

Decision for dispute CAC-UDRP-104984

Case number CAC-UDRP-104984

Time of filing 2022-11-14 09:50:06

Domain names perelesimone.com

Case administrator

Organization Denisa Bilík (CAC) (Case admin)

Complainant

Organization SIMONE PERELE

Complainant representative

Organization NAMESHIELD S.A.S.

Respondent

Name Wgyeg Fyett

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 various EU and international trademark registrations for "SIMONE PERELE", including the international trademark registration n. 272755 "SIMONE PERELE" (word), registered on August 9th, 1963, for various goods in class 25.

In addition to these trademarks the Complainant owns and uses various domain names incorporating the term "SIMONE PERELE", including the domain name < simone-perele.com>, which was registered on August 7th, 1997, and is used for the Complainant's main corporate website.

The disputed domain name was registered on April 14th, 2022, i.e., the Complainant's trademark registration cited above predates the registration of the disputed domain name.

FACTUAL BACKGROUND

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

Created in 1948, the Complainant's "SIMONE PERELE" business designs, manufactures, and sells items of women's lingerie and swimsuits. The Complainant sells its products within a traditional "offline" network (boutiques and department stores) and online through official web-shops in France and in several other countries in the world.

The disputed domain name resolves to an online shop which explicitly refers to the Complainant's brand ("Save Up To 50% Off – Simone Perele Sale" etc.) and thereby claims sell products that originate from, or are at least authorized by, the Complainant. The Complainant contends, however, that the products offered for sale under the disputed domain name are not its own, but competing products.

The Complainant further contends that the Respondent is neither affiliated with nor authorized by the Complainant in any way. The Complainant also 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 license nor authorization has been granted to the Respondent to make any use of the Complainant's trademark "SIMONE PERELE", or to apply for registration of the disputed domain name <perelesimone.com>.

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

The disputed domain name is confusingly similar to the Complainant's distinctive trademark "SIMONE PERELE". The inversion of words "PERELE" and "SIMONE" is not sufficient to escape the finding that the domain name is confusingly similar as it does not change the overall impression of the designation as being connected to the trademark.

The Panel further finds that the Complainant successfully submitted prima facie evidence that the Respondent has neither made any use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services, nor is making a legitimate non-commercial or fair use of the disputed domain name, nor is commonly known under the disputed domain name. Using the disputed domain name for an online shop to sell counterfeit products that misleadingly claim to originate from the Complainant may be considered a use of the disputed domain name in connection with an "offering of goods or services" – but it is clearly not bona fide offering. The Complainant's prima facie evidence was not challenged by Respondent.

The Panel further finds that the Complainant successfully submitted prima facie evidence that the Respondent has registered and used the disputed domain name in bad faith, namely by intentionally attempting to attract, for commercial gain, internet users to the Respondent's online shop by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the products offered for sale under the disputed domain name, paragraph 4(b)(iv) of the Policy. Again, the Complainant's prima facie evidence was not challenged by Respondent.

FOR ALL THE REASONS STATED ABOVE THE COMPLAINT IS

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Accepted

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

1. **perelesimone.com**: Transferred
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PANELLISTS

Name	Dr. Thomas Schafft
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DATE OF PANEL DECISION 2022-12-18

Publish the Decision
