

ADMINISTRATIVE PANEL DECISION

Laboratoire Terravita v. Thierry Le Spa, SARL Le Spa and Sylvie Schira,
Hotel du Lac
Case No. D2024-5035

1. The Parties

The Complainant is Laboratoire Terravita, France, represented by Coblenz Avocats, France.

The Respondents are Thierry Le Spa, SARL Le Spa, France and Sylvie Schira, Hotel du Lac, France, represented by Momentum Avocats, France.

2. The Domain Names and Registrars

The disputed domain name <spaterravita.com> is registered with GoDaddy.com, LLC

The disputed domain name <terravitaspa.com> is registered with OVH (altogether the “Registrars”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on December 6, 2024. On December 6, 2024, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On December 6, 2024, the Registrars transmitted by email to the Center their verification responses disclosing registrant and contact information for the disputed domain names which differed from the named Respondents (Registration Private, Domains By Proxy, LLC, Redacted for Privacy, sarl le spa) and contact information in the Complaint.

The Center sent an email communication to the Complainant on December 9, 2024 with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrars, requesting the Complainant to either file separate complaints for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all domain names are under common control. The Complainant filed an amendment to the Complaint on December 11, 2024.

On December 9, 2024, the Center informed the parties, in French and English, that the language of the registration agreement for the disputed domain name <terravitaspa.com> is French. On December 11, 2024, the Complainant confirmed its request that English be the language of the proceedings. The Respondents did not submit any comments on the Complainant's observations.

The Center verified that the Complaint together with the amendment to 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 in English and French the Respondents of the Complaint, and the proceedings commenced on December 13, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 2, 2025. On December 20, 2024, the Respondents requested an extension of the Response due date. In accordance with the Rules, paragraph 5(b), the Respondents were granted an automatic four calendar day extension. The Response was filed with the Center on January 3, 2025.

Upon the Complainant’s request, the proceeding was suspended from January 6 to February 5, 2025, for the purposes of settlement discussions. Proceeding was reinstituted on February 7, 2025, following the Complainant’s request.

The Center appointed Louis-Bernard Buchman as the sole panelist in this matter on February 12, 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.

On February 27, 2025, the Panel issued an Administrative Procedural Order inviting the Respondents to answer to the following questions: “When registering the disputed domain names, did it perform a trademark clearance search for the term “TERRAVITA”? If so, please explain what the results were and how did the Respondent address those. If not, please explain why. Was the Respondent aware of the Complainant and its business under the trademark TERRAVITA?” The Panel also invited the Complainant to answer the following questions: “What is the amount of its net sales (VAT not included) of TERRAVITA-branded products in each of its last 2 closed financial years? Was it aware of the trademark application of the Respondent? Did it file a trademark opposition? If so, please explain the outcome of the proceedings. If not, please explain why. Was the Complainant aware of other TERRAVITA registrations as a trademark by third parties?”. The Complainant filed its response on March 4 and the Respondents on March 5, 2025.

4. Factual Background

The Complainant is a French company, active since 2004, which sells health and beauty products under the TERRAVITA and TERRANATURA brands, notably through its website at <terravita.fr>. Its sales of TERRAVITA-branded products amounted to 3,29 million euros in the financial year 2022-2023 and to 5,37 million euros in the financial year 2023-2024.

The Complainant owns various trademark registrations for its TERRAVITA brand, including the French trademark TERRAVITA, registered under No. 4685665 on September 25, 2020 (hereinafter referred to as “the Mark”).

The Complainant is the registrant of a score of domain names, including <terravita.fr>, registered on March 27, 2016, which directs to its official website.

The disputed domain name <terravitaspa.com> was registered on July 31, 2024. The disputed domain name <spaterravita.com> was registered on August 5, 2024.

The Complainant has submitted evidence that the disputed domain names resolved to the same website or to websites with identical content, offering inter alia spa and relaxation services. At the time of this decision, the disputed domain names still resolve to the same website.

The Respondents have acknowledged that they have registered the disputed domain names on behalf of Société De L'Hôtel Du Lac, a French company owning a hotel in the Lyon metropolitan area which operates under the Double Tree by Hilton brand and has in its premises a spa operated under the TERRA VITA WELLNESS AND SPA brand, active since September 2024. Both registrants are employees of the company.

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 names.

Notably, the Complainant contends that:

- (i) the disputed domain names reproduce the Mark, in which the Complainant has rights, and are confusingly similar to the Mark insofar as the disputed domain names contain the Mark in their entirety, which remains recognizable in the disputed domain names;
- (ii) it never authorized the Respondents to use the Mark in any manner and it never had any affiliation with the Respondents, who have no rights or legitimate interests in respect of the disputed domain names;
- (iii) the Respondents have registered and are using the disputed domain names in bad faith; in particular, the Respondents had knowledge or should have knowledge of the Mark when registering the disputed domain names, and by creating confusion with the Mark, the Respondents are using the disputed domain names in bad faith.

The Complainant requests that the disputed domain names be transferred to the Complainant.

B. Respondents

The Respondents denied the Complainant's contentions, arguing that:

- (i) the disputed domain names are not confusingly similar to the Mark, which lacks distinctiveness. The term "TERRA VITA" meaning "land of life" in Italian or in Latin, has become a common expression used in various fields it emphasizes a connection to earth. It is a term frequently employed in the wellness sector, where it conveys the idea of drawing energy from nature's resources for healing and care;
- (ii) the Respondents registered the disputed domain names on behalf of Société De L'Hotel Du Lac which has a legitimate interest in respect of the disputed domain names as it is commonly known by the name TERRA VITA WELLNESS AND SPA, the disputed domain names are used for a bona fide offering of goods and services, and the Respondent has rights insofar as it holds the French trademark TERRA VITA WELLNESS AND SPA application, filed under No. 5087421 on October 3, 2024;
- (iii) the Respondents have registered and are using the disputed domain names in good faith, as the term "terravita" is not exclusive to the Complainant and is used by third-parties; despite the Complainant's assertions, its products have a limited recognition; and the services offered on the websites connected to the disputed domain names are not the same.

Accordingly, the Respondents request that the Complaint be denied.

C. Complainant's response to the Administrative Panel Procedural Order

When answering to the Administrative Panel Procedural Order, the Complainant claimed that it became

aware of the Respondents' French trademark application for TERRA VITA WELLNESS AND SPA as part of the trademark monitoring relating to its TERRAVITA trademark, and that it filed a partial opposition procedure against this application on November 26, 2024. The Respondents have until March 31, 2025, to respond to it.

D. Respondents' response to the Administrative Panel Procedural Order

When answering to the Administrative Panel Procedural Order, the Respondents claimed that it conducted a non-expert trademark search in class 44 (for "spa services") and found no TERRAVITA trademark. The Respondents were unaware of any well-known trademark for TERRAVITA, and not of the Complainant's business under the TERRAVITA trademark.

6. Discussion and Findings

6.1. Procedural Aspects

A. Request for Consolidation – Multiple Respondents

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are the same entity or mere alter egos of each other, or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

In the Response, the Respondents attest that "The two Disputed Domain Names were registered by Mrs Sylvie Schira and Mr. Thierry Lauvernet on behalf of the company SOCIETE DE L'HOTEL DU LAC. Mrs Sylvie Schira is an employee of this company (general manager) and Mr. Thierry Lauvernet is the spa operator".

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 4.11.2.

As regards common control, the Panel notes that:

- the disputed domain names were registered within a few days of each other;
- the disputed domain names resolve to the same website;
- the disputed domain names share the same structure, i.e. both contain the term "terravita", preceded or followed by the term "spa"; and
- in essence, the Respondents have conceded that the disputed domain names are subject to common control.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party, all the more so since the Respondents raised no objection to the consolidation request.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below as "the Respondent") in a single proceeding.

B. Language of the Proceeding

The language of the Registration Agreement for the disputed domain name <spaterravita.com> is English and French for <terravitaspa.com>. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that one of the registration agreements is in English, that English is the language most widely used in international relations, and that language requirements should not lead to undue burdens being placed on the parties and to undue delay to the proceeding.

The Respondent did not make any specific submissions with respect to the language of the proceeding and filed its Response in the English language.

In exercising its discretion power to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see [WIPO Overview 3.0](#), section 4.5.1).

In addition, pursuant to paragraph 10(c) of the Rules, the Panel must ensure that the administrative proceeding takes place with due expedition.

Having considered all the matters above, the Panel determines pursuant to paragraph 11(a) of the Rules that the language of the proceeding shall be English.

6.2. Requirements of Paragraph 4(a) of the Policy

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 names. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds 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.

In the present case, the comparison shows the mere addition in the disputed domain names of the word "spa", before or after the Mark.

The Panel finds that the Mark is recognizable within both disputed domain names.

Accordingly, the disputed domain names are confusingly similar to the Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Regarding the generic Top-Level Domain ("gTLD") ".com" in the disputed domain names, it is well established that a gTLD does not generally affect the assessment of a domain name for the purpose of determining identity or confusingly similarity with the trademark. [WIPO Overview 3.0](#), section 1.11.1.

Based on the available record, 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.

While 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 often-impossible 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. 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 Panel notes that the Complainant offers health and beauty products under the TERRAVITA trademark, and that the Respondent has used the disputed domain name to offer spa and relaxation services under the TERRA VITA WELLNESS AND SPA trademark.

The Complainant claims that the Respondent’s use infringes the Complainant’s trademark rights in TERRAVITA (French trademark TERRAVITA, registered under No. 4685665 on September 25, 2020, in classes 3, 4, 5, 29 and 32). The Respondent denies this trademark infringement since the parties are offering different services.

The Panel further notes that the Complainant has filed a partial opposition to Respondent’s trademark application (French trademark TERRA VITA WELLNESS AND SPA, filed under No. 5087421 on October 3, 2024, in classes 41 and 44) on November 26, 2024, to which the Respondent can respond until March 31, 2025.

Considering the ongoing opposition proceedings before the French Trademarks Registry, on balance the Panel considers therefore it is not possible to conclude that the Respondent does not have rights or legitimate interests in the disputed domain names.

Furthermore, independently of the result of the opposition proceedings, the Panel is of the opinion that the present dispute would more properly be characterized as a wider trademark dispute rather than the type of clearcut case of cybersquatting that would fit within the scope of the Policy.

The Complainant therefore has not established the second requirement under the Policy.

C. Registered and Used in Bad Faith

In view of the Panel’s ruling above in the second element paragraph, there is no need to address the issue of bad faith here.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Louis-Bernard Buchman/

Louis-Bernard Buchman

Sole Panelist

Date: March 12, 2025