Decision for dispute CAC-UDRP-103035

Case number	CAC-UDRP-103035
Time of filing	2020-04-29 11:35:32
Domain names	sandros-paris.com

Case administrator

Name	Šárka Glasslová (Case admin)

Complainant

Organization	SANDRO ANDY

Complainant representative

Organization	Nameshield (Laurent Becker)

Respondent

Name	Deigo Deigo

OTHER LEGAL PROCEEDINGS

To the best of the Panel's knowledge, there are no other legal proceedings, pending or decided, in relation to the disputed domain name.

IDENTIFICATION OF RIGHTS

In support of its Complaint, the Complainant has provided evidence of its registration of the following trademarks:

- International Registration No. 827287, SANDRO, registered on 4 March 2004;

- European Union Trade Mark No. 008772568, SANDRO, registered on 27 July 2010; and

- French Trademark Registration No. 4073924, SANDRO PARIS, registered on 6 March 2014.

FACTUAL BACKGROUND

Founded in 1984, the Complainant is a French ready-to-wear fashion company. Since 1984, the Sandro brand has expanded to offer both men's and women's clothing at 593 points of sale (as of December 2017) in 37 countries.

For use in connection with the Complainant's Sandro-branded clothing, the Complainant has acquired trademarks for SANDRO and SANDRO PARIS, registered in various jurisdictions throughout the world, as outlined in the rights section

above. The Complainant also owns the domain name <sandro-paris.com>, which it uses in connection with its online-retail website to market its products to consumers in the European Union, the United States and China.

The disputed domain name was registered on 21 April 2020. The disputed domain name does not resolve to an active website.

PARTIES CONTENTIONS

COMPLAINANT

The Complainant submits that the disputed domain name is confusingly similar to its SANDRO trademark. The Complainant asserts that the addition of the letter "s", for "Sandro", and the geographical term "Paris", referring to the city where the Complainant has its head office, is not sufficient to escape the finding that the disputed domain name is confusingly similar to the Complainant's SANDRO trademark.

The Complainant submits that the Respondent has no rights or legitimate interests in the disputed domain name. According to the Complainant, the Respondent is not related to the Complainant in any way, nor does the Respondent carry out any activity for or have any business with the Complainant. No authorization has been granted for the Respondent to make use of the Complainant's SANDRO trademark, or to apply for registration of the disputed domain name containing the Complainant's trademark. The Complainant notes that the disputed domain name is inactive, and asserts that the Respondent is not using the disputed domain name for any bona fide offering of goods or services. The Complainant asserts that the Respondent is not known by the disputed domain name. The Complainant further submits that the disputed domain name constitutes a typosquatted version of the Complainant's SANDRO PARIS trademark.

The Complainant submits that the disputed domain name was registered and is being used in bad faith. The Complainant argues that the Respondent deliberately chose to associate the Complainant's SANDRO trademark in the disputed domain name with the geographical term "Paris", noting that the Complainant is established in Paris. The Complainant notes that a Google search for the terms "Sandro Paris" returns results relating exclusively to the Complainant. The Complainant submits that the SANDRO trademark has the status of a reputed trademark with substantial and widespread recognition throughout the world. The Complainant therefore asserts that it is reasonable to infer that the Respondent registered the disputed domain name with full knowledge of the Complainant's trademarks. Although the disputed domain name is inactive, the Complainant submits that it is not possible to conceive of any plausible actual or contemplated use of the disputed domain name on the part of the Respondent that would not be illegitimate. The Complainant further notes that the disputed domain name has active mail-exchanger ("MX") records, suggesting that the disputed domain name may be actively used for email purposes. The Complainant submits that any email emanating from the disputed domain name could not be used for any good-faith purpose.

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

In order to prevail in its Complaint, the Complainant must prove, on the balance of probabilities, that it has satisfied the requirements of paragraph 4(a) of the Policy:

(i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;

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

(iii) the disputed domain name was registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Panel finds that the Complainant has established rights in the SANDRO and SANDRO PARIS trademarks, the registration details of which are provided above.

The disputed domain name incorporates the Complainant's SANDRO trademark in its entirety, altered by the addition of the letter "s" to the Complainant's SANDRO mark, followed by a hyphen and the geographical term "Paris", under the generic Top-Level Domain ("gTLD") ".com". The addition of the letter "s" and the term "Paris" does not prevent a finding of confusing similarity with the Complainant's SANDRO trademark, which remains clearly identifiable in the disputed domain name; see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), section 1.8.

The Panel further notes that the disputed domain name also comprises the Complainant's SANDRO PARIS trademark, differing only by the addition of the letter "s" after the "sandro" element, and a hyphen in the place of a space between the elements "sandros" and "Paris". A domain name which consists of an obvious or intentional misspelling of a trademark is considered to be confusingly similar to the relevant trademark for purposes of the first element of the Policy; see WIPO Overview 3.0, section 1.9. The Panel further finds that the addition of the letter "s" and inclusion of a hyphen in the place of a space (being incapable of representation per se in a domain name) does not serve to avoid a finding of confusing similarity between the disputed domain name and the Complainant's SANDRO PARIS trademark.

The gTLD ".com" may be disregarded for the purposes of comparison under the first element, being a standard registration requirement; see WIPO Overview 3.0, section 1.11.1.

The Panel finds the disputed domain name to be confusingly similar to the Complainant's trademarks. The Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

While the overall burden of proof in UDRP proceedings is on the complainant, prior UDRP panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element; see WIPO Overview 3.0, section 2.1.

As noted above, there is no relationship between the Parties, and the Complainant has not granted any authorization for the

Respondent to make use of the Complainant's trademarks in a domain name or otherwise.

The disputed domain name does not resolve to an active website. The Respondent has not come forward with evidence of any demonstrable preparations to use the disputed domain name in connection with a bona fide offering of goods or services, as contemplated by paragraph 4(c)(i) of the Policy. The Respondent's name is listed in the WhoIs as "Deigo Deigo", which bears no resemblance to the disputed domain name whatsoever. There is no evidence of the Respondent making any legitimate noncommercial or fair use of the disputed domain name within the meaning of paragraph 4(c)(iii) of the Policy.

The Panel finds that the Respondent has established a prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name. Despite having been properly notified of the present Complaint, the Respondent has failed to come forward with any assertions supported by relevant evidence that would serve to rebut the Complainant's prima facie case. Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the dispute domain name. The Complainant has satisfied the requirements of paragraph 4(a)(ii) of the Policy.

C. Registration and Use in Bad Faith

As noted above, the Complainant was founded in 1984. The Complainant has its headquarters in Paris, France, with well over 500 points of sale in 37 countries throughout the world. The Complainant's SANDRO trademark was registered as early as 4 March 2004, some 16 years prior to the registration of the disputed domain name. The Panel finds that the Complainant has established an international reputation in its SANDRO and SANDRO PARIS trademarks, and that its SANDRO trademark is, in the minds of the relevant public, associated with Paris, France – the city from which it originates.

In light of the above, the Panel infers that the Respondent's composition of the disputed domain name was not coincidental. Rather, the Panel finds it more likely than not that the Respondent was well aware of the Complainant and its trademark rights, and registered the disputed domain name in order to create a misleading impression of association with the Complainant. Such an inference is affirmed by the similarity between the disputed domain name <sandros-paris.com> and the Complainant's official domain name <sandro-paris.com>. There being no authorization or relationship between the Parties giving rise to any legitimate interest in the disputed domain name on the part of the Respondent, the Complainant finds that the disputed domain name was registered in bad faith.

From the inception of the UDRP, panelists have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding; see WIPO Overview 3.0, section 3.3. In this regard, the panel notes that the Complainant's SANDRO and SANDRO PARIS trademarks are widely known and readily associated with the Complainant and its ready-to-wear clothing items. The Respondent has failed to file a Response or to otherwise provide any evidence of actual or contemplated good-faith use of the disputed domain name. The Panel accepts the Complainant's assertion that there is no plausible active use that the Respondent could make of the disputed domain name that would not be illegitimate. Indeed, in light of the similarity between the disputed domain name and the Complainant's official domain name <sandro-paris.com>, the disputed domain name carries with it an inherent threat to the Complainant, as it could easily be used in an effort to mislead consumers by impersonating the Complainant, through an active website, or email, or both.

For the foregoing reasons, the Panel finds that the disputed domain name was registered and is being used in bad faith. The Complainant has satisfied the requirements 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. **SANDROS-PARIS.COM**: Transferred

PANELLISTS

Name	**Jane Seager**

DATE OF PANEL DECISION 2020-06-08

Publish the Decision