

Decision for dispute CAC-UDRP-105375

Case number CAC-UDRP-105375

Time of filing 2023-04-20 10:02:10

Domain names sezanesoldes.com

Case administrator

Name Olga Dvořáková (Case admin)

Complainant

Organization BENDA BILI

Complainant representative

Organization NAMESHIELD S.A.S.

Respondent

Name Marlar Marlar

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 several trademark registrations across various jurisdictions, inter alia the international trademark No. 1170876 "SEZANE", registered since June 3, 2013 (hereinafter referred to as the "Trademark").

The Respondent did not identify any rights or evidence in this regard.

FACTUAL BACKGROUND

The Complainant is a French fashion brand that was founded in 2013 by Morgane Sezalory, which is trading under its commercial name and trademark SEZANE.

The Complainant owns several domain names which include the Trademark including the domain name <sezane.com>, registered since April 3, 2003.

The disputed domain name <sezanesoldes.com> was registered on October 6, 2022 and redirects to a competitor's website.

PARTIES CONTENTIONS

COMPLAINANT:

The Complainant contends that the disputed domain name is confusingly similar to the Trademark.

Furthermore, the Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. In this regard, the Complainant states that the Respondent is not commonly known by the disputed domain name, that it is not affiliated with nor authorized by the Complainant in any way, that the Complainant does not carry out any activity for, nor has any business with the Respondent, and that neither license nor authorization has been granted to the Respondent to make any use of the Trademark or apply for registration of the disputed domain name by the Complainant. According to the Complainant, especially the fact that the disputed domain name redirects to a competitor's website indicates a lack of rights or legitimate interests by the Respondent.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. It contends that the Respondent registered the disputed domain name with actual knowledge of the Complainant and its Trademark and that the Respondent's use of the disputed domain name to attract Internet users and offer possibly fraudulent services while impersonating the Complainant or, at a minimum, disrupt Complainant's business by offering services in direct competition with the Complainant is evidence of bad faith.

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

Under paragraph 4(a) of the Policy, the Complainant must prove that each of the following three elements is present:

- (i) the disputed domain name is identical or confusingly similar to the Complainant's trademark; and
- (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.

1. The Panel accepts that the disputed domain name is confusingly similar to the Trademark as it fully incorporates it. It is well established that a domain name that wholly incorporates a trademark may be confusingly similar to such trademark for purposes of the Policy next to the fact that there are also other generic or descriptive terms in the disputed domain name. The term "soldes" is

even enhancing the confusing similarity, since the word means "sales" in French and the Complainant is often offering sales on its products.

2. The Complainant has substantiated that the Respondent has no rights or legitimate interests in the disputed domain name. The Panel finds that the Complainant has fulfilled its obligations under paragraph 4(a)(ii) of the Policy. The Panel accepts that the use of the disputed domain name in resolving in a competitor's website is proof of the lack of rights or legitimate interest on the side of the Respondent on the disputed domain name. The Respondent did not deny these assertions in any way and therefore failed to prove any rights or legitimate interests in the disputed domain name.

3.1 The Panel is satisfied that the Respondent registered the disputed domain name with full knowledge of the Complainant and its rights in the Trademark as the Trademark is quite distinctive and well-known.

3.2 Furthermore, the Panel accepts the Complainant's contentions that the disputed domain name is being used in bad faith. According to paragraph 4(b) UDRP 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 or location. The fact that the disputed domain name redirects to a website where products in direct competition with the ones of the Complainant's are listed is also proof that the Respondent is disrupting Complainant's business. Both of these factors and circumstances have been accepted by panels as proof of evidence for a respondent's bad faith. The Panel also finds that the use of a privacy or proxy service in this specific case supports an inference of bad faith. The Respondent did not submit any evidence to rebut the above.

In light of the above, the Panel is convinced that the disputed domain name has been registered and is being used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **sezanesoldes.com**: Transferred

PANELLISTS

Name	Stefanie Efstathiou LL.M. mult.
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DATE OF PANEL DECISION **2023-05-26**

Publish the Decision
