

Decision for dispute CAC-UDRP-107099

Case number **CAC-UDRP-107099**

Time of filing **2024-11-29 09:52:10**

Domain names **vaudebatohy.com, vaude-canada.com, vaundefietstassen.com, vaudeitalia.com, vaudeleuven.com, vaudemagyarorszag.com, vaudepolska.com, vaude-nederland.com, vaudenorge.com, vaude-suomi.com, vaudesverige.com, vaudeukstockists.com, vaudefrance.com, vaude-schweiz.com**

Case administrator

Name **Olga Dvořáková (Case admin)**

Complainant

Organization **VAUDE Sport GmbH & Co. KG**

Complainant representative

Organization **Convey srl**

Respondents

Name **Zhang Fei**

Organization **Web Commerce Communication limited**

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's VAUDE trademarks have been registered and protected in numerous jurisdictions worldwide and it has a considerable international portfolio of registered marks. In particular, it relies on its word mark, the EUTM, No. 012275335, for the word "VAUDE" in classes 18, 20, 22, 25 registered on 11 March 2014. It also has various international marks for the word in device form. This includes INT. Mark No. 1111326 in the same classes for the device/figurative mark with the word element, VAUDE, applied for on 10 February 2012 and designating 21 countries including China and other parts of Asia. The Complainant says its name and mark VAUDE is a household name among outdoor and sustainability-conscious consumers, and a trusted and highly distinctive brand.

FACTUAL BACKGROUND

The Complainant is VAUDE Sport GmbH & Co. KG, founded in 1974 by Albrecht von Dewitz in Germany. It says it is a world recognized leader in the mountain and sports equipment industry, with a focus on outdoor gear, including backpacks, tents, technical apparel, and

footwear. The brand name “VAUDE” originates from the founder’s initials, and it says it is synonymous with innovation, quality, and a passion for nature and adventure. Over nearly five decades, VAUDE has built a strong global reputation not only for its high-quality products but also for its commitment to sustainability and social responsibility. The Complainant has been a pioneer in eco-friendly production, introducing its “Green Shape” certification for sustainable products and adhering to the rigorous standards of the Fair Wear Foundation to ensure fair work conditions. VAUDE goods are sold and marketed through official websites, retail partners and global distribution networks, both physical and online, making it a household name among outdoor and sustainability-conscious consumers, and establishing itself as a trusted and distinctive brand.

The disputed domain names at issue were registered by the Respondent in late 2023 and have been pointed to websites where the Complainant’s trademarks are illegitimately used on the corresponding websites for commercial purposes.

Cease and desist letters were sent on 19 November 2024 via the WHOIS online contact details for each of the disputed domain names but there was no answer.

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 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 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).

PROCEDURAL FACTORS

The Complainant requests that the disputed domain names and the named Respondent be consolidated in a single UDRP proceeding. Consolidation of multiple registrants as respondents in a single administrative proceeding may in certain circumstances be appropriate under paragraph 3(c) or 10(e) of the Rules, provided that the Complainant can demonstrate that the domain names or the web sites to whom they resolve are subject to common control, and the panel, having regard to all of the relevant circumstances, determines that consolidation would be procedurally efficient and fair and equitable to all parties. The consensus view of UDRP panels is expressed in WIPO Panel Views on Selected UDRP Questions, Third Edition (“WIPO Overview 3.0”), section 4.11.2: “Where a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario.

Here, the disputed domain names comprise the “VAUDE” trademark accompanied by other generic / descriptive terms referring to the same business/sector of the Complainant’s industry, such as “batohy”, or in English “backpacks” and “fietstassen”, in English, “bicycle bags”, or referring to specific geographical locations, such as: “canada”, “france”, “italia”, “magyarország”, “polska”, “nederland”, “norge”, “schweiz”, “suomi”, “sverige”, “ukstockists” and “leuven” and which are referred to specific locations (i.e., countries, cities).

Accordingly, the Complainant says that such proofs are concrete and sufficient to prove that the disputed domain names are subject to a common control and asks the Panel for the consolidation of the disputed domain names in a single dispute, thus referring hereinafter to a unique “Respondent”. The Complainant also says the evidence shows that based on the WHOIS data all the disputed domain

names share the following similarities, they have the: same Registrar: alibaba.com singapore e-commerce private limited and the same Hosting Provider: CloudFlare Inc. and very similar registration dates: all between November – December 2023. The content at each site is also similar or identical and with the same look and feel. The Complainant believes that the disputed domain names are under the actual control of a single individual/entity. Accordingly, the Complainant requests that the Panel, as ruled in prior decisions issued under the Policy, consolidate the disputed domain names according to the Rules, paragraph 3(c) and 10(e).

The Panel is prepared to grant the application for consolidation. The similarities of date, content and locations cannot be a co-incidence. The Panel finds the criteria made out for the reasons submitted.

The Panel is satisfied that all procedural requirements under the Policy 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 UDRP, (the Policy), a complainant can only succeed in administrative proceedings if the panel finds:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- (ii) the respondent has no rights or legitimate interests in respect of the domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

A complainant must prove that each of these three elements are present.

There is no doubt as to Rights, the mark is highly distinctive, and the Panel finds it is a well-known mark with the relevant public. As to similarity, it is noted the disputed domain names are all .coms. While the suffix is disregarded, it can be relevant to the issue of impersonation and can suggest a domain is official. Most of the disputed domain names have the name and word mark, Vaude, together with a descriptive or generic term which is ignored in the similarity analysis. Adding a generic term, in front –or indeed after, a well-known name and mark does not prevent a finding of confusing similarity. The test for identity is strict and they are not identical. But incorporation of the trademark combined only with a dictionary word may mean the domain name is confusingly similar to Complainant's registered mark. E.g., Hoffmann-La Roche Inc. v. Hightech Industries, Andrew Browne, WIPO Case No. D2010-0240 finding "the incorporation of a trademark in its entirety may be sufficient to establish that a domain name is identical or confusingly similar to the Complainant's registered mark." The Panel finds that the Complainant has rights in a name or mark similar to the disputed domain names.

To demonstrate rights or legitimate interests in a domain name, under the UDRP paragraph 4(c) include the following:

- (i) before any notice of the dispute, the respondent's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or
- (ii) the respondent (as an individual, business, or other organization) has been commonly known by the domain name, even if the respondent has acquired no trademark or service mark rights; or
- (iii) the respondent is making a legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

A complainant is only required to make out a prima facie case that a respondent lacks rights or legitimate interests and then the burden shifts to the respondent to show it has rights or legitimate interests in the domain name. If it fails to do so, the complainant is deemed to have satisfied the limb in paragraph 4(a) (ii). See WIPO Case No. D2003-0455, Croatia Airlines d. d. v. Modern Empire Internet Ltd.

This is not an own name case. Past panels have held that a respondent was not commonly known by a disputed domain name if the WHOIS information was not similar to the disputed domain name. See the Forum Case No. FA 1781783, Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II v. Chad Moston / Elite Media Group <bobsfromsketchers.com>. The Respondent is not known by the disputed name in the WHOIS.

The Respondent's conduct is very likely unlawful passing-off and infringement. It is not bona fide or fair or legitimate competition or use. The sites to which the disputed domain names resolve do not discuss the Complainant or its goods nor do they appear to be genuine resellers—rather they hold themselves out as *the* Complainant but without right or title. If they had a legitimate use or reason for it, they would have come forward with it.

As to the final Policy limb, Bad Faith, the finding as to Bad Faith, follow from the second limb. If there is unfair and illegitimate use, there will often be bad faith. Here the Respondent did not come forward to explain his reasons for the selection of the disputed domain names and why there is no Bad Faith. The Panel finds the Respondent could not have been unaware of the Complainant's trademark, confusingly similar to the disputed domain names. In light of the Complainant's reputation in the mountain and sports equipment industry and the strategy of these multiple registrations, it is clear that the Respondent was well aware of the marks and registered the disputed domain names with the intention of leveraging that reputation and goodwill and free-riding on it.

The Panel finds the Complainant has discharged its burden under the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. **vaudebatohy.com**: Transferred
- 2. **vaude-canada.com**: Transferred
- 3. **vaudéfietstassen.com**: Transferred
- 4. **vaudeitalia.com**: Transferred
- 5. **vaudeleuven.com**: Transferred
- 6. **vaudemagyarország.com**: Transferred
- 7. **vaudepolska.com**: Transferred
- 8. **vaude-nederland.com**: Transferred
- 9. **vaudenorge.com**: Transferred
- 10. **vaude-suomi.com**: Transferred
- 11. **vaudesverige.com**: Transferred
- 12. **vaudeukstockists.com**: Transferred
- 13. **vaudefrance.com**: Transferred
- 14. **vaude-schweiz.com**: Transferred

PANELLISTS

Name	Victoria McEvedy
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DATE OF PANEL DECISION 2025-01-17

Publish the Decision