Decision for dispute CAC-UDRP-102273

Case number	CAC-UDRP-102273
Time of filing	2018-12-21 12:49:29
Domain names	loccitane.ooo

Case administrator

Name	Šárka Glasslová (Case admin)

Complainant

Organization	Laboratoires M&L

Complainant representative

Organization	Brandstock Domains GmbH

Respondent

Organization	Indent Technologies

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the record owner of the following trade mark registrations “L’OCCITANE“, worldwide:

Emirati trademark L’OCCITANE No. 205879 registered on October 12, 2014, designating services in international class 44; and

International trademark L’OCCITANE No. 533941 registered on February 27, 2018, duly renewed, and designating goods in international class 03; and

International trademark L’OCCITANE No. 579875 registered on November 5, 1991, duly renewed and designating goods in international classes 03, 04, 05, 16 and 21.

FACTUAL BACKGROUND

The Complainant is part of the L’Occitane Group. The L’Occitane Group is a global, natural and organic ingredient-based cosmetics and well-being products manufacturer and retailer. The Group has five brands (L’OCCITANE EN PROVENCE,

MELVITA, ERBORIAN, L'OCCITANE AU BRÉSIL and LIMELIFE BY ALCONE) in its portfolio and is committed to developing and retailing high quality products that are rich in natural and organic ingredients of traceable origins and respect the environment.

In 2015, the L'Occitane Group counted 2,797 retail locations on all continents throughout the world, with 1,384 owned retail stores. The Group employs more than 8,000 people around the world and generated a revenue of more than 1 billion US dollars in 2015. In 2015, net sales were above € 1 billion. At constant exchange rates, sales growth was 10.3%. Growth was primarily driven by China, Japan, Hong Kong, and the United States.

The Complainant holds numerous trademarks in the term L'OCCITANE, amongst which several are valid in the United Arab Emirates where the Respondent is supposedly located.

The disputed domain name "loccitane.ooo" has been registered with the Respondent on 8. November 2018.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i)of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

As the Respondent did not file an administratively compliant Response, pursuant to paragraph 14(b) of the Rules, the Panel may draw such inferences therefrom as it considers appropriate. Thus, the Panel accepts the contentions of the Complainant as admitted by the Respondent.

The Complainant has, to the satisfaction of the Panel, shown that the disputed domain name is identical or confusingly similar to the Complainant's trademarks (within the meaning of paragraph 4(a)(i) of the Policy). The Panel agrees with the Complainant that the disputed domain name is highly similar to the Complainant's trademarks. The disputed domain name wholly incorporates the trademark "L'OCCITANE". The (missing) apostrophe is not a valid character for domain name registration and the domain name corresponding to a particular word containing an apostrophe typically omits the apostrophe. The omission of an apostrophe in a domain name does not change the identity of the original word containing the apostrophe (WIPO Case D2012-0624), typically. The top level domain, even if a new one not that common yet, is to be neglected in this respect as well, as the public accepts it as a technically necessary suffix within the disputed domain name.

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy). No arguments, why the Respondent could have own rights or legitimate interests in the disputed domain name are at hand. In particular, the

Respondent is not using the disputed domain name in connection with a bona fide offering of goods or services. This results in particular from the fact that the disputed domain name resolves to the Emirati website of the Complainant ae.loccitane.com via framing, and not to an offer of own products. No contractual rights to use the Complainant's trademark are at hand. Further, the Respondent is not commonly known by the disputed domain name. Therefore, the Panel accepts the contentions of the Complainant that the Respondent has no such rights or legitimate interests in the disputed domain name.

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name to has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy). The timing of the registration of the disputed domain name indicates Respondent’s bad faith in registering such domain name, as, at that time, the Complainant’s trademark “L’OCCITANE” was already known for decades and protected in several countries including the United Arab Emirates, where the Respondent is located. Moreover, the Complainant’s trademark is a well-known trademark. Also the fact that the disputed domain name resolves to the Emirati website of the Complainant via framing indicates bad faith. There is no evidence that the Respondent has registered the disputed domain name freely and without reference to the Complainant’s trademarks.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **LOCCITANE.OOO**: Transferred

PANELLISTS

Name	**Dominik Eickemeier**

DATE OF PANEL DECISION 2019-01-21

Publish the Decision