Decision for dispute CAC-UDRP-106999

Case number	CAC-UDRP-106999
Time of filing	2024-10-29 10:35:34
Domain names	sanitinofr.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	SANITINO s.r.o.

Complainant representative

Organization	Cisek, advokátní kancelář s.r.o.

Respondent

Name	Chenrui Gai

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 trade mark registrations in various jurisdictions for its SANITINO trade mark including International Trade Mark No. 1421885 for the word mark SANTINO which has been registered since February 21, 2018 and is designated, in particular, in the European Union. It also owns Czech trade mark registration 367418 for SANITINO which was registered on June 27, 2018.

It also owns trade mark registrations for logo marks incorporating the SANITINO mark, including trade mark registration 1484622 registered since March 25, 2019 and designated in particular in the European Union.

In addition, the Complainant owns numerous domain names including its SANITINO mark, including, in particular, <sanitino.fr> from which it operates its promotional websites.

FACTUAL BACKGROUND

The Complainant has been selling bathroom and kitchen equipment since 2008 and currently operates an e-shop for its products in 11 European countries, including in France from the domain name <sanitino.fr> which it registered on January 21, 2018 and which it has been using to operate its e-shop focussed on French customers.

The disputed domain name was registered on July 10, 2024 and resolves to a website which appears to offer for sale SANITINO

products under the banner “Sanitino Soldes” and which features photographs of the Complainant’s SANITINO products and the Complainant’s SANITINO logo mark. The website does not identify the seller’s legal entity or address details.

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 demonstrated that it owns registered trade mark rights for its SANITINO trade mark as noted above. The Complainant’s trade mark is wholly incorporated into the disputed domain name and is therefore confusingly similar to it. As submitted by the Complainant, the addition of the letters “fr” after the word “sanitino” in the disputed domain name, which is obviously an abbreviation for France, does not distinguish the disputed domain name and does not prevent a finding of confusing similarity.

The Complainant has submitted that the Respondent has no rights or legitimate interests in the disputed domain name. It has asserted that its SANITINO word mark has been used without authority in the disputed domain name and on the website to which it resolves and that the website also features its SANITINO logo mark without its permission.

The Complainant has further submitted that the website at the disputed domain name is a fraudulent site which not only offers similar products to those offered by the Complainant, but masquerades as if it is the Complainant’s website, or has been authorised by the Complainant. The Complainant has asserted that it was approached in October 2024 by people who have made purchases on the website at the disputed domain name thinking that it was the Complainant’s site, but who have never received their order, even if they have paid for their goods. The Complainant has submitted that this amounts to fraudulent conduct and that the e-shop at the disputed domain name is fraudulent and is likely used by the Respondent as a vehicle for “phishing”.

The Panel finds that this apparently fraudulent and illegal conduct is completely inconsistent with bona fide business conduct and is therefore inconsistent with the Respondent having any rights or legitimate interests in the disputed domain name. The Complainant has made out a prima facie case in this regard which has not been rebutted by the Respondent and the Panel therefore finds that the Complainant has no rights or legitimate interests in the disputed domain name.

The disputed domain name was only registered in July 2024, some years after the Complainant registered its SANITINO word and also its combined word and logo mark and commenced operating its on-line web shop. The fact that the website to which the disputed domain name resolves features these marks and appears to masquerade as if it is the Complainant’s website, or has been

authorised by the Complainant, indicates that it is more likely than not that the Respondent was well aware of the Complainant's business and Sanitino marks when it registered the disputed domain name.

Under paragraph 4(b)(iv) of the Policy there is evidence of registration and use of the disputed domain name in bad faith where a Respondent has used the disputed domain name to intentionally attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trade marks as to the source, sponsorship, affiliation or endorsement of the website.

In this case the Complainant has demonstrated that the disputed domain name resolves to a website that appears to be aimed at the French market and which masquerades as if it is owned by or authorised by or has some affiliation with the Complainant, when this is not the case. Internet users looking for the Complainant's website for the French market may well be confused into thinking that the website at the disputed domain name is the Complainant's and that they are dealing with the Complainant when this is not so. It appears that the Respondent is using the disputed domain name to attract would be customers to its website falsely thinking that they are dealing with the Complainant or its authorised dealers or agents when in fact they are ordering products from the Respondent for its own commercial gain. This amounts to conduct under paragraph 4(b)(iv) of the Policy and is evidence of registration and use of the disputed domain name in bad faith.

The Complainant has made assertions, which have not been rebutted by the Respondent, that when customers order and pay for the goods on the website at the disputed domain name that they have never in fact received the goods and hence complained to the Complainant as they were confused and did not discern that they had ordered goods from the Respondent instead. Using the Complainant's trade marks and identity to cause the website to masquerade as if it is owned by or authorised by the Complainant when this is not the case and then not delivering goods that have been ordered and paid for amounts to fraudulent and conduct and illegal use of the disputed domain name in bad faith.

Accordingly the Panel finds that the Respondent has both registered and used the disputed domain name in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **sanitinofr.com**: Transferred

PANELLISTS

Name	**Mr Alistair Payne**

DATE OF PANEL DECISION 2024-12-08

Publish the Decision