, the disputed domain name is redirecting to the Complainant's official website, combined with a configuration for sending e-mails.

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.

Notably, the Complainant contends the following.

Alain Ducasse is a distinguished chef renowned for his contributions to French and international cuisine. Ducasse's culinary journey began in the southwest of France, where he developed a passion for cooking. Ducasse trained under esteemed chefs such as Michel Guérard, Gaston Lenôtre, Alain Chapel and Roger Vergé. In 1990 Ducasse's first hotel restaurant earned three Michelin stars. This marked the beginning of his illustrious career. Ducasse expanded his influence through various ventures. The Complainant has established a significant presence across Europe.

The disputed domain name is confusingly similar with the Complainant's trademark. The disputed domain name incorporates the Complainant's trademark LE CHOCOLAT ALAIN DUCASSE in its entirety, aside from the substitution of the letter "i" with the letter "l", which is virtually identical in appearance. For the average user, the disputed domain name would appear identical at first glance, creating a high risk of confusion or unintentional navigation to the incorrect, potentially malicious site. Furthermore, the disputed domain name is a clear example of *typosquatting*.

The Respondent has no rights or legitimate interests in the disputed domain name. There is no business affiliation between the Parties, nor any permission or license given to the Respondent to use the Complainant's trademark in any manner. Additionally, it is likely that consumers would be misled into thinking that the disputed domain name comes from the same undertaking or from affiliated companies. In addition, the Respondent uses the disputed domain name to redirect Internet users to the Complainant's official website, without any authorization of the Complainant. Thus, the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name.

Also, the Complainant considers that the redirecting of the Internet users from the disputed domain name to the Complainant's official website and the e-mail configuration strongly demonstrates the bad faith of the Respondent. Firstly, the redirection of the disputed domain name to the Complainant's official website indicates actual knowledge of the Complainant. This level of awareness precludes any claim of coincidental registration or ignorance of the Complainant's rights. Secondly, by redirecting the Internet users from the disputed domain name to the Complainant's official website, the Respondent creates a false sense of legitimacy for the disputed domain name and the Internet users will not identify such redirect. This tactic is particularly effective in deceiving users who may arrive at the disputed domain name due to an e-mail contact or a malicious link, particularly in phishing schemes or other fraudulent activities.

Furthermore, the combination of redirection of the disputed domain name to the Complainant's official website and the potential for e-mail misuse demonstrates both bad faith registration and use of the disputed domain name. The actions of the Respondent are clearly intended to exploit the Complainant's trademark, deceive Internet users and potentially facilitate fraudulent activities.

B. Respondent

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

6. Discussion and Findings

6.1. Procedural Issue – Respondent's Location

Under paragraph 10 of the Rules, the Panel is required to ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case, and also that the administrative proceeding takes place with due expedition. As the Respondent's mailing address is stated to be in Ukraine which is subject to an international conflict at the date of this Decision that may impact case notification, it is appropriate for the Panel to consider whether the proceeding should continue.

Having considered all the circumstances of the case, the Panel is of the view that it should.

The Center has employed all reasonably available means to deliver the Notification of Complaint to the Respondent. The notification was sent by registered mail and arrived in Ukraine (even though the postal address provided by the Respondent in the registration details of the disputed domain name contains a misspelling of the city name) with the last status of being registered for collection. As such the Panel notes that it is not clear whether the postal notification was delivered to the Respondent's address in Ukraine. However, the Notification of Complaint was also sent to the Respondent's e-mail address provided by the Registrar without receiving any delivery failure response, and the Respondent has not opposed to the continuation of the proceedings.

Moreover, as described below, the Panel has no doubt that the Respondent registered and has used the disputed domain name in bad faith to target the Complainant and mislead consumers.

6.2. Substantive Issues

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 or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the mark ALAIN DUCASSE is recognizable within the disputed domain name. Although the addition of other terms, here, "lechocolat-" may bear on assessment of the second and third elements, the Panel finds the addition of such term, as well as the substitution of the letter "i" in the Complainant's trademark with the letter "l", do not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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.

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.

Panels have held that a respondent's use of a complainant's mark to redirect users to the Complainant's own website would not support a claim to rights or legitimate interests. [WIPO Overview 3.0](#), section 2.5.3.

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

C. Registered and Used in Bad Faith

The Panel refers to its considerations under section 6.2.B.

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.

Paragraph 4 (b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

In the present case, the Panel notes that the Respondent has intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's trademark, notably through inclusion of the inherently misleading misspelling of the Complainant's trademark in the disputed domain name together with the term "lechocolat" (a French term for "chocolate") which designates the product for which the Complainant's trademark is registered and redirection of the disputed domain name to the Complainant's official website. [WIPO Overview 3.0](#), section 3.1.4.

Furthermore, panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

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 <lechocolat-alalInducasse.com> be transferred to the Complainant.

/Willem J. H. Leppink/

Willem J. H. Leppink

Sole Panelist

Date: January 21, 2025