Decision for dispute CAC-UDRP-102461

Case number	**CAC-UDRP-102461**
Time of filing	**2019-04-26 09:54:21**
Domain names	**majedestyle.com**

Case administrator

Name	**Šárka Glasslová (Case admin)**

Complainant

Organization	**MAJE**

Complainant representative

Organization	**Nameshield (Laurent Becker)**

Respondent

Name	**Ren Mei**

OTHER LEGAL PROCEEDINGS

The Panel is unaware of any other proceedings that are pending or decided and are related to the disputed domain name.

IDENTIFICATION OF RIGHTS

Created in 1998, MAJE (the Complainant) is a company specialized in ready-to-wear collections and accessories for women. As a part of the SMCP group, the Complainant has a worldwide presence, with 538 points of sale in 39 countries.

The Complainant is the owner of several trademarks “MAJE”, such as:
- the trademark MAJE® n° 801247, registered since November 28th, 2002, and duly renewed for the classes 9, 14, 18 and 25;
- the trademark MAJE® n° 998746, registered since February 6th, 2009 for the class 3;
- the figurative trademark MAJE® n° 1370546, registered since July 20th, 2017 for the classes: 3, 9, 14, 18 and 25.

The Complainant also owns an important domain names portfolio containing the trademark MAJE®, such as the domain name <maje.com> registered and used since December 12th, 1996.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

By using the disputed domain name, the Respondent wanted to create a likelihood a confusion in the Internet users' mind. See similar CAC case n° 102382 MAJE v. enchong lin <majeoutlet.com> ("The disputed domain name has been pointed to a site offering clothing under the MAJE mark using the Complainant's official logo which does not make it clear that the site attached to the disputed domain name is not connected to the Complainant but appearing to be an official site of the Complainant. As such this is not a bona fide offering of goods or services and as it is commercial cannot be non commercial legitimate fair use. The Respondent does not have legitimate rights or interest in the disputed domain name.").

Please see FORUM Case No. FA 1031703, Minicards Vennootschap Onder FIrma Amsterdam v. Moscow Studios ("The Panel thus finds that Respondent had actual knowledge of Complainant's mark when registering the disputed domain name, and find bad faith registration and use under Policy paragraph 4(a)(iii).").

Please see WIPO Case No. D2004-0649, Columbia Insurance Company v. Pampered Gourmet ("Complainant has established that Respondent has registered and used the domain name in bad faith by showing that Respondent uses the domain name to intentionally try to attract, for commercial gain, visitors to Respondent's site, by creating a likelihood of confusion with Complainant's THE PAMPERED CHEF mark as to the source, sponsorship, affiliation, or endorsement of Respondent's site or the goods and services on Respondent's site. See Policy, paragraph 4(b)(iv).")

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

Identical or confusingly similar
The Complainant contends that the disputed domain name <www.majedestyle.com> is confusingly similar to the Complainant's trademark MAJE, which was chosen by the owner of the brand Judith Milgram to represent initials of first names of her loved ones. The disputed domain name incorporates in full the MAJE trademark, which has no other meanings in modern English, and is followed by a descriptive phrase "destyle", which suggests the domain name's association with the Complainant's brand. Since MAJE is in the industry of women's fashion items, the added description "destyle" does not change the nature of the business that the brand is in, and is likely to cause consumer confusion that the disputed domain name is related to the brand of the Complainant.
Like the Complainant suggests, it is well accepted that where the relevant trademark is recognizable within the disputed domain name, the addition of descriptive terms would not prevent a finding of confusing similarity. The presence of the TLD suffix "com" does not change the analysis. Usually, a domain name wholly incorporates a complainant's registered trademark is already sufficient to establish identify or confusing similarity within the meaning of the Policy, and the Complainant has cited numerous cases to buttress its argument.

The Panel therefore concludes that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights within the meaning of paragraph 4(a)(i) of the Policy.

2. No rights or legitimate interests

Although the Respondent did not file an administratively compliant (or any) response, the Complainant is still required to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.
In this case, because the registrant has used a proxy service in registering the domain name, additional information of the registrant needs to be discovered. The uncovered identity of the registrant, an individual named “Ren Mei” seems to have no connection with the Complainant’s brand. The Complainant contends that no evidence suggests that the Respondent has been known in any way by the disputed domain name or by the distinctive part “MAJE”. The Complainant did not grant any license or authorization to the Respondent to register or use the disputed domain name, nor the use of the Complainant’s trademark on every page of the disputed website. Before the dispute, the Respondent also has not used the disputed domain name or a name corresponding to the disputed domain name in connection with a bona fide offering of goods or services.
On the basis of preponderance of evidence, and in the absence of any evidence to the contrary or any administratively compliant response being put forward by the Respondent, the Panel finds that the Respondent does not have rights or legitimate interests in the disputed domain name within the meaning of paragraph 4(a)(ii) of the Policy.

3. Bad faith
By trying to establish the bad faith element of paragraph 4(a) of the Policy, the Complainant has primarily attempted to rely on paragraph 4(b)(i) and 4(b)(iv) of the Policy.
As contended by the Complainant, it is true that UDRP Panels have consistently held that the mere registration of a domain name that is confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. However, many instances here have collectively pointed to the conclusion in this case that the disputed domain name has been registered and used in the way attempting to attract for commercial gains by creating a likelihood of confusion with the complainant’s trademark. The Respondent never had bona fide business establishments related to the contents of its website. Moreover, it listed the Complainant’s well-known trademark on its website without the authorization of the Complainant, attempting to derive potential traffic for its own website, in addition to commercial gains.
In addition, based on screenshots of the website that the disputed domain name resolves to, the website seems to have misled internet users and consumers for commercial gains into thinking that the website belongs to the “MAJE” brand owner.
Many instances have collected point to the conclusion that the domain name has been registered and is being used in bad faith. Like the Complainant contended here, the Respondent was clearly aware of the existence of the Complainant’s brand at the time of registering the domain name, has no bona fide business establishments related to the contents of the website, tries to use the Complainant’s readily established trademark to derive commercial gains for itself, etc.
Therefore, in the absence of any evidence to the contrary (or any administratively compliant response) being put forward by the Respondent, the Panel determines that the disputed domain name was registered and is being used in bad faith within the meaning of paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **MAJEDESTYLE.COM**: Transferred

PANELLISTS

Name	**Carrie Shang**

DATE OF PANEL DECISION 2019-06-15