

Decision for dispute CAC-UDRP-105690

Case number	CAC-UDRP-105690
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Time of filing	2023-08-09 09:16:45
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Domain names	allsaintssaleuk.com, allsaints-mexico.com, all-saintsoutlet.com, allsaints-outlets.com, allsaintsoutletcanada.com
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Case administrator

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

Organization	All Saints Retail Limited
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Complainant representative

Organization	Stobbs IP
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Respondent

Organization	Web Commerce Communications Limited
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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 names.

IDENTIFICATION OF RIGHTS

The Complainant is the registered owner of many trademarks for ALL SAINTS, e.g. United Kingdom trademark registration no 00002307473 registered on March 21, 2003 for goods in classes 3, 14, 18 and 25.

FACTUAL BACKGROUND

It results from the Complainant's undisputed allegations that it is a British fashion retailer headquartered in London. It was founded in 1994 by Stuart Trevor, and Kait Bolongaro and incorporated in 2000. The Complainant started as a wholesale menswear brand that sold exclusively to high-end retailers. The Complainant now sells menswear, womenswear, apparel, footwear, and accessories in 281 stores, and has approximately 3,200 employees across 27 countries including the UK, UAE, USA, Canada, Russia, South Korea and Taiwan.

The Complainant further contends its trademarks "ALL SAINTS" be distinctive and well-known.

Further, the Complainant uses the domain name <allsaints.com> to connect to its main commercial for advertising and commercialising its products.

The disputed domain name <allsaintssaleuk.com> was registered on June 15, 2023, the disputed domain name <allsaints-mexico.com> was registered on May 2, 2023, the disputed domain name <all-saintsoutlet.com> was registered on June 15, 2023, the disputed domain name <allsaints-outlets.com> was registered on May 2, 2023, the disputed domain name <allsaintsoutletcanada.com> was registered on December 1, 2022.

All of them do not resolve to an active website.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain names are 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 names (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 names have been registered and are 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. Pursuant to paragraph 4(a)(i) of the Policy, the Complainant must establish rights in a trademark or service mark, and that the disputed domain names are identical or confusingly similar to a trademark in which the Complainant has rights.

It results from the evidence provided, that the Complainant is the registered owner of several ALL SAINTS trademarks in different jurisdictions worldwide.

Prior UDRP panels have found that a disputed domain name is confusingly similar to a complainant's trademark where the disputed domain name incorporates the complainant's trademark in its entirety (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0") at section 1.7.

This Panel shares this view and notes that the Complainant's registered trademark ALL SAINTS is fully included in the disputed domain names, followed by the descriptive term "sale" and the geographical abbreviation for United Kingdom (UK) in the disputed domain name <allsaintssaleuk.com>, the geographical term "mexico" (and hyphen) in the disputed domain name <allsaints-mexico.com>, the generic and descriptive term "outlet" (and hyphen) in the disputed domain name <all-saintsoutlet.com>, where it is followed by the generic and descriptive term "outlet" and the geographical term "canada" in the disputed domain name <allsaintsoutletcanada.com>. Furthermore, it is the view of this Panel that the addition of the terms respectively "sale", "uk", "mexico" (and hyphen), "outlet", "outlets" (and hyphen), "canada" in the disputed domain names cannot prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark since the Complainant's trademark is clearly recognizable in the disputed domain names (see WIPO Overview 3.0 at section 1.8).

Finally, the generic Top-Level Domain ("gTLD") ".com" of the disputed domain names is typically disregarded under the first element confusing similarity test (see WIPO Overview 3.0 at section 1.11.1).

In the light of the above, the Panel finds that the disputed domain names are confusingly similar to a trademark in which the

Complainants have rights.

2. Pursuant to paragraph 4(a)(ii) of the Policy, the Complainant must secondly establish that the Respondent has no rights or legitimate interests in respect of the disputed domain names.

Paragraph 4(c) of the Policy contains a non-exhaustive list of circumstances which, if found by the Panel to be proved, shall demonstrate the Respondent's rights or legitimate interests to the disputed domain names.

In the Panel's view, based on the undisputed allegations stated above, the Complainant has made a prima facie case that none of these circumstances are found in the case at hand and, therefore, that the Respondent lacks rights or legitimate interests in the disputed domain names.

According to the Complaint, which has remained unchallenged, the Complainant has no relationship in any way with the Respondents and did, in particular, not authorize the Respondents' use of the dominant feature of the Complainant's trademark ALL SAINTS, e.g. by registering the disputed domain names comprising said trademark entirely.

Furthermore, the Panel notes that there is no evidence showing that the Respondents might be commonly known by the disputed domain names in the sense of paragraph 4(c)(ii) of the Policy.

Moreover, the nature of the disputed domain names carries a risk of implied affiliation, since the disputed domain names contain the Complainant's trademark followed respectively by the letters "uk", which are the geographical abbreviation for United Kingdom, and the geographical terms "mexico", "canada" and the terms "sale" and "outlets" and certain geographic terms or terms with an "inherent Internet connotation" are seen as tending to suggest sponsorship or endorsement by the trademark owner, see WIPO Overview 3.0 at section 2.5.1.

It is acknowledged that once the Panel finds a prima facie case is made by a complainant, the burden of production under the second element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name (see WIPO Overview 3.0 at section 2.1). Since the Respondent in the case at hand failed to come forward with any allegations or evidence, this Panel finds, in the circumstances of this case, that the Respondents have no rights or legitimate interests in the disputed domain names.

The Panel finds that the Complainant has therefore satisfied paragraph 4(a)(ii) of the Policy.

3. According to paragraph 4(a)(iii) of the Policy, the Complainant must thirdly establish that the disputed domain names have been registered and are being used in bad faith. The Policy indicates that certain circumstances specified in paragraph 4(b) of the Policy may, "in particular but without limitation", be evidence of the disputed domain name's registration and use in bad faith.

It is the view of this Panel that these circumstances are met in the case at hand:

The Respondent has been involved in a number of trademark-abusive domain name registrations (e.g. *All Saints Retail Limited v. Client Care, Web Commerce Communications Limited*, WIPO Case No. D2023-0209; *All Saints Retail Limited v. Tanja Lemann, Client Care, Web Commerce Communications Limited*, WIPO Case D2023-1403).

In the view of the Panel this behaviour demonstrates a pattern of conduct by the Respondent of taking advantage of trademarks of third parties without any right to do so and is indicative of the Respondent's bad faith. Previous UDRP panels have held that establishing a pattern of bad faith conduct requires more than one, but as few as two instances of abusive domain name registration. This may include a scenario where a respondent, on separate occasions, has registered trademark-abusive domain names, even were directed at the same brand owner, see WIPO Overview 3.0, section 3.1.2. The Panel considers that this is the case in the case at issue.

Finally, the further circumstances surrounding the disputed domain names' registration and use confirm the findings that the Respondent has registered and is using the disputed domain names in bad faith (see WIPO Overview 3.0 at section 3.2.1):

(i) the nature of the disputed domain names (i.e. incorporating Complainant's mark plus the addition of geographical terms and/or the terms which related to the Complainant's business activity);

(ii) a clear absence of rights or legitimate interests coupled with no credible explanation for the Respondents choice of the disputed domain names;

(iii) the Respondent did not provide any response with conceivable explanation of its behaviour.

In light of the above the Panel finds that the disputed domain names have been registered and are being used in bad faith pursuant to 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. **allsaintssaleuk.com**: Transferred
 - 2. **allsaints-mexico.com**: Transferred
 - 3. **all-saintsoutlet.com**: Transferred
 - 4. **allsaints-outlets.com**: Transferred
 - 5. **allsaintsoutletcanada.com**: Transferred
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PANELLISTS

Name	Dr. Federica Togo
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DATE OF PANEL DECISION	2023-09-22
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Publish the Decision
