

Decision for dispute CAC-UDRP-104708

Case number CAC-UDRP-104708

Time of filing 2022-07-08 09:14:33

Domain names isabelmarantfr.com

Case administrator

Organization Denisa Bilík (CAC) (Case admin)

Complainant

Organization IM PRODUCTION

Complainant representative

Organization NAMESHIELD S.A.S.

Respondent

Name Fengshuying Feng

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, proprietor of the European trademark registration 001035534 ISABEL MARANT registered on May 3, 2000 for goods in classes 3, 14, 25. The mark is in effect.

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 stores around the world.

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

The disputed domain name <isabelmarantfr.com> was registered on June 13, 2022 and resolves to page stating that the domain name is suspended due to lack of verification of the identity of the owner.

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

In order to succeed in its claim, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied:

- (i) The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) The Respondent has no rights or legitimate interests with respect to the disputed domain name; and
- (iii) The disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has established the fact that it has valid trademark rights for "ISABEL MARANT".

The disputed domain name is confusingly similar, i.e. almost identical to the Complainant's mark since the additional Element „fr“ is a geographical identifier for the country France and does not contribute to the distinctiveness of the disputed domain name.

The Panel therefore considers the disputed domain name to be confusingly similar to the trademark "ISABEL MARANT" in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Respondent has no rights or legitimate interests in the disputed domain name, since the Respondent is not a licensee of the Complainant nor has the Complainant granted any permission or consent to the Respondent to use its trademarks or designations confusingly similar to its trademarks. Furthermore, the Respondent has no rights or legitimate interests in the disputed domain name, since there is no indication that the Respondent is commonly known by the name "ISABEL MARANT" or that the Respondent is using the disputed domain name in connection with a bona fide offering of goods or services.

The Panel therefore finds that the Respondent does not have rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

The Panel does not believe that the application of a domain name being almost identical to a distinctive trademark sign being applied by the Complainant is accidental.

This Panel does not see any conceivable legitimate use that could be made by the Respondent of this particular domain name without the Complainant's authorization.

The disputed domain name was not resolving to an active website at the time of filing. However, the consensus view amongst panellists since the decision *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. D2000-0003, <telstra.org> is that "the apparent lack of so-called active use (e.g., to resolve to a website) of the domain name without any active attempt to sell or to contact the trade mark holder (passive holding), does not as such prevent a finding of bad faith. The panel must examine all the circumstances of the case to determine whether the respondent is acting in bad faith. Examples of what may be cumulative circumstances found to be indicative of bad faith include that no response to the complaint is filed, the registrant's concealment of its identity and the implausibility of any good faith use to which the domain name may be put. In the present case, the Panel is convinced that such circumstances are given. Accordingly, the present circumstances do not prevent a finding of bad faith under the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. ISABELMARANTFR.COM: Transferred

PANELLISTS

Name	Dietrich Beier
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DATE OF PANEL DECISION 2022-08-05

Publish the Decision
