



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

URS DISPUTE NO. 91678AF4

Determination DEFAULT

I. PARTIES

Complainant(s): Pagase (FR)
Complainant's authorized representative: MIIP – Made in IP (FR)

Respondent(s): Domain Admin, Whoisprotection.cc (MY)

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

Domain Name(s): LAHALLE-VIP.SHOP
Registry Operator: GMO Registry, Inc.
Registrar: Web Commerce Communications Limited dba WebNic.cc

III. PROCEDURAL HISTORY

Complaint submitted: 2024-03-05 15:18
Lock of the domain name(s): 2024-03-14 15:38
Notice of Complaint: 2024-03-15 19:22
Default Date: 2024-03-30 00:00
Notice of Default: 2024-03-30 16:17
Panel Appointed: 2024-03-30 16:25
Default Determination issued: 2024-04-01 09:58

IV. EXAMINER

Examiner's Name: Igor Motsnyi

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:

1. The Complainant states that it is a French company active in the fashion industry. It is the holder of various registered trademarks containing the “LA HALLE” word element and alleges that “LA HALLE” is a renowned brand of women, men and children fashion. The Complainant also refers to its other registered trademarks such as “LH”, “LIBERTO”, “CREEKS” and “MOSQUITOS”. The disputed domain name reproduces the “LA HALLE” trademark of the Complainant and the additional “VIP” element does not add any distinctiveness, as it is descriptive and, in the Complainant’s view, increases the likelihood of confusion. The <.shop> gTLD does not prevent the finding of a confusing similarity as it reinforces confusion among internet users looking for special offers in relation to “La Halle” clothes. Therefore, the disputed domain name is confusingly similar to the trademarks of the Complainant.
2. The Complainant claims that the Respondent has not been authorized by the Complainant to use its trademark in the disputed domain name or to register any domain name incorporating the “LA HALLE” trademark. There is no legal or business relationship between the Complainant and the Respondent. The Respondent does not have any prior rights in respect of the disputed domain name. The website by the disputed domain name is used in connection with a fraudulent website which reproduces the Complainant's official website including logos, pictures and trademarks of the Complainant. Such use does not create any legitimate rights or interests of the Respondent.
3. The Complainant alleges that the Respondent has intentionally intended to attract consumers by using the “LA HALLE” trademark in the disputed domain name. The Respondent reproduces the general appearance of the Complainant's official website and claims to offer “LA HALLE” and other branded goods of the Complainant at bargain prices to attract consumers and carry out scams. The Complainant claims that this constitutes “emblematic bad faith use”. The website by the disputed domain name contains the “TRUSTED STORE” sign, which shows bad faith since the Respondent has never been authorized by the Complainant. The Respondent attempts to impersonate the Complainant. The Complainant also claims that when registering the disputed domain name, the Respondent employed a privacy service to hide its identity and avoid being notified by the Complainant.

B. Respondent:

The Respondent did not submit a Response.

C. Procedural findings:

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.

D. Findings of fact:

The disputed domain name was registered on February 27, 2024. Although the disputed domain name resolves to an inactive page on the date of this Determination, the Complainant has provided evidence that the disputed domain name was used for hosting a website advertising and offering for sale the Complainant’s goods. Indeed, it contained pictures of the goods, logos and marks of the Complainant and pictures from its official website, as well as a sign “TRUSTED STORE” at the bottom of web pages.



The Complainant relies on the following registered trademarks:

- French trademark No.1599411 “LA HALLE AUX VETEMENTS” (word), registered since June 27, 1990 in respect of goods in class 25;
- International trademark under the Madrid system No. 486315 “LA HALLE AUX VETEMENTS” (word), registered since July 06, 1984 in respect of goods in class 25;
- International trademark under the Madrid system No. 1213360 “LA HALLE Mode, Chaussures & Maroquinerie” (word and device), registered since April 10, 2014 in respect of goods in classes 18 and 25 and services in class 35 and
- International trademark under the Madrid system No. 1254519 “LA HALLE Fashion, Shoes & Bags” (word and device), registered since March 19, 2015 in respect of goods in classes 18 and 25 and services in class 35.

The Complainant has also provided information about the registration of the other trademarks, such as “MOSQUITOS” and “CREEKS”. However, the Examiner disregards them for the purpose of this proceeding, since they are not confusingly similar to the disputed domain name. The Complainant has provided evidence that its “LA HALLE” trademarks are in use, namely screenshots of its official website and “Instagram” and “Facebook” accounts and a link to the Complainant’s website.

E. Reasoning:

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

The Complainant has provided proof of its registered word trademarks “LA HALLE” (word marks that include this element) and device trademarks containing the “LA HALLE” word element and proof of use of its trademarks.

The disputed domain name incorporates the “LA HALLE” element of the Complainant’s trademarks with the addition of a hyphen and the “vip” element that can be seen as a descriptive term.

As provided in the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“WIPO Overview 3.0”): “Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element.”

The trademark (the dominant element of the Complainant’s mark) is clearly recognizable within the disputed domain name and the descriptive element “vip” does not avoid confusing similarity.

The top-level domain <.shop> actually increases confusion as it is related to the Complainant’s activity in the fashion industry and sale of fashion goods.

The Examiner finds that the requirements set forth under Paragraph 1.2.6.1. of the URS Procedure have been satisfied.

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

The Complainant is required to make out a prima facie case that the Respondent lacks rights or legitimate interests; and once such prima facie case is made, the burden shifts to the Respondent who has to demonstrate his/her rights or legitimate interests.

The Complainant has made a prima facie case and the Respondent has failed to respond.

The Respondent is not authorized by the Complainant to use its trademarks in the disputed domain name and the parties are not related.

According to the provided evidence, the disputed domain name was previously used for a website advertising the Complainant's goods and offering them for sale with pictures and logos taken from the Complainant's own website.

The Respondent can be potentially considered as an unauthorized reseller and thus may have a legitimate interest under certain circumstances as provided by the "Oki Data Test" (see *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. D2001-0903, <okidataparts.com>) and 2.8.1 of WIPO Overview 3.0.

The Respondent in this case fails to fulfill the "Oki Data Test" requirements, namely the Respondent fails to "accurately and prominently disclose the registrant's relationship with the trademark holder". On the contrary, by using the "Trusted Store" sign as well as logos and pictures taken from the Complainant's own website, the Respondent creates a false impression of affiliation with the Complainant or endorsement by the Complainant.

Based on the provided evidence, it is clear that the Respondent has attempted to impersonate the Complainant. As noted in the URS dispute No. F92ADA5E (disputed domain name <FR-CAROLL.SHOP>): "impersonation is not fair and does not create legitimate right or legitimate interest". The facts of the present dispute resemble the facts of another dispute of the same Complainant – URS Dispute No. F296D2F8 (the disputed domain name was <LAHALLE-SALE.SHOP>) and the Respondent in this dispute and the Respondent in the URS Dispute No. F296D2F8 is identified as the same person from Malaysia.

Based on the above, the Examiner finds that the Respondent lacks any legitimate right or legitimate interest with respect to the disputed domain name as per the requirements set forth under Paragraph 1.2.6.2. of the URS Procedure.

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

The Examiner finds that the Complainant has provided clear and convincing evidence of Respondent's bad faith registration and use of the disputed domain name.

As provided in WIPO Overview 3.0, sec. 3.1: "bad faith is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark" and the following evidence inter alia indicates bad faith registration and use: (i) actual confusion, (ii) seeking to cause confusion, (iii) the lack of a respondent's own rights to or legitimate interests in a domain name and (iv) absence of any conceivable good faith use (sec. 3.1.4 of WIPO Overview 3.0).

The Examiner finds bad faith registration and use of the disputed domain name based on the following:

- date of registration of the disputed domain name and its composition– registered many years after registration of the Complainant's trademarks and incorporating the Complainant's mark with the addition of a descriptive term "vip";
- the Respondent is seeking to cause confusion by using the disputed domain name for advertising and offering the goods of the Complainant for sale and using logos and pictures from the Complainant's own website and by placing the "Trusted Store" sign at the bottom of webpages;
- the lack of Respondent's own legitimate rights or legitimate interests in the disputed domain name and absence of any conceivable good faith use under the circumstances of this dispute taking into account evidence provided by the Complainant, in particular, the screenshots of the Complainant's own website, screenshots of the website by the disputed domain name and the composition of the disputed domain name and evidence of impersonation.

Based on the above, in accordance with Paragraph 1.2.6.3 letter (d) of the URS Procedure, the Examiner finds that the Respondent has intentionally attempted to attract for commercial gain, Internet users to its websites by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website (see also previous URS determinations, e.g. URS DISPUTE NO. DD71CB05: "the Respondent reproduces the general appearance of the Complainant's official website...", URS DISPUTE



NO. 7092A080: “the Respondent's purpose is to capitalize on the reputation of the Complainant's "LA HALLE" trademark by diverting Internet users seeking the Complainant's products to his website...” and URS DISPUTE NO. F296D2F8).

Additionally, the Examiner finds that the Respondent is engaged in a pattern of conduct (based on the Examiner's determination against the same Respondent in URS dispute No. F296D2F8) and has registered the disputed domain name in order to prevent the Complainant from reflecting the mark in a corresponding domain name (Paragraph 1.2.6.3 letter b) of the URS Procedure).

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(s): LAHALLE-VIP.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: Igor
Surname: Motsnyi
Date: 2024-04-01