

## Decision for dispute CAC-UDRP-104578

Case number CAC-UDRP-104578

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Time of filing 2022-05-13 09:20:53

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Domain names isabelmarant.space

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### Case administrator

Organization Denisa Bilík (CAC) (Case admin)

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### Complainant

Organization IM PRODUCTION

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### Complainant representative

Organization NAMESHIELD S.A.S.

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### Respondent

Name Lihua Peng

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#### 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.

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#### IDENTIFICATION OF RIGHTS

The Complainant owns various "ISABEL MARANT" trademarks, including the

- international trademark registration no. 1284453 "ISABEL MARANT", registered since November 16th, 2015, for numerous goods in classes 4, 8, 11, 16, 20, 27, and 28 and protected in various countries (including China), and
- European trademark no. 001035534 "ISABEL MARANT", registered since May 3rd, 2000, for numerous goods in classes 3, 14, and 25.

The Complainant also owns various domain names comprising the words "ISABEL MARANT", including the domain name <isabelmarant.com> which was registered on April 20th, 2002, and is used for the Complainant's own website.

The disputed domain name was registered on May 6th, 2022, so that the Complainant's trademarks predate the registration of the disputed domain name.

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#### 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 shoes, handbags and jewellery. The Complainant markets these products under the brand "ISABEL MARANT".

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

The disputed domain name redirects to a website purporting to be an online store selling the Complainant's "ISABEL MARANT" products at discounted prices, thereby attempting to mislead consumers into thinking that the goods purportedly offered for sale on this website originate from the Complainant. There is no information provided on the website that would identify the Respondent (or any other third party) as its owner.

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### PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

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### 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).

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### 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).

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### 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).

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### 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.

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### PRINCIPAL REASONS FOR THE DECISION

Apart from an omitted space (which for technical reasons cannot be part of a domain name) and the top-level domain ".space" (which is also a technical necessity) the disputed domain name is identical to the Complainant's protected brand name "ISABEL MARANT". The disputed domain name is therefore identical to the Complainant's trademark (within the meaning of paragraph 4(a)(i) of the Policy).

The Panel also finds that the Complainant successfully submitted prima facie evidence that the Respondent has made no use of, or demonstrable preparations to use, the disputed domain names in connection with a bona fide offering of goods or services, nor is the Respondent making a legitimate non-commercial or fair use of the disputed domain names, nor is the Respondent commonly known under the disputed domain name. This prima facie evidence was not challenged by the Respondent.

It is not clear whether or not the products being offered for sale on the Respondent's website are original "ISABEL MARANT" products, i.e., whether the Respondent is a legitimate reseller or distributor of the Complainant's own products. It is possible that resellers, distributors, or service providers use domain names like the disputed domain name for a bona fide offering of

goods and services (within the meaning of paragraph 4(c)(i) of the Policy), and thus have a legitimate interest in such domain name. According to the well-established “Oki Data test” (cf. Oki Data Americas, Inc. v. ASD, Inc., WIPO Case No. D2001-0903, <okidataparts.com>; please see section 2.8 of the WIPO Jurisprudential Overview 3.0 for more details), however, the following cumulative requirements must be met in such cases:

- (i) the Respondent must actually be offering the goods or services at issue;
- (ii) the Respondent must use the site to sell only the trademarked goods or services;
- (iii) the site must accurately and prominently disclose the registrant’s relationship with the trademark holder; and
- (iv) the Respondent must not try to “corner the market” in domain names that reflect the trademark.

The Respondent does not meet requirement (iii) and therefore fails the Oki Data test.

Given the Respondent’s prominent use of the Complainant’s “ISABEL MARANT” name and logo on the website it is evident that the Respondent had the Complainant’s trademark in mind when registering the disputed domain name. In the absence of a Response, the Panel infers that by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, internet users to his website by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of this website and the Respondent’s services offered on it (within the meaning of paragraph 4(b)(iv) of the Policy).

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FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. ISABELMARANT.SPACE: Transferred

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## PANELLISTS

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| Name | Dr. Thomas Schafft |
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DATE OF PANEL DECISION 2022-06-24

Publish the Decision

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