

Decision for dispute CAC-UDRP-104569

Case number CAC-UDRP-104569

Time of filing 2022-07-28 09:33:08

Domain names liujosoldes.com

Case administrator

Organization Denisa Bilík (CAC) (Case admin)

Complainant

Organization Liu.Jo S.p.A

Complainant representative

Organization Coöperatieve Vereniging SNB-REACT U.A.

Respondent

Name Yumei Hu

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 the registered owner of several trademarks consisting of or containing the terms "LIU.JO" in several classes and in numerous countries all over the world. Reference is particularly made to the International Registration no. 762361 "LIU.JO" registered on 18 June 2001 for goods in classes 18 and 25 and designating amongst others China, where the Respondent resides, according to the Registrar verification.

FACTUAL BACKGROUND

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

1. The Complainant is an Italian company manufactures and sells luxurious, high-end clothing and accessories under the brand "LIU.JO" in various flagship stores across the world.
2. It results from the Registrar verification that the current Registrant registered the disputed domain name on 8 January 2022. The language of the registration agreement is English.

3. According to the undisputed evidence provided by the Complainant, the disputed domain name resolves to a commercial website which advertises clothing and accessories and prominently uses the "LIU.JO" in the header throughout the entire website. In addition, the Respondent refers to itself as "Liu Jo Soldes" on the Terms and Conditions and at the bottom of each page on the website, which may lead to the wrongful impression that the Respondent is an authorized reseller or is otherwise connected to Complainant.

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

1. The Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark.

The Complainant's registered trademark "LIU.JO" is identically included in and placed at the beginning of the disputed domain name.

It is the view of this Panel that the combination of the trademark "LIU.JO" with the additional term "soldes" does not avoid the confusing similarity between the disputed domain name and the Complainant's trademark. This additional term, which means "sales" in English, is descriptive and a direct reference to the Complainant's business, allegedly promoting highly discounted "LIU.JO" products. It is acknowledged that where a trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) do not prevent a finding of confusing similarity under the first element (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition - "WIPO Jurisprudential Overview 3.0", at section 1.8).

2. In the absence of any Response, or any other information from the Respondent indicating the contrary, the Panel further holds that the Complainant successfully presented its prima facie case, and that the Respondent has no rights or legitimate interests in respect of the disputed domain name pursuant to paragraph 4(a)(ii) of the Policy.

In particular, the Panel notes that there is no evidence in the record that could lead the Panel to conclude that the Respondent might be commonly known by the disputed domain name in the sense of paragraph 4(c)(ii) of the Policy. In addition, it results from the Complainant's uncontested evidence that the Respondent has no connection or affiliation with the Complainant who has not granted the Respondent any license or consent, express or implied, to use the Complainant's trademark in domain names or in any other manner. Furthermore, use of the disputed domain name for a webpage with commercial content excludes any non-commercial use in the sense of paragraph 4(c)(iii) of the Policy from the outset.

Finally, said use for commercial web content does - in the Panel's view - not represent a bona fide offering (pursuant to paragraph 4(c)(i) of the Policy). This use rather capitalizes on the reputation and goodwill of the Complainant's marks, since it prominently uses the "LIU.JO" in the header throughout the entire website and the Respondent refers to itself as "Liu Jo Soldes" in the Terms and Conditions and at the bottom of each page on the website, which may lead to the wrongful impression that the Respondent is an authorized reseller or is otherwise connected to Complainant.

3. Finally, the Panel finds that the disputed domain name has also been registered and is being used in bad faith.

It is the view of this Panel that the Respondent has registered the disputed domain name, which fully includes the Complainant's (older) trademark "LIU.JO" in order to intentionally attempt to attract, for commercial gain, Internet users to his web site, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of his web site (par. 4(b)(iv) of the Policy). The Panel has no doubt that the Respondent was aware of the trademark when he registered the disputed domain name, since the latter identically includes the trademark, prominently uses the "LIU.JO" in the header throughout the entire website and allegedly sells discounted clothing and accessories under this brand.

Finally, the Panel also considered the following additional relevant factors for its assessment of bad faith: (i) the failure of the Respondent to provide any evidence of actual or contemplated good faith use, and (ii) the Respondent originally hiding his identity behind a privacy shield.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **LIUJOSOLDES.COM**: Transferred

PANELLISTS

Name	Dr. Tobias Malte Müller
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DATE OF PANEL DECISION **2022-09-07**

Publish the Decision
