

Decision for dispute CAC-UDRP-104573

Case number	CAC-UDRP-104573
Time of filing	2022-05-11 09:00:19
Domain names	isabelmarantetoile.store

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (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	Ou Jian
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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.

IDENTIFICATION OF RIGHTS

The Complainant owns a large portfolio of trademarks of "ISABEL MARANT" in several countries, such as the international trademark ISABEL MARANT® n° 1284453, registered since November 16, 2015 and the European trademark ISABEL MARANT® n°001035534 registered since 1998.

The Complainant also 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", and has multiple stores around the world.

The Complainant states that the disputed domain name <isabelmarantetoile.store> is confusingly similar to its trademark ISABEL MARANT® and its associated domain names. The Complainant explained that the addition of the French wording "ETOILE" (meaning "STAR") is not sufficient to avoid the likelihood of confusion, and points out that the addition of the term "ETOILE" to the trademark ISABEL MARANT cannot be coincidental, as the Complainant has a collection named "ETOILE". The Complainant states past UDRP Decisions to support its arguments.

The Complainant also argues the Respondent does not have any rights nor legitimate interests in the disputed domain name. All the Google results for the term "ISABEL MARANT ETOILE" refer to the Complainant, its trademark and collection of clothes (e.g. etoile). The Complainant states the distinctiveness of the Complainant's trademark, and its reputation and describes the content on the Website under the disputed domain name, which gives the false impression that the Website emanates from the Complainant. This supports registration in bad faith reinforcing the likelihood of confusion, as Internet users are likely to consider the disputed domain name as in some way endorsed by or connected with Complainant.

The Complainant contends that the Respondent registered and is using the disputed domain name in bad faith, with the only intention to attract for commercial gain internet users to the Respondent's website.

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

i. Identical or Confusingly Similar:

The Panel finds that the disputed domain name <isabelmarantetoile.store> is confusingly similar to the Complainant's trademark ISABEL MARANT® and its associated domain names. The domain name contains the Complainant's owned trademark ISABEL MARANT in its entirety, with the sole addition of the generic term "etoile", which in English means "star", and is descriptive of one of the Complainant's recent collection's named "ETOILE".

Additionally, besides past Panels commonly stated that the New gTLD is not relevant in the appreciation of confusing similarity, in this case, ".store" adds confusion as the Complainant has multiple stores around the world.

As conclusion, 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).

ii. Rights or Legitimate Interests:

The Panel finds the Complainant has made a prima facie case that the Respondent lacks rights or legitimate interests. Based on the evidence provided as well as the independent searches made by this Administrative Panel, the Panel finds that the Respondent is not commonly known by the disputed domain name, nor has the Complainant authorized the Respondent to use its well-known trademark. The Panel also notes that the Respondent has not rebutted the Complainant's statements and has filed no comments nor provided a response to explain any legitimate reason why it should be able to use the disputed domain name.

Additionally, the Panel notes that the contact details provided by the Respondent to the Registrar do not correspond to real contact details in Shanghai or China. The use of fake addresses or intentionally trying to hide the identity of the Respondent, both add a finding of bad faith. See WIPO Case No. D2021-3060 "the use of a privacy service together with the use of a fake address are an inference of bad faith."

As such, 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.

iii) Registration and Use in Bad Faith:

The Panel finds that, given the distinctiveness of the Complainant's trademark and its reputation worldwide, it is unlikely that the Respondent did not know about the well-known brand of the Complainant when registering the disputed domain name (as stated by the Complainant, 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 Panel notes the several decisions mentioned by the Complainant regarding its well-known brands in other UDRP Decisions over the terms "ISABEL MARANT" (e.g. WIPO Case No. D2021-4246, IM Production v. Shixiao Ai <isabelmarantbottes.com>; CAC Case No. 103810, IM PRODUCTION v. Xing Chun Ding<isabelmarantrakuten.com>).

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As per the content of the website maintained under the disputed domain name, the Panel confirms that said Website gives the impression of a "look and feel" website from the Complainant, displaying the ISABEL MARANT trademark, its signs in the same colours and similar manner, as displayed in the Complainant's website), hence, giving the false impression that the Website emanates from the Complainant. The latter shows registration and use in bad faith, as it reinforces the likelihood of confusion and association with the Complainant, as Internet users are likely to consider the disputed domain name some way connected with the Complainant.

Based on the above, the Panel finds that the disputed domain name was registered and is being used in bad faith, as the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with the Complainant's mark.

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).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. ISABELMARANTETOILE.STORE: Transferred

PANELLISTS

Name **Laura Martin-Gamero Schmidt**

DATE OF PANEL DECISION **2022-06-28**

Publish the Decision
