

Decision for dispute CAC-UDRP-105382

Case number CAC-UDRP-105382

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Domain names buychanel4u.com

Case administrator

Name Olga Dvořáková (Case admin)

Complainant

Organization CHANEL, INC.

Complainant representative

Organization SILKA AB

Respondent

Name shi min Fan

OTHER LEGAL PROCEEDINGS

The Panel is unaware of any other pending or decided legal proceedings in respect of the domain name <buychanel4u.com> ('the disputed domain name').

IDENTIFICATION OF RIGHTS

The Complainant relies upon the following registered trademarks, amongst others:

- United States trade mark registration no. 195360, registered on 24 February 1925, for the word mark CHANEL, in class 3 of the Nice Classification; and
- United States trade mark registration no. 1079438, registered on 13 December 1977, for the word mark CHANEL, in class 25 of the Nice Classification.

The Complainant further relies on national and international trade marks held by the Complainant's parent company.

(Hereinafter, individually or collectively 'the Complainant's trade mark'; 'the Complainant's trade mark CHANEL'; or 'the trade mark CHANEL' interchangeably).

The Complainant advises that prior UDRP panels have recognised the reputation and well-known nature of the trade mark CHANEL (eg Chanel v Lequang Chau, WIPO Case No. D2021-4287, in respect of the domain name <nuochoachanell.com>).

At the time of writing this decision, the disputed domain name <buychanel4u.com> resolves to a web page which features the following warning notice '365 website builder reminds you: please install the program first! 365 website building system UTF8 version 20230418', the particulars of which are discussed further below, under the section 'Principal reasons for the decision' ('the

Respondent's website').

FACTUAL BACKGROUND

A. Complainant's Factual Allegations

The Complainant's statements of fact can be summarised as follows:

The Complainant is a subsidiary of the Chanel group, a world leader in creating, developing and manufacturing luxury products.

The Chanel group was founded at the beginning of the last century and, at the end of 2021, reported global revenues in excess of USD 15bn. It offers a broad range of products, including ready-to-wear, leather goods, fashion accessories, eyewear, fragrances, makeup, skincare, jewellery and watches.

B. Respondent's Factual Allegations

The Respondent has failed to serve a Response in this UDRP administrative proceeding, the result of which being that the Complainant's factual allegations are uncontested.

PARTIES CONTENTIONS

A. Complainant's Submissions

The Complainant's contentions can be summarised as follows:

I. The disputed domain name is confusingly similar to a trade mark in which the Complainant has rights

The Complainant avers that the disputed domain name is confusingly similar to the Complainant's trade mark CHANEL, in so far as the disputed domain name incorporates the Complainant's trade mark in its entirety. The addition of the dictionary terms 'buy' and '4u' are insufficient to escape the finding that the disputed domain name is confusingly similar to the Complainant's trade mark CHANEL. Furthermore, the generic Top-Level Domain (gTLD) suffix (<.com>) is typically disregarded in the assessment of identity or confusing similarity under paragraph 4(a) of the UDRP Policy.

II. The Respondent has no rights or legitimate interests in respect of the disputed domain name

The Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent does not carry out any activity for, or has any business with, the Complainant. Neither licence nor authorisation, consent, permission or acquiescence has been given to the Respondent to make any use of the Complainant's trade mark in connection with the registration of the disputed domain name.

The Complainant also asserts that there is no evidence that the Respondent is commonly known by the disputed domain name.

Lastly, the disputed domain name resolves to a website which provides gambling services, and such use is neither bona fide nor legitimate non-commercial or fair use.

III. The Respondent registered and is using the disputed domain name in bad faith

Registration

The Complainant states that the disputed domain name was registered in bad faith, owing to the following indicia:

- The trade mark CHANEL is well-known and has been in use well before the registration of the disputed domain name;
- The Complainant previously owned the disputed domain name;
- A simple search via online trade mark registers or through Google search engine would have revealed the existence of the Complainant and the CHANEL trade mark, such that it is impossible to believe that the Respondent did not have the Complainant in mind at the time of registration of the disputed domain name; and
- Paragraph 3.1.4 of the WIPO Panel Views on Selected UDRP Questions, Third Edition ('WIPO Jurisprudential Overview 3.0') provides that the mere registration of a domain name that is identical or confusingly similar to a famous trade mark - as is the case here - by an unaffiliated entity can by itself create a presumption of bad faith.

Use

The Complainant avers that the Respondent has intentionally used the disputed domain name to attract, for commercial gain, Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant as to the source, sponsorship, affiliation, or endorsement of the Respondent's website (paragraph 4(b)(iv) of the UDRP Policy).

On these bases, the Complainant concludes that the Respondent has registered and is using the disputed domain name in bad faith.

B. Respondent's Submissions

The Respondent has failed to serve a Response in this UDRP administrative proceeding, the result of which being that the Complainant's submissions are uncontested.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trade mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the UDRP 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 UDRP 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 UDRP 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

A. General

Pursuant to Rule 15 of the UDRP Rules, the Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the UDRP Policy, the UDRP Rules, and any rules and principles of law that the Panel deems applicable.

Paragraph 4(a) of the UDRP Policy sets out the following threshold for the Complainant to meet for the granting of the relief sought (transfer of the disputed domain name):

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

It is incumbent on the Complainant the onus of meeting the above threshold. The evidentiary standard under the UDRP proceedings is the balance of probabilities and, on that basis, the Panel will now proceed to determine each of the three UDRP Policy grounds in turn.

B. Identical or Confusingly Similar

The Complainant has established registered rights in the mark CHANEL since as early as 1925.

The disputed domain name <buychanel4u.com> was registered on 3 November 2022, and consists of the joint terms 'buy', 'chanel' and '4u'.

Paragraph 1.8 of the WIPO Overview 3.0 provides that, where the relevant trade mark is recognisable within the disputed domain name, the addition of other terms in the string, whether descriptive or otherwise, would not prevent a finding of confusing similarity under the first UDRP Policy ground.

The Complainant's trade mark CHANEL is readily recognisable within the disputed domain name. The contiguous terms 'buy' and

'4u' do not prevent a finding of confusing similarity as per the above reasons. Furthermore, and as rightly asserted by the Complainant, the gTLD <.com> is typically disregarded by UDRP panels under this Policy ground given that the gTLD is part of the domain name's anatomy.

The Panel therefore finds that the Complainant has met the requirement under paragraph 4(a)(i) of the UDRP Policy.

C. Rights or Legitimate Interests

The Respondent has defaulted in this UDRP proceeding. Nevertheless, the Panel is empowered to draw adverse inferences from the Respondent's silence (Rule 14 (b) of the UDRP Rules).

The Panel notes that the Respondent does not appear to carry out any activity for, or have any business or relationship of any nature with, the Complainant. There is no evidence of any contractual arrangement/endorsement/sponsorship between the parties to that effect, nor has the Complainant otherwise authorised the Respondent to make any use of the Complainant's trade mark or to register the disputed domain name on the Complainant's behalf. In addition, nothing on the record suggests that the Respondent (as an individual, business, or other organisation) has been commonly known by the disputed domain name.

In addition, the Respondent's website contains a warning notice likely to be connected with a fraudulent activity, which is plainly not bona fide.

The Panel also notes that the disputed domain name used to resolve to a parked page featuring pay-per-click (PPC) advertisement for gambling services and that such use does not confer rights or legitimate interests either, given that the Respondent's website capitalises on the reputation and goodwill of the Complainant's trade mark or otherwise misleads Internet users (see paragraph 2.9 of the WIPO Overview 3.0).

In view of the above, the Panel finds that the Complainant has succeeded under paragraph 4(a)(ii) of the UDRP Policy.

D. Registered and Used in Bad Faith

D.1 Registration in bad faith

The following facts are compelling evidence to this Panel that the disputed domain name was registered in bad faith:

- The Complainant has owned registered rights in the mark CHANEL since 1925;
- The disputed domain name <buychanel4u.com> was registered in 2022;
- The lack of any credible evidence-backed rationale for the Respondent's choice of the disputed domain name;
- UDRP panels have consistently held that the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trade mark can by itself create a presumption of bad faith (paragraph 3.1.4 of the WIPO Jurisprudential Overview 3.0), and the Panel accepts that the Complainant's trade mark CHANEL is widely known worldwide; and
- The Respondent's default in this UDRP administrative proceeding.

D.2 Use in bad faith

The Complainant alleges that the Respondent has engaged in a conduct which would fall within the remit of paragraph 4(b)(iv) of the UDRP Policy:

'(iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with the complainant's mark 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 or location.'

In order to determine this UDRP Policy ground, the Panel takes stock of paragraph 3.1.4 of the WIPO Jurisprudential Overview 3.0, according to which panels have found various types of evidence to support a presumption of bad faith under the above circumstances. The most compelling factors in the present matter are: (i) the actual confusion between the Complainant's trade mark CHANEL and the disputed domain name; (ii) the lack of the Respondent's own rights to, or legitimate interests in, the disputed domain name; (iii) the Respondent's attempt to gain reputational advantage by redirecting Internet users for a likely fraudulent purpose; and (vi) the absence of any conceivable good faith use of the disputed domain name.

The Panel therefore finds that the Complainant has succeeded under paragraph 4(a)(iii) of the UDRP Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. buychanel4u.com : Transferred

PANELLISTS

Name	Gustavo Moser
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DATE OF PANEL DECISION 2023-05-15

Publish the Decision
