

Decision for dispute CAC-UDRP-104297

Case number CAC-UDRP-104297

Time of filing 2022-01-27 09:33:00

Domain names isabelmarant.xyz

Case administrator

Organization Denisa Bilík (CAC) (Case admin)

Complainant

Organization IM PRODUCTION

Complainant representative

Organization NAMESHIELD S.A.S.

Respondent

Organization LIUQINGRU

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 owns a large portfolio of trademarks including the wording "ISABEL MARANT" in several countries, such as International trademark ISABEL MARANT n° 1284453, registered since November 16, 2015 and International trademark ISABEL MARANT n°001035534 registered since May 3, 2000.

Furthermore, the Complainant owns multiple domain names consisting in the wording "ISABEL MARANT", such as <isabelmarant.com> registered since April 20, 2002.

FACTUAL BACKGROUND

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

The Complainant is a French company specializing in the manufacture and marketing of ready-to-wear, shoes, handbags and jewellery. The Complainant markets these products under the brand "ISABEL MARANT".

The disputed domain name <isabelmarant.xyz> was registered on October 21, 2021 and redirects to a DAN.COM page where the domain name is offered for sale for 788 USD.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:

The Complainant contends that:

1. The disputed domain name is identical to the Complainant's trademark.

The Complainant states that the disputed domain name includes in its entirety the Complainant's trademark without any adjunction of letter or word.

Further, the Complainant asserts that the addition of the new gTLD ".XYZ" is not sufficient to escape the finding that the disputed domain name is confusingly similar to the Complainant's trademark.

2. The Respondent does not have any rights or legitimate interest in the disputed domain name.

The Complainant contends that the Respondent is not affiliated with nor authorized by the Complainant in any way. The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant does not carry out any activity for, nor has any business with the Respondent. Neither licence nor authorization has been granted to the Respondent to make any use of the Complainant's trademark ISABEL MARANT, or apply for registration of the disputed domain name by the Complainant.

Furthermore, the disputed domain name points to a DAN.COM page where the domain name is offered for sale for 788 USD. The Complainant contends that this general offer to sell the disputed domain name is evidence of the Respondent's lack of rights or legitimate interest.

3. The disputed domain name has been registered and is being used in bad faith.

The Complainant contends that, given the distinctiveness of the Complainant's trademark and its reputation, it is reasonable to infer that the Respondent has registered and used the domain name with full knowledge of the Complainant's trademark. In support of this, the Complainant refers to WIPO Case No. D2016-2097, IM Production v. Erica Wong ("The Panel is satisfied that the ISABEL MARANT trade mark is sufficiently well-known in China that, in all likelihood, the Respondent would have been aware of the Complainant's trade mark at the time the disputed domain name was registered.").

The Complainant asserts that the Respondent fails to make an active use at the disputed domain name, and that failure to make an active use of the disputed domain name is evidence of bad faith registration and use.

Furthermore, the Complainant contends that the Respondent has registered the disputed domain name only to sell it back for an amount that exceeds the out-of-pocket costs, which evinces bad faith registration and use.

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

A) Confusing similarity

The disputed domain name contains the Complainant's registered trademark ISABEL MARANT in its entirety with the addition of the new gTLD ".XYZ".

The addition of the gTLD to a trademark does not create a new or different right to the mark or diminish confusing similarity.

B) Lack of legitimate rights or interests

The disputed domain name is a distinctive, non-descriptive name. It is unlikely that the Respondent registered the disputed domain name without having the Complainant firmly in mind. The Complainant's assertions that the Respondent is not commonly known by the disputed domain name and is not affiliated with nor authorized by the Complainant are sufficient to constitute a prima facie demonstration of the absence of rights or legitimate interests in the disputed domain name on the part of the Respondent. The burden of evidence therefore shifts to the Respondent to show, using tangible evidence, that it does have rights or legitimate interests in the disputed domain name. The Respondent has made no attempt to do so.

domain name. The Respondent has made no attempt to do so.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

C) Registered or Used in Bad Faith

The Complainant gives sound bases for its contention that the disputed domain name was registered and has been used in bad faith.

Firstly, owing to the distinctiveness of the Complainant's trademark, it is reasonable to infer that the Respondent registered the disputed domain name with full knowledge of the Complainant's trademark, and so the Panel finds on the balance of probabilities that the Respondent was aware of the Complainant's trademark when registering the disputed domain name. Secondly, the Panel accepts the Complainant's unchallenged assertion that the Respondent registered the disputed domain name with the aim of selling it back for an amount that exceeds the out-of-pocket costs.

Thirdly, it appears that the Respondent is passively holding the disputed domain name.

Fourthly, the Respondent has not responded to nor denied any of the assertions made by the Complainant in this proceeding.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. ISABELMARANT.XYZ: Transferred
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PANELLISTS

Name	Dr. Fabrizio Bedarida
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DATE OF PANEL DECISION 2022-02-22

Publish the Decision
