



URS | DETERMINATION
(URS Procedure 9, URS Rules 13)

URS DISPUTE NO. 35C87390

Determination DEFAULT

I. PARTIES

Complainant: Pegase (FR)

Complainant's authorized representative: MIIP - MADE IN IP (FR)

Respondent: Domain Admin, Whoisprotection.cc (MY)

(collectively, 'the Parties')

II. THE DOMAIN NAMES, REGISTRY OPERATOR AND REGISTRAR

Domain Name: LAHALLE-ONLINE.SHOP

Registry Operator: GMO Registry, Inc.

Registrar: Web Commerce Communications Limited dba WebNic.cc

Domain Name: LAHALLEFR.SHOP

Registry Operator: GMO Registry, Inc.

Registrar: Web Commerce Communications Limited dba WebNic.cc

(collectively, 'the disputed domain names')

III. PROCEDURAL HISTORY

Complaint submitted: 2024-01-31 11:17

Lock of the domain names: 2024-02-05 16:40

Notice of Complaint: 2024-02-06 10:29

Default Date: 2024-02-21 00:00

Notice of Default: 2024-02-21 12:25

Panel Appointed: 2024-02-21 12:25

Default Determination issued: 2024-02-25 23:25

IV. EXAMINER

Examiner's Name: Gustavo Moser

The Examiner certifies that he has acted independently and impartially and to the best of his knowledge has no known conflict in serving as the Examiner in this URS administrative proceeding.

V. RELIEF SOUGHT

The Complainant requests that the disputed domain names be suspended for the balance of the registration period.

The Respondent has not submitted a Response.

VI. STANDARD OF REVIEW

Clear and convincing evidence.

VII. DISCUSSIONS AND FINDINGS

A. Disputed domain names

The disputed domain names were registered on the following dates:

- <lahalle-online.shop>: 20 January 2024
- <lahallefr.shop>: 18 January 2024

At the time of writing, the disputed domain names do not resolve to active websites (for present purposes, ‘the Respondent’s websites’).

B. Complainant:

B.1 Trade mark standing

For the purposes of this URS administrative proceeding, the Complainant relies on the following registered trade marks, amongst others:

- International trade mark registration no. 486315, registered on 6 July 1984, for the figurative mark LA HALLE AUX VETEMENTS, in class 25 of the Nice Classification;
- International trade mark registration no. 1213360, registered on 10 April 2014, for the figurative mark LA HALLE Mode, Chaussures & Maroquinerie, in classes 18, 25, and 35 of the Nice Classification; and
- International trade mark registration no. 1254519, registered on 19 March 2015, for the figurative mark LA HALLE Fashion, Shoes & Bags, in classes 18, 25, and 35 of the Nice Classification

(collectively or individually, ‘the Complainant’s trade mark’).

In addition to the above trade marks, the Complainant also owns trade mark rights in other fashion brands, most notably LH, LIBERTO, CREEKS and MOSQUITOS.

B.2 Complainant’s Factual Allegations

The Complainant is a French company operating in the fashion industry. It is the holder of renowned brand of women, men and children fashion.

The Complainant seeks to obtain the suspension of the disputed domain names on the grounds advanced in section B.4 below.

B.3 Preliminary Matter: Application for Consolidation



The Complainant has submitted an application for consolidation pre-emptively.

The Complainant avers that the disputed domain names are subject to a common control, thereby making the consolidation of the proceedings equitable and procedurally efficient ('the Complainant's Application for Consolidation').

The Complainant's Application for Consolidation is grounded on the following factors:

- i. the dispute domain names, which were registered contemporaneously and through the same registrar (Web Commerce Communication Ltd.), contain both the same generic Top-Level Domain ('gTLD') <.shop> and IP address;
- ii. the Whois information for each of the disputed domain names provides similar content;
- iii. the dispute domain names follow the same pattern, ie the Complainant's trade mark (LA HALLE) + descriptive word; and
- iv. the websites corresponding to the disputed domain names share identical or nearly identical content mimicking the Complainant's official website at <www.lahalle.com>.

For the foregoing reasons, the Complainant requests that the disputed domain names and the named Respondents be consolidated into a single administrative proceeding.

For present purposes, the registrants/holders on record of the disputed domain names are hereinafter collectively referred to as 'the Respondent'.

B.4 URS grounds

i. The disputed domain names are identical or confusingly similar to a word mark

The Complainant submits that the disputed domain names incorporate the Complainant's trade mark in its entirety; that the descriptive term 'fr' and 'online' in the strings of the disputed domain names do not add any distinctiveness.

The Complainant further submits that the suffix 'fr' in the disputed domain name <lahallefr.shop> relates to 'France' and has no other purpose than to mislead Internet users into thinking of a commercial link or connection with the Complainant. The descriptive term 'online' in the disputed domain name <lahalle-online.shop>, on its turn, is likewise deceiving in so far as it gives the impression of being a Complainant's online store.

ii. Respondent has no rights or legitimate interests to the disputed domain names

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain names. The Respondent has not been authorised by the Complainant to use the Complainant's trade mark or to register any domain name bearing the Complainant's trade mark. Furthermore, there is no legal or business relationship between the Parties.

iii. The disputed domain names were registered and are being used in bad faith

The Complainant submits that the disputed domain names were registered and are being used in connection with fraudulent websites which reproduce the Complainant's own website, for instance, trade mark, logo, pictures, and 'About us' section. Furthermore, the Respondent's websites claim to offer not only LA HALLE goods, but also LH, LIBERTO, CREEKS and MOSQUITOS items at reduced prices.

C. Respondent:

The Respondent has failed to serve a Response in this URS administrative proceeding, the result of which being that the Complainant's submissions are uncontested.

D. Procedural findings:

D.1 Complainant's Application for Consolidation

The Registrar's verification response has confirmed that the disputed domain names are owned by the same Registrant/Respondent. Therefore, the Complainant's Application for Consolidation has been superseded owing to the supervenient lack of cause of action.

D.2 Miscellaneous

Having reviewed the communications records, the Examiner finds that MFSD has discharged its responsibility under the URS Procedure paragraphs 3 and 4 and URS Rules paragraph 4.

In accordance with URS Rules Paragraph 9(d), in absence of a Response, the language of the Determination shall be English.

E. Findings of fact:

The disputed domain name <lahalle-online.shop> was registered on 20 January 2024.

The disputed domain name <lahallefr.shop> was registered on 18 January 2024.

At present, the disputed domain names do not resolve to active websites.

The Complainant has, to the satisfaction of the Examiner, adduced proof that the Complainant has trade mark rights in 'LA HALLE' formative trade marks in which 'la halle' is the most distinctive element.

F. Reasoning:

Pursuant to paragraph 13 of the URS Rules, the Examiner shall make a Determination of a Complaint in accordance with the URS Procedure, the URS Rules and any rule and principles of law that the Examiner deems applicable.

Paragraph 1.2.6 of the URS Procedure sets out the grounds which the Complainant must establish to succeed:

1. The disputed domain names are identical or confusingly similar to a word mark for which the Complainant holds a valid national or regional registration and that is in current use;
2. The Respondent has no rights or legitimate interests to the disputed domain names; and



3. The disputed domain names were registered and are being used in bad faith.

It is therefore incumbent on the Complainant the onus of meeting the above threshold. The evidentiary standard under the URS procedure is clear and convincing, which lays down the foundations for examiners to determine each of the three URS Procedure grounds.

1. The disputed domain names are identical or confusingly similar to a word mark

The Panel is satisfied that the Complainant owns trade mark rights in 'LA HALLE' formative trade marks, in which 'la halle' is the most distinctive element, since at least 1984 as supported by its submission into evidence of screenshots from the websites of the trade mark offices referencing the particulars of the Complainant's trade mark registrations.

The disputed domain names <lahalle-online.shop> and <lahallefr.shop> wholly incorporate the Complainant's trade mark. The descriptive word 'online' and the geographical abbreviation 'fr' for 'France' are immaterial in the Panel's view to produce any distinctive character and, therefore, insufficient overall to dispel the confusion with the Complainant's trade mark.

Accordingly, the Examiner finds that the disputed domain names are confusingly similar to the Complainant's trade mark, the result of which being that the Complainant has succeeded under paragraph 1.2.6.1 of the URS Procedure.

2. Respondent has no rights or legitimate interests to the disputed domain names

The Respondent has not provided a Response within the time prescribed under the URS Rules, or at all, and has thus failed to offer any explanation or justification for the matters raised by the Complainant in the context of this URS administrative proceeding. The Examiner is empowered to draw adverse inferences by such failure (URS Rules paragraph 12).

The Examiner notes that the Complainant firmly denies any affiliation and/or association with, or authorisation for, the Respondent of any nature. Moreover, the Complainant further argues that the Respondent is not known by the disputed domain names, and there is no evidence to the contrary on the record.

The Examiner also notes that the Complainant claims not to have authorised the Respondent to use the Complainant's trade mark LA HALLE nor to commercialise the Complainant's goods on the Respondent's websites. On this particular point, and to err on the side of caution, the Examiner takes stock of the jurisprudential views formed by domain name disputes under the UDRP Policy and UDRP Rules (see WIPO Jurisprudential Overview 3.0, paragraph 2.8), according to which resellers, distributors or service providers using a domain name containing a complainant's trade mark to undertake sales or repairs related to the complainant's goods or services may be making a bona fide offering of goods and services, and thus have a legitimate interest in such domain name. UDRP Panels have termed this as the 'Oki Data test' (Oki Data Americas, Inc. v. ASD, Inc., WIPO Case No. D2001-0903), which comprises the following four cumulative requirements:

- The respondent must actually be offering the goods or services at issue;
- The respondent must use the site to sell only the trade marked goods or services;

- **The website must accurately and prominently disclose the registrant's relationship with a trade mark holder** (emphasis added); and
- The respondent must not try to 'corner the market' in domain names that reflect the trademark.

The Respondent would fail to meet the Oki Data test, the Examiner being unable to locate any disclaimer regarding the relationship between the Parties on the screenshots of the Respondent's websites as provided by the Complainant. The Examiner is furthermore unconvinced that, before any notice of the dispute, the Respondent used, or made demonstrable preparations to use, the disputed domain names or a name corresponding to the disputed domain names in connection with a *bona fide* offering of goods or services.

For the foregoing reasons, and noting that the Respondent has not provided a Response to refute any of the allegations and evidence adduced by the Complainant in this URS dispute, the Examiner finds that the Complainant has made a *prima facie* showing of the Respondent's lack of rights or legitimate interests in the disputed domain names under paragraph 1.2.6.2 of the URS Procedure.

3. The disputed domain names were registered and are being used in bad faith

In order to meet the third requirement under the URS Procedure, the Complainant must provide evidence that the disputed domain names were registered and are being used in bad faith. The URS Procedure, in paragraph 1.2.6.3, enumerates non-exhaustive circumstances which would evidence bad faith registration and use of the disputed domain names by the Respondent, as follows:

- a. Circumstances indicating that the disputed domain name was registered or acquired primarily for the purpose of selling, renting, or otherwise transferring the disputed 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 the Respondent's out-of-pocket costs directly related to the disputed domain name;
- b. The disputed domain name was registered in order to prevent the trademark holder or service mark from reflecting the mark in a corresponding domain name, provided that the Respondent has engaged in a pattern of such conduct;
- c. The disputed domain name was registered primarily for the purpose of disrupting the business of a competitor; and
- d. By using the domain name, the Respondent intentionally attempted to attract for commercial gain, Internet users to the Respondent's website or other on-line location, by creating a likelihood of confusion with the Complainant's trade mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on the Respondent's website or location.

The Examiner has looked at the overall composite picture of events and finds it, collectively, to be sufficient to give rise to a finding of bad faith registration and use of the disputed domain names by the Respondent, owing to the following reasons:

- The disputed domain names <lahalle-online.shop> and <lahallefr.shop> wholly incorporate 'LA HALLE' formative trade marks in which 'la halle' is the most distinctive element;



- There is no credible explanation for the Respondent's choice of the disputed domain names, which were registered in 2024. The Complainant has been in operation for many years before, including through the use of the domain name <lahalle.com>, which was registered in 1997. The Examiner has no sympathy for the Respondent, particularly given the references to the Complainant and, most compellingly, the content of the Respondent's websites which resemble the Complainant's (as discussed further below);
- There is nothing on the record suggesting that the Respondent is affiliated or otherwise connected with the Complainant, and the Complainant in any event firmly denies any association;
- The Respondent's websites appear to have commercialised LA HALLE products in an unauthorised manner, and absent any disclosure as to the relationship between the Respondent and the Complainant. The Examiner finds that the Respondent has attempted to suggest an affiliation with, or a connection to, or an endorsement of the Complainant or, rather likely, to impersonate the Complainants through the use of the Complainant's trade mark on the Respondent's websites. The Respondent's behaviour would consequently fall in the realm of circumstance d. of paragraph 1.2.6.3 of the URS Procedure;
- The implausibility of any good faith use to which the disputed domain names may be put; and
- Taken the above together, the overall unlikelihood of any good faith use of the disputed domain names.

In view of the above, the Examiner finds that the Complainant has met the requirement under paragraph 1.2.6.3 of the URS Procedure.

4. Abusive Complaint

For the avoidance of doubt, the Examiner finds that the Complaint was not brought by the Complainant abusively nor does the Complaint contain any deliberate material falsehoods.

VIII. DETERMINATION

A. Demonstration of URS elements

Demonstrated

B. Complaint and remedy

Complaint: Accepts

Domain Name: LAHALLE-ONLINE.SHOP
Suspends for the balance of the registration period

Domain Name: LAHALLEFR.SHOP
Suspends for the balance of the registration period

C. Abuse of proceedings

Finding of abuse of proceedings: Not finds

D. Publication

Publication: Publish the Determination

SIGNATURE

Name: Gustavo

Surname: Moser

Date: 2024-02-25