

Decision for dispute CAC-UDRP-105314

Case number	CAC-UDRP-105314
Time of filing	2023-03-30 11:05:50
Domain names	authentic-chanel-outlet.com

Case administrator

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

Organization	CHANEL, INC.
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Complainant representative

Organization	SILKA AB
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Respondent

Name	VICENTE DONOVAN
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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 a registered owner of a following trademark containing a word element "CHANEL":

- CHANEL (word), US national trademark, registration date 4 February 1925, trademark registration no. 0195360, registered for goods in the international class 3;
- CHANEL (word), US national trademark, registration date 4 February 1925, trademark registration no. 302690, registered for goods in the international class 3;

besides other US trademarks consisting of the "CHANEL" denomination.

(collectively referred to as "Complainant's Trademarks").

Moreover, Complainant's parent company also holds various other trademark registrations consisting of CHANEL denomination.

FACTUAL BACKGROUND

Complainant (Chanel, Inc.) is a subsidiary of the Chanel group, a world leader in creating, developing, manufacturing and distributing luxury products. Founded by Gabrielle Chanel at the beginning of the last century, the Chanel group offers a broad range of high-end creations, including ready-to-wear, leather goods, fashion accessories, eyewear, fragrances, makeup, skincare, jewellery and watches.

The disputed domain name was registered on 6 September 2021 and is held by the Respondent.

The domain name website (i.e. website available under internet address containing the disputed domain name) includes random, likely automatically generated, content not in any way related to the Complainant. It is in Indonesian language and seems to promote gambling services.

The Complainant seeks transfer of the disputed domain name to the Complainant.

PARTIES CONTENTIONS

COMPLAINANT:

CONFUSING SIMILARITY

The Complainant states that:

- a) The disputed domain name is confusingly similar to Complainant's Trademarks as they both incorporate the "CHANEL" word element of the Complainant's trademarks in its entirety.
- b) The addition of the terms "AUTHENTIC" and "OUTLET" both being generic terms, is not sufficient to escape the finding that the disputed domain name is confusingly similar to Complainant's trademarks, as it does not prevent the likelihood of confusion between the disputed domain name and the Complainant and his business.

The Complainant refers to previous domain names decisions in this regard.

Thus, according to the Complainant the confusing similarity between Complainant's trademarks and the disputed domain name is clearly established.

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant states that:

- a) The Respondent has not been commonly known by the disputed domain name.
- b) The Complainant has not authorized, permitted or licensed the Respondent to use Complainants' trademarks in any manner. The Respondent has no connection or affiliation with any of the Complainants whatsoever. On this record, Respondent has not been commonly known by the disputed domain name.
- c) On the contrary, the disputed domain name was used for attracting internet users as the Respondent has the intent to divert such users looking for Complainant's goods to its own website.

The Complainant refers to previous domain names decisions in this regard.

BAD FAITH REGISTRATION AND USE

The Complainant states that:

- a) Seniority of the Complainants' Trademarks predates the registration of the disputed domain name.
- b) Furthermore, the Complainants' Trademarks have received widespread recognition. Therefore, the Respondent must have been aware of such trademarks and their reputation. This clearly indicates bad faith registration of disputed domain name by the Respondent.

The Complainant refers to previous domain names decisions in this regard.

RESPONDENT:

The Respondent has not provided any response to the Complaint.

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

RIGHTS

Since the disputed domain name and the Complainants' trademarks are not identical, the key element investigated and considered by the Panel is whether the disputed domain name is confusingly similar to the Complainants' trademarks.

The threshold test for confusing similarity under the UDRP involves a comparison between the trademark and the disputed domain name itself to determine likelihood of Internet user confusion. In order to satisfy this test, the relevant trademark would generally need to be recognizable as such within the disputed domain name. An addition of common, dictionary, generic, or other descriptive terms is typically insufficient to prevent threshold Internet user confusion. Confusing similarity test under the UDRP typically involves a straightforward visual and aural comparison of the trademark with the domain name in question.

Applying the principles described above, the Panel contends that incorporation of the "CHANEL" element of Complainant's trademarks (which standalone enjoys high level of distinctiveness) into the disputed domain name constitutes confusing similarity between Complainant's trademark and the disputed domain name.

The addition of the terms "AUTHENTIC" (a generic term meaning genuine or reliable) or "OUTLET" (a generic term meaning a retail sales establishment) is not sufficient to escape the finding that the disputed domain name is confusingly similar to Complainant's trademarks, as it does not prevent the likelihood of confusion between the disputed domain name and the Complainant, Complainant's trademarks and its business.

For sake of completeness, the Panel asserts that the top-level suffix in the disputed domain name (i.e. the ".com") must be disregarded under the identity and confusing similarity tests as it is a necessary technical requirement of registration.

Therefore, the Panel has decided that there is confusing similarity in this case, it also concludes that the Complainants have satisfied paragraph 4(a)(i) of the Policy.

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainants' assertions that the Respondent is not commonly known by the disputed domain name and is not affiliated with nor authorised by the Complainant are sufficient to constitute prima facie showing of absence of rights or legitimate interest in the disputed domain name on the part of the Respondent.

Consequently, the evidentiary burden shifts to the Respondent to show by concrete evidence that it does have rights or legitimate interests in that name. However, the Respondent failed to provide any information and evidence that it has relevant rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a) (ii) of Policy).

Use of the disputed domain name for purposes of promoting gambling or similar services or for communicating any other content, which seems to be automatically generated, does not constitute any rights to the disputed domain name or legitimate interest in it.

BAD FAITH

The Panel finds it grounded that the Respondent registered and used the disputed domain name in bad faith.

As described above, the Complainant has proven that the Respondent has used (at least for some time) the disputed domain name for promotion and offering goods and services (i) likely with intention to free-ride on reputation and goodwill of Complainant's trademarks and business and, even more importantly, (ii) in a manner that was detrimental both to the customers as well the Complainant and its business.

Such unfair use of the disputed domain name for promotion of Respondent's website cannot be considered as use thereof in good faith and in compliance with fair business practices.

Thus, the Panel has taken a view that both disputed domain name has been registered and are being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. **authentic-chanel-outlet.com** : Transferred

PANELLISTS

Name	Jiří Čermák
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DATE OF PANEL DECISION 2023-05-07

Publish the Decision