

Decision for dispute CAC-UDRP-105121

Case number CAC-UDRP-105121

Time of filing 2023-01-11 08:55:27

Domain names fashionsezane.com

Case administrator

Organization Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization BENDA BILI

Complainant representative

Organization NAMESHIELD S.A.S.

Respondent

Name Jeremy17 Jeremy17

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 has provided evidence of ownership of the following trademark registrations:

- International trademark registration No. 1170876 for SÉZANE (word mark), registered on June 03, 2013 in classes 14, 18 and 25; and

- French trademark registration No. 308523 for SEZANE (word mark), filed on October 19, 2016 and registered on March 24, 2017, in classes 11 and 20.

FACTUAL BACKGROUND

The Complainant is a company specialized in ready-to-wear collections and accessories for women and trading under the commercial name and trademark SEZANE. The term "SEZANE" derives from a contraction of the first name and last name of the Complainant's founder and President Morgane Sezalory. SEZANE's clothing and accessories are available only through the Complainant's online shop at <sezane.com>, registered on April 3, 2003.

The disputed domain name <fashionsezane.com> was registered on March 24, 2022 and resolves to an online store selling clothes and accessories for women.

PARTIES CONTENTIONS

COMPLAINANT:

The Complainant states that the disputed domain name <fashionsezane.com> is confusingly similar to its trademark SEZANE, as it reproduces the trademark in its entirety with the sole addition of the term "fashion" and the generic TLD ".com", which is not sufficient to escape the finding that the disputed domain name is confusingly similar to the trademark.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name because i) it is in no way related with the Complainant, ii) it does not carry out any activity for - or business with - the Complainant, and iii) no license nor authorization has ever been granted to the Respondent to make any use of the Complainant's trademark SEZANE, or apply for registration of the disputed domain name by the Complainant.

The Complainant also contends that, since the disputed domain name resolves to an online store for women, which compete with the products provided by the Complainant., the Respondent has used the disputed domain name to pass itself off as the Complainant. The Complainant submits that the Respondent is therefore not using the disputed domain name for a bona fide offering of goods or services or for a legitimate non-commercial or fair use.

With reference to the circumstances evidencing bad faith, the Complainant highlights that, given a simple search on Google would have provided several results all related to the Complainant, and that the disputed domain name is so obviously connected to the Complainant, also in consideration of the association of the trademark with the term "fashion" (directly referring to the Complainant's field of activity), the Respondent registered the disputed domain name with full knowledge of the Complainant and its trademark.

Furthermore, the Complainant contends that the Respondent's bad faith can also be inferred by the fact that the disputed domain name redirects to an online store with products which compete with the ones offered by the Complainant. The Complainant thus concludes that the Respondent is using the disputed domain name to disrupt the Complainant's business.

In addition, the Complainant emphasizes that, by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on the Respondent's website.

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

1. The Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark SEZANE as it reproduces the trademark in its entirety with the mere addition of the descriptive term "fashion" and the generic TLD ".com", which can be disregarded for the purpose of assessing identity or confusing similarity under paragraph 4(a)(i) of the Policy.

2. With reference to the Respondent's rights or legitimate interests in the disputed domain name, the Panel finds that the Complainant has made a prima facie case and that the Respondent, by not submitting a Response, has failed to provide any element from which a Respondent's right or legitimate interest in the disputed domain name could be inferred.

Indeed, the Complainant stated that the Respondent is not related in any way with the Complainant, that it does not carry out any activity for, nor has any business with the Complainant. The Panel also notes that, based on the records, there is no evidence that the Respondent might be commonly known by the disputed domain name.

Moreover, the Panel finds that the Respondent's use of the disputed domain name in connection with the offer for sale of fashion products under the trademark SEZANE, without providing any disclaimer of non-affiliation with the Complainant, does not amount to a bona fide offering of goods or services. Moreover, the Respondent's use of the disputed domain name is, and has been, clearly commercial in nature, as the Respondent has clearly aimed at gaining revenues from its online store for women clothing and accessories, competing with the products offered by the Complainant.

3. As to bad faith at the time of the registration, the Panel finds that, in light of the prior use of the Complainant's trademark SEZANE in connection with the promotion and sales of the Complainant's fashion products online through the Complainant's website "www.sezane.com" and considering that the disputed domain name combines the Complainant's trademark with the descriptive term "fashion", which directly refers to the Complainant's field of activity, the Respondent very likely registered the disputed domain name having the Complainant's trademark in mind.

The Panel also notes that the Respondent's use of the disputed domain name in connection with an online store offering women's clothing and accessories under the trademark SEZANE without displaying any disclaimer of non-affiliation with the Complainant amounts to bad faith under paragraph 4(b)(iv) of the Policy, since the Respondent intentionally attempted to attract Internet users to its website for commercial gain, by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation or endorsement of its website and the products advertised therein.

Therefore, the Panel finds that the Respondent's registration and use of the disputed domain name amounts to bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **fashionsezane.com**: Transferred

PANELLISTS

Name	Luca Barbero
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DATE OF PANEL DECISION 2023-02-15

Publish the Decision
