Decision for dispute CAC-UDRP-106474

Case number	CAC-UDRP-106474
Time of filing	2024-04-22 12:21:11
Domain names	sezane.top

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	BENDA BILI

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Organization	qwq

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, among others, of the international trademark n. 1170876 SEZANE, granted on June 3, 2013, and of the domain name <sezane.com> registered since April 3, 2003.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

The Complainant states that it is a French company specialized in ready-to-wear collections and accessories for women and trading under its commercial name and trademark SEZANE.

The Complainant further states that it is the owner of the trademark “SEZANE” since 2013 and of various domain names, such as the domain name <sezane.com>. The disputed domain name was registered on April 16, 2024. The domain name resolves to an online store selling clothes and accessories at discounted prices under the brand SEZANE.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.
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

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).

The disputed domain name <sezane.top> is confusingly similar to its trademark “SEZANE”, as it incorporates the trademark in its entirety.
Indeed, the addition of the gTLD .top is not sufficient at all to escape the finding that the domain name is confusingly similar to the trademark “SEZANE”.
See similar case: Forum Case No. FA 153545, Gardline Surveys Ltd v. Domain Finance Ltd.

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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).

According to the WIPO case No. D2003-0455, Croatia Airlines d. d. v. Modern Empire Internet Ltd., the complainant is required to make out a prima facie case that the respondent lacks rights or legitimate interests. Once such prima facie case is made, the respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the respondent fails to do so, the complainant is deemed to have satisfied paragraph 4(a) (ii) of the Policy.

In the case at hand, the Respondent is not affiliated with the Complainant nor authorized by it in any way to use the trademark “SEZANE”. The Complainant does not carry out any activity for, nor has any business with the Respondent. The disputed domain name is parked: therefore, the Respondent did not make any use of disputed domain name since its registration, and it confirms that Respondent has no demonstrable plan to use the disputed domain name. It demonstrates a lack of legitimate interests in respect of the disputed domain name.

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The Panel finds that the Complainant successfully submitted prima facie evidence that the Respondent has made no use of, or demonstrable preparations to use, neither of the disputed domain name in connection with a bona fide offering of goods or services, nor is making a legitimate non-commercial or fair use of the disputed domain name. Indeed, given the distinctiveness of

the Complainant's trademark and reputation, it is reasonable to infer that the Respondent has registered the domain name with full knowledge of the Complainant's trademark “SEZANE”. Please see for instance WIPO Case No. D2004-0673, Ferrari S.p.A v. American Entertainment Group Inc.

Here, Complainant has specifically argued that bad faith exists pursuant to, inter alia, paragraph 4(b)(iv) of the UDRP because the website associated with the disputed domain name resolves to an online store which bears the "SEZANE" trademark and even mentions its CEO and its trademark and logo: the Panel does agree, since several previous panels also have reached similar conclusions. See, e.g., Reebok International Limited v. Web Commerce Communications Limited, Client Care, WIPO Case No. D2022-2738 (finding bad faith where “Respondent’s Website features Complainant’s… Mark prominently throughout the website to sell footwear using photographs that look similar to the photographs that Complainant uses to sell footwear on its website”); and “Dr. Martens” International Trading GmbH and “Dr. Maertens” Marketing GmbH v. Domain Administrator, See PrivacyGuardian.org / Stephan Naumann, WIPO Case No. D2020-0379 (finding bad faith where disputed domain name was used in connection with a website that included complainant’s logo and “offered a variety of footwear bearing the [complainant’s] trademark for online sale at discounted prices without a disclaimer”).

Accordingly, the Panel finds that Complainant has proven the third element of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **sezane.top**: Transferred

PANELLISTS

Name	**Tommaso La Scala**

DATE OF PANEL DECISION 2024-05-27

Publish the Decision