



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

**URS DISPUTE NO. 404FE5BE**

Determination DEFAULT

**I. PARTIES**

Complainant(s): L'Occitane International S.A. (LU)  
Complainant's authorized representative: IP Twins (FR)

Respondent(s): Domain Admin, Privacy Protect, LLC (PrivacyProtect.org) (US)

**II. THE DOMAIN NAME(S), REGISTRY OPERATOR AND REGISTRAR**

Domain Name: LOCCITANEAUBRESIL.SHOP  
Registry Operator: GMO Registry, Inc.  
Registrar: Hostinger operations, UAB

**III. PROCEDURAL HISTORY**

Complaint submitted: 2024-05-15 14:00  
Lock of the domain name(s): 2024-05-16 03:34  
Notice of Complaint: 2024-05-16 08:33  
Default Date: 2024-05-31 00:00  
Notice of Default: 2024-06-01 18:16  
Panel Appointed: 2024-06-01 18:19  
Default Determination issued: 2024-06-03 14:55

**IV. EXAMINER**

Examiner's Name: Wilson Pinheiro Jabur

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 administrative proceeding.

**V. RELIEF SOUGHT**

The Complainant requests that the domain name 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. Complainant:**

The Complainant was founded in February 8, 2001 and is part of the L'OCCITANE group, a manufacturer and distributor of makeup and cosmetic products since 1952.

The Complainant further asserts to be the owner of numerous trademark registrations worldwide amongst which:

- European Union trademark registration No. 017439133 for the word mark L'OCCITANE AU BRÉSIL, registered on March 22, 2018, in classes 3 and 35;
- International trademark registration No. 1716733 for the word and device mark L'OCCITANE AU BRÉSIL, registered on January 26, 2023, in class 3; and
- Brazilian trademark registration No. 907827888 for the word mark L'OCCITANE AU BRÉSIL, registered on April 9, 2019, in class 3.

In addition to that, the Complainant also owns and operates the domain name <loccitaneaubresil.com > as its official website.

According to the Complainant, the disputed domain name is identical to the Complainant's prior domain name and trademarks and thus confusingly similar.

Furthermore, the Complainant contends that the Respondent has no right or legitimate interest in the disputed domain name given that the Respondent is not known as an individual or as an organization by the disputed domain name, also not holding trademarks in the disputed domain name or any other manner. Moreover, the disputed domain name is not being used in connection with a bona fide offer of goods or services given that it presently resolves to an error page.

As to the Respondent's bad faith, the Complainant alleges that the disputed domain name was registered and is being used in bad faith also in order to prevent Complainant from reflecting its trademark in a corresponding domain name should the Respondent having known of the Complainant and its fanciful and strong trademark, entirely reproduced in the disputed domain name. The Complainant further contends that the Respondent possibly registered the disputed domain name for the purpose of selling it to the Complainant.

## **B. Respondent:**

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

## **C. Procedural findings:**

Having reviewed the 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.

## **D. Findings of fact:**

The disputed domain name was registered on April 15, 2024 and presently does not resolve to an active webpage.



As seen above, the Complainant has shown trademark rights over L'OCCITANE AU BRÉSIL.

#### **E. Reasoning:**

In spite of the Respondent's default, URS Procedure 1.2.6 requires the Complainant to make a *prima facie* case, showing clear and convincing evidence for each of the three elements so as to have the disputed domain name suspended.

#### **1. The domain name(s) is(are) identical or confusingly similar to a word mark**

The Complainant is the owner of trademark registrations for the word trademark L'OCCITANE AU BRÉSIL in various jurisdictions.

The disputed domain name <LOCCITANE AUBRESIL.SHOP> is confusingly similar to the Complainant's trademark.

As previously recognized by past panels and summarized in the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), section 1.7 "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. This test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name. (This may also include recognizability by technological means such as search engine algorithms.)".

The Examiner thus finds that the Complaint meets the requirement of the URS 1.2.6 (i).

#### **2. Respondent has no rights or legitimate interests to the domain name(s)**

The Respondent, in not formally responding to the Complaint, has failed to invoke any of the circumstances, which could demonstrate, pursuant to the URS, any rights or legitimate interests in the disputed domain name. Nevertheless, the burden of proof is still on the Complainant to make a *prima facie* case against the Respondent.

In that sense, the Complainant indeed states that no authorization has been given by the Complainant to the Respondent to use the Complainant's trademark or to register the disputed domain name.

Also, the lack of evidence as to whether the Respondent is commonly known by the disputed domain name or the absence of any trademarks or trade names registered by the Respondent corresponding to the disputed domain name, corroborate with the indication of the absence of a right or legitimate interest.

Under these circumstances and absent evidence to the contrary, the Examiner finds that the Respondent does not have rights or legitimate interests with respect to the disputed domain name and has therefore met the requirement of the URS 1.2.6 (ii).

#### **3. The domain name(s) was(were) registered and is(are) being used in bad faith**

While the disputed domain name is not presently in use, previous panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding.

The totality of the circumstances of a particular case has to be taken into account and mainly the following facts of the present dispute demonstrate bad faith on the Respondent's side:

- (i) The degree of distinctiveness or reputation of the Complainant's trademark – the Complainant's L'OCCITANE AU BRÉSIL trademark is an arbitrary trademark and is used in various countries around the world by the Complainant;
- (ii) The failure of the Respondent to submit a response or to provide any evidence of actual or contemplated good faith use of the disputed domain name; and
- (iii) The implausibility of any good faith use to which the disputed domain name may be put taking into account the distinctiveness and use of the Complainant's trademark.

As confirmed by WIPO Overview 3.0 the mere registration of a domain name that is identical or confusingly similar to a famous or widely known trademark by an unaffiliated entity can by itself create a presumption of bad faith (section 3.1.4).

Therefore, the Examiner finds that the requirements set forth under Paragraph 1.2.6.3. of the URS Procedure have been satisfied by the Complainant.

#### **4. Abusive Complaint**

The Examiner finds that the Complaint was neither abusive nor contained material falsehoods.

### **VIII. DETERMINATION**

#### A. Demonstration of URS elements

Demonstrated

#### B. Complaint and remedy

Complaint: Accepts

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

#### C. Abuse of proceedings

Finding of abuse of proceedings: Not found

#### D. Publication

Publication: Publish the Determination

### **SIGNATURE**

Name: Wilson  
Surname: Pinheiro Jabur  
Date: 2024-06-03