Decision for dispute CAC-UDRP-101816

Case number	CAC-UDRP-101816
Time of filing	2017-12-19 10:22:36
Domain names	mm6maisonmargielasneakers.com

Case administrator

Name	Aneta Jelenová (Case admin)

Complainant

Organization	NEUF

Complainant representative

Organization	Brandstock Domains GmbH

Respondent

Organization	Niklas Kaestner

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 owner of several trademark registrations including the wording "MAISON MARGIELA", inter alia International registration no. 1251351 "MM6 Maison Margiela", registered on January 29, 2015 for various goods in classes 14, 18 and 25 (hereinafter referred to as the "Trademark").

FACTUAL BACKGROUND

The Complainant is a French fashion House, founded in Paris in 1988. The Complainant provides information on its goods and services online under numerous domain names, such as <maisonmargiela.com>.

The disputed domain name was registered on April 13, 2017 and is used in connection with an active website, where products of other fashion designers and famous brands are offered for sale at a reduced price.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:

The Complainant contends that the disputed domain name is identical to the Complainant's trademarks, which were registered prior to the disputed domain name.

Furthermore, the Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. In this regard, the Complainant states that the Respondent is not commonly known by the disputed domain name, is not affiliated with nor authorized by the Complainant in any way, that the Complainant does not carry out any activity for, nor has any business with the Respondent, and that neither license nor authorization has been granted to the Respondent to make any use of the Trademark or apply for registration of the disputed domain name by the Complainant.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. It contends that the disputed domain name is being used intentionally to attract Internet users to the Respondent's website for commercial gain by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation or endorsement of the website or the products promoted on it.

RESPONDENT:

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

Under paragraph 4(a) of the Policy, the Complainant must prove that each of the following three elements is present:

(i) the domain name is identical or confusingly similar to the Complainant's trade mark; and

(ii) the Respondent has no rights or legitimate interests in respect of the domain name; and

(iii) the domain name has been registered and is being used in bad faith.

The Panel accepts that the disputed domain name is confusingly similar to the Complainant's trademark as it fully includes such trademark. It is well established that a domain name that wholly incorporates a trademark may be confusingly similar to such trademark for purposes of the Policy despite the addition of generic terms, such as "sneakers".

The Complainant has substantiated that the Respondent has no rights or legitimate interests in the disputed domain name. The Panel finds that the Complainant has fulfilled its obligations under paragraph 4(a)(ii) of the Policy. The Respondent did

not deny these assertions in any way and therefore failed to prove any rights or legitimate interests in the disputed domain name.

The Panel is satisfied that the Respondent registered the disputed domain name with full knowledge of the Complainant and its rights in the Trademark as the Trademark is highly distinctive and well-established.

The Panel is also satisfied that the disputed domain name is being used in bad faith under paragraph 4(b)(iv) of the Policy on the basis that the website operating under the disputed domain name is intentionally trying to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of it.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **MM6MAISONMARGIELASNEAKERS.COM**: Transferred

PANELLISTS

Name	**Peter Müller**

DATE OF PANEL DECISION 2018-01-30

Publish the Decision