

Decision for dispute CAC-UDRP-105406

Case number	CAC-UDRP-105406
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Time of filing	2023-05-02 11:37:52
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Domain names	marant-etoile.com
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Case administrator

Name	Olga Dvořáková (Case admin)
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Complainant

Organization	IM PRODUCTION
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Complainant representative

Organization	NAMESHIELD S.A.S.
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Respondent

Name	Dchs Ybchs
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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 the owner of the following Trademarks;

European Trademark ISABEL MARANT, n°001035534 registered since May 03, 2000;
International trademark ISABEL MARANT ETOILE, n° 1095322; registered since June 27, 2011;
International trademark ISABEL MARANT, n° 1284453, registered since November 16, 2015;
International trademark MARANT, n° 1627354, registered since June 21, 2021.

FACTUAL BACKGROUND

The Complainant owns multiple domain names including the wording "MARANT", such as <isabelmarant.com> registered on April 20, 2002, <marant.com> registered on June 15, 1998 and <isabelmarantetoile.com> registered on September 29, 2011

The disputed domain name <marant-etoile.com> was registered on July 12, 2022 and redirects to a website purporting to be an online store selling the Complainant's ISABEL MARANT products at discounted prices.

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

A. The domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights

The disputed domain name is confusingly similar to Complainant's trade marks. The disputed domain name is identical to Complainant's trade ISABEL MARANT ETOILE, MARANT and ISABEL MARANT and its domain names associated, <isabelmarant.com>, <marant.com> and <isabelmarantetoile.com>.

The domain name <marant-etoile.com> partly incorporates Complainant's well-known, distinctive trademarks ISABEL MARANT ETOILE, MARANT and ISABEL MARANT and its domain names .

The addition of the French wording "ETOILE" (meaning "STAR") is not sufficient to avoid the likelihood of confusion. A domain name that wholly incorporates a Complainant's registered trademark may be sufficient to establish confusing similarity for purposes of the UDRP.

See WIPO Case No. D2003-0888, Dr. Ing. h.c. F. Porsche AG v. Vasilii Terkin.

The addition of the suffix ".COM" does not change the overall impression of the designations as being connected to the trademarks ISABEL MARANT ETOILE, MARANT and ISABEL MARANT. It also does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademarks and its domain names associated.

See WIPO Case No. D2006-0451, F. Hoffmann-La Roche AG v. Macalve e-dominios S.A. ("It is also well established that the specific top level of a domain name such as ".com", ".org" or ".net" does not affect the domain name for the purpose of determining whether it is identical or confusingly similar.")

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

The postal address specified on the website of the disputed domain name is not related to the Complainant, and seems to be used for many litigious shopping websites.

The Respondent has no rights or legitimate interests in respect of the domain name <marant-etoile.com> and he is not related in any way with the Complainant. The

Complainant does not carry out any activity for, nor has any business with the Respondent.

Neither license nor authorization has been granted to the Respondent to make any use of the Complainant's trademarks ISABEL

MARANT ETOILE, MARANT and ISABEL MARANT, or apply for registration of the disputed domain name by the Complainant. Furthermore, the disputed domain name redirects to a French content in relation to the sale of Complainant's products. Paragraph 4(c) (iii) of the Policy provides that a Respondent may demonstrate rights or legitimate interests in a domain name by providing evidence of "legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the [complainant's] trademark or service mark". The Respondent's use of a domain name is not "fair" in circumstances where the domain name falsely suggests affiliation with the trademark owner, WIPO Case No. D2016-1698, Eli Lilly and Company and Novartis Tiergesundheit AG v. Manny Ghumman / Mr. NYOB / Jesse Padilla. See WIPO Overview 3.0, section 2.5 and cases cited therein.

The Respondent's use of the disputed domain name reflects an intent to trade on the reputation of the Complainant's trademarks. Thus, even in the event the goods offered on the Respondent's website authentic ISABEL MARANT products – which seems highly unlikely – the disputed domain name and the Respondent's website falsely suggest to Internet users that the website they have arrived at is affiliated with, sponsored, or endorsed by the Complainant, which is not the case.

Such use is not fair, is not legitimate, and does not give rise to rights or legitimate interest, see WIPO Case No. D2018-2381 COFRA Holding (C&A) v. Contact Privacy Inc., Customer 0149788187 / Wenyan Hu, zigzagzong.

The Complainant concludes that the Respondent has not used or demonstrated preparations to use the disputed domain name in connection with a bona fide offering of goods or services under paragraph 4(c) (i) of the Policy, and is not making a legitimate non-commercial or fair use of the disputed domain name for purposes of paragraph 4(c)(iii) of the Policy. The Respondent has not been authorized to use the Complainant's trademarks, and there is no indication that the Respondent has been commonly known by the disputed domain name within the meaning of paragraph 4(c)(ii) of the Policy.

C. The domain name was registered and is being used in bad faith

The Complainant states that the disputed domain name <marant-etoile.com> is confusingly similar to its trademarks ISABEL MARANT ETOILE, MARANT and ISABEL MARANT registered several years before the registration of the disputed domain name.

The addition of the term "ETOILE" to the trademark MARANT cannot be coincidental, as the Complainant has a collection named "MARANT ETOILE" . Furthermore, the Complainant has registered the Chinese trademark MARANT ETOILE n°64331130 on April 29 , 2022, less than two months before the litigious domain name registration. Besides, all the Google searchresults for the terms "MARANT ETOILE" refer to the Complainant, its trademarks and clothes collection.

This contributes to the distinctiveness of the Complainant's trademarks and its reputation. It is reasonable to assume that the Respondent registered and used the domain name with full knowledge of the Complainant's trademark.

Please see WIPO Case No. D2016-2097, IM Production v. Erica Wong ("The Panel is satisfied that the ISABEL MARANT trade mark is sufficiently well-known in China that, in all likelihood, the Respondent would have been aware of the Complainant's trade mark at the time the disputed domain name was registered.").

The Respondent's use of the disputed domain name to directly compete with the Complainant is further evidence of bad faith. The Complainant finds that a disputed domain name used for the primary purpose of disrupting a complainant's business by directly competing with the complainant is evidence of bad faith registration and use pursuant to Policy paragraph 4(b) (iii). See Case No. FA 94864 (Nat. Arb. Forum July 18, 2000) S. Exposure v. S. Exposure, Inc., ("finding that the respondent registered the domain name in question to disrupt the business of the complainant, a competitor of the respondent");

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. **marant-etoile.com**: Transferred

PANELLISTS

Name	Gie Van den Broek
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DATE OF PANEL DECISION 2023-05-31

Publish the Decision