

Decision for dispute CAC-UDRP-104673

Case number CAC-UDRP-104673

Time of filing 2022-06-24 09:43:57

Domain names lahallesoldes.com

Case administrator

Organization Denisa Bilík (CAC) (Case admin)

Complainant

Organization PEGASE

Complainant representative

Organization NAMESHIELD S.A.S.

Respondent

Organization Salera W

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 is inter alia the owner of the International trademark registration no. 807925 "LA HALLE ! <fig.>", registered on April 14, 2003 for various goods in classes 18 and 25 (hereinafter referred to as the "Trademark").

FACTUAL BACKGROUND

The Complainant is operating under the trade name "LA HALLE" dedicated to the sale of clothing, shoes and fashion accessories.

The disputed domain name was registered on June 13, 2022 and has been used in connection with a website offering clothing.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:

The Complainant contends that the disputed domain name is confusingly similar to the Trademark as the disputed domain name includes the Trademark and as the addition of the generic term "soldes" at the end of the disputed domain name and the gTLD ".com" are not sufficient to avoid such confusing similarity.

The Complainant also states that the Respondent does not have any rights or legitimate interest with regard to the disputed domain name. The Complainant argues that the Respondent is not known as the disputed domain name, that the Respondent is not affiliated with the Complainant nor authorized by it in any way to use the Trademark in the disputed domain name, and that the Complainant does not carry out any activity for, nor has any business with the Respondent. Finally, the Complainant contends that the Respondent also cannot rely on a bona fide offering of goods and services as the Respondent is using the disputed domain name to divert Internet users to a website that offers goods similar to those offered by the Complainant.

With regard to bad faith, the Complainant states that the Respondent has intentionally attempted to attract Internet users to the Respondent's website for commercial gain by creating a likelihood of confusion with the Trademark as to the source, sponsorship, affiliation, or endorsement of such websites, which amounts to bad faith use of the disputed domain name pursuant to paragraph 4(b)(iv) of the Policy.

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

Under paragraph 4(a) of the Policy, the Complainant must prove that each of the following three elements is present:

- (i) the disputed domain name is identical or confusingly similar to the Complainant's trade mark; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

1. The Panel accepts that the disputed domain name is confusingly similar to the Trademark. It is well established that a domain name that wholly incorporates a trademark may be confusingly similar to such trademark for purposes of the Policy despite the addition of generic terms, such as "soldes". The fact that the Trademark includes additional graphical elements does not hinder a finding of confusing similarity under the Policy either as it is well established that the similarity between a trademark and a disputed domain name is not eliminated by the fact that the trademark includes additional graphical elements. Finally, the omission of the "!" does not significantly affect the overall impression of the Trademark and therefore

does not have any bearing as regards the question of confusing similarity.

2. The Complainant has substantiated that the Respondent has no rights or legitimate interests in the disputed domain name. The Panel finds that the Complainant has fulfilled its obligations under paragraph 4(a)(ii) of the Policy. The Respondent did not deny these assertions in any way and therefore failed to prove any rights or legitimate interests in the disputed domain name.

Based on the evidence before the Panel, the Panel cannot find any rights or legitimate interests of the Respondent either. The Respondent is using the disputed domain name for a website offering products similar to the Complainant's products. There is no persuasive evidence on the record supporting that the goods offered at the disputed domain name are counterfeit. But even if such goods were genuine, the use of the disputed domain name would not be bona fide under the Policy. The Panel acknowledges that a reseller can make a bona fide offering of goods and services and thus have rights or legitimate interests in a domain name if the use fits certain requirements, with regard to the actual offering of goods, the use of the site to sell only the trademarked goods and the site is accurately and prominently disclosing the registrant's relationship with the trademark holder (see *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. D2001-0903). According to the evidence on the record, however, the website at the disputed domain name does not visibly disclose the Respondent's relationship with the trademark holder, therefore does not meet the Oki Data criteria, and cannot convey any rights or legitimate interests on the Respondent's use of the disputed domain name.

Accordingly, the Panel finds that the Complainant has proven that the Respondent has no rights or legitimate interests in respect of the disputed domain name under paragraphs 4(a)(ii) and 4(c) of the Policy.

3. Given that the Respondent offers products similar to the Complainant's ones, that the Trademark is well established and that the disputed domain name includes the additional word "soldes", which is the French word for "sales", the Panel is satisfied that the Respondent registered the disputed domain name with full knowledge of the French Complainant and its rights in the Trademark.

The Panel is also satisfied that the disputed domain name is being used in bad faith under paragraph 4(b)(iv) of the Policy on the basis that the website operating under the disputed domain name is intentionally trying to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Trademark as to the source, sponsorship, affiliation, or endorsement of it.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. LAHALLESOLDES.COM: Transferred

PANELLISTS

| | |
|------|--------------|
| Name | Peter Müller |
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DATE OF PANEL DECISION 2022-07-29

Publish the Decision
