



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

**URS DISPUTE NO. ACAC6CBE**

Determination DEFAULT

**I. PARTIES**

Complainant(s): Laboratoires M&L  
Complainant's authorized representative: IP Twins (FR)  
Respondent(s): Privacy service provided by Withheld for Privacy ehf (Iceland)

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

Domain Name: loccitaneus.store  
Registry Operator: Radix Technologies Inc.  
Registrar: Namecheap, Inc.

**III. PROCEDURAL HISTORY**

Complaint submitted: 26 September 2024  
Lock of the domain name(s): 15 October 2024  
Notice of Complaint: 16 October 2024  
Default Date: 31 October 2024  
Notice of Default: 4 November 2024  
Panel Appointed: 4 November 2024  
Default Determination issued: 5 November 2024

**IV. EXAMINER**

Examiner's Name: Tobias Malte Müller

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:**

According to the Complainant's undisputed allegations and evidence, it has been founded in 1976 and is part of the L'Occitane group, a leader in the field of cosmetics.

Complainant contents that:

1. The disputed domain name is highly similar to the Complainant's earlier trademarks, with the addition of suffix "us", which is a generic term: the country code for USA. The top-level domain is not taken into consideration when assessing the risk of confusion;
2. The disputed domain name is not used in connection with a bona fide offering of goods or services. To the contrary, it resolves to an online shop which is a servile copy of Complainant's website and earlier trademark and logo L'OCCITANE EN PROVENCE. The Respondent offers products, on which the marks of Complainant are affixed in violation of the rights of Complainant, for sale. The products on Respondent's website are heavily discounted, contrary to the practice of Complainant. This use of the disputed domain name is indicative of bad faith registration and use pursuant to the URS Procedure;
3. As the disputed domain name is highly similar to the Complainants' trademark, a likelihood of confusion is presumed, and such confusion will inevitably result in the diversion of Internet traffic from Complainant's site to Respondent's fraudulent website. By using the domain name, Respondent intentionally attempted to attract for commercial gain, Internet users to Respondent's web site or other on-line location, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's web site or location or of a product or service on Respondent's web site or location. Respondent is equally disrupting Complainant's business.

### **B. Respondent:**

The Respondent did not reply to the Complaint.

### **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:**

It results from the evidence provided that the Complainant is the registered owner of several trademarks, amongst others verbal European trademark L'OCCITANE No. 000368159 registered on 1998-09-01 and covering goods and services in international classes 3, 5, 21, 24, 25.

The disputed domain name resolves to an online shop purporting to sell original L'OCCITANE products at heavily discounted prices and by using the Complainant's trademark L'OCCITANE.

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

The Examiner shall make a Determination of a Complaint in accordance with URS Procedure, URS Rules and any rules and principles of law that he/she deems applicable.

The Examiner shall determine the admissibility, relevance, materiality and weight of the evidence.

For the Complainant to succeed, it must establish that each of the three conditions under the URS Procedure 1.2.6 are satisfied:

- That the disputed domain name is identical or confusingly similar to a word mark;
- That the Registrant has no legitimate right or interest to the disputed domain name;
- That the disputed domain name was registered and is being used in bad faith.

The burden of proof shall be clear and convincing evidence.

Respondent did not submit any Response. Despite his default, URS Procedure 1.2.6 requires Complainant to make a prima facie case, proven by clear and convincing evidence, for each of the above listed three elements to obtain an order that a domain name should be suspended.

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

Pursuant to URS Procedure 1.2.6.1, the Complainant shall first of all prove that the domain name is 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.

It results from the undisputed evidence provided that the Complainant is the registered owner amongst others of verbal European trademark L'OCCITANE No. 000368159 registered on 1998-09-01 and covering goods and services in international classes 3, 5, 21, 24. Furthermore, Complainant gave evidence that it currently uses this L'OCCITANE trademark for skin care and cosmetic products.

The second level domain of the disputed domain name consists of the term "loccitaneus" and, therefore, includes the Complainant's trademark "L'OCCITANE" omitting only the hyphen, and combining it with the element "us", which is the two-letter country code for the United States of America. Neither these modifications, nor the TLD ".store" do affect the overall findings that the domain name is identical or confusingly similar to a word mark.

Under these circumstances, the Examiner finds that the requirements of URS Procedure 1.2.6.1 have been satisfied.

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

Pursuant to URS Procedure 1.2.6.2, the Complainant must secondly establish that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

URS Procedure 5.7 sets out examples of circumstances demonstrating bona fide registration of the domain name, e.g. if before any notice to the Respondent of the dispute, there is evidence of Respondent's use of, or demonstrable preparations to use, the domain name(s) or a name corresponding to the domain name(s) in connection with a bona fide offering of goods or services. In this context it is to be recalled, however, that under 8.2 URS Procedure the "burden of proof shall be clear and convincing evidence".

According to the Complaint, which has remained unchallenged, the Complainant has not authorized the Respondent's use of the trademark L'OCCITANE, e.g., by registering the disputed domain name comprising said trademark entirely. Furthermore, there is no evidence in the files to indicate that Respondent is commonly known by the disputed domain name. Finally, in the absence of any response, the panel is not aware of any own trademark rights by the Respondent consisting of the term "L'OCCITANE".

It is acknowledged that once the Panel finds such *prima facie* case is made, the burden of production shifts to the Respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the disputed domain name. In the case at issue the Respondent decided not to submit any Response or evidence of any concrete circumstances which could demonstrate, pursuant to the URS, that it has any rights or legitimate interests in the disputed domain name.

Under these circumstances, the Examiner finds that the requirements of URS Procedure 1.2.6.2 have been satisfied.

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

According to URS Procedure 1.2.6.3, the Complainant must thirdly establish that the disputed domain name has been registered and is being used in bad faith. URS Procedure 1.2.6.3 identifies non-exclusive list of circumstances that Examiner could consider as constituting bad faith.

URS Procedure 1.2.6.3 identifies non-exclusive list of circumstances that Examiner could consider as constituting bad faith. One of those circumstances is that the Respondent, by using the domain name, intentionally attempted to attract for commercial gain, Internet users to the Respondent's web site or other on-line location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's web site or location or of a product or service on the Respondent's web site or location.

It is the view of this Panel that these circumstances are met in the case at hand:



According to the Complaint and the evidence provided, which has remained unchallenged, the disputed domain name resolves to an online shop which mimics the Complainant's website by offering the Complainant's products under the trademark L'OCCITANE without the Complainant's authorization and for allegedly significantly discounted prices. However, the Complainant has not given any authorization for such use and is not linked to the Respondent or its website. For the Panel, it is therefore evident that the Respondent positively knew the Complainant's trademarks and products. Consequently, and in the absence of any evidence to the contrary, the Panel is convinced that the Respondent also knew that the disputed domain name included the Complainant's trademark L'OCCITANE almost identically (without the hyphen) when it registered the disputed domain name. Registration of a domain name which is confusingly similar to a third party's trademark, in awareness of said trademark and in the absence of rights or legitimate interests is suggestive of registration in bad faith.

Finally, the further circumstances surrounding the disputed domain name's registration and use confirm the findings that the Respondent has registered and is using the domain name in bad faith:

(i) at the date the Respondent registered the disputed domain name, the trademark L'OCCITANE existed and had been used for more than 20 years and the brand had been used since 1976 and

(ii) the Respondent did not provide any formal response with conceivable explanation of its behaviour within these proceedings so that no legitimate use of the disputed domain name by the Respondent is actually conceivable for the Panel.

In the light of the above, the Panel finds that the disputed domain name has been registered and is being used in bad faith pursuant URS Procedure 1.2.6.3.

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

The Examiner finds that the Complaint was neither abusive nor did it contain deliberate material falsehoods.

### **VIII. DETERMINATION**

#### **A. Demonstration of URS elements**

Demonstrated

#### **B. Complaint and remedy**

Complaint: Accepts

Domain Name: loccitaneus.store

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: Tobias Malte

Surname: Müller

Date: 2024-11-05