Decision for dispute CAC-UDRP-107154

Case number	CAC-UDRP-107154
Time of filing	2024-12-12 13:58:07
Domain names	vaudebelgie.com, vaudebelgique.com, vaudecanada.com, vaudechile.com, vaudecolombia.com, vaudegreece.com, vaudeireland.com, vaudejakke.com, vaudejakna.com, vaudejapan.com, vaudekuwait.com, vaudelt.com, vaudemexico.com, vaudenederland.com, vaudenz.com, vaudeoutletargentina.com, vaudeoutletbulgaria.com, vaudeportugal.com, vauderomania.com, vaudesale.net, vaudesalehungary.com, vaudesaleisrael.com, vaudesalelatvija.com, vaudesaleperu.com, vaudesaleuae.com, vaudeschweiz.com, vaudesuisse.com, vaudesuomi.com, vaudeuk.com, xn--vaudeespaa-19a.com, xn--vaudetrkiye-yhb.com, vaudeslovenija.com, vaudecz.com, vaudeparis.com

Case administrator

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

Complainant

Organization	VAUDE Sport GmbH & Co KG

Complainant representative

Organization	Convey srl

Respondents

Name	zhang qiang
Name	Louis Holmes
Name	Jayden Fuller
Name	Corey Stone
Name	Poppy Bradley
Name	Julia Wagner

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 (the "Domain Names").

IDENTIFICATION OF RIGHTS

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The Complainant is the owner of various trade marks in numerous jurisdictions that include or incorporate the term "VAUDE".

These include:

- International trade mark registration no. 1111326 in classes: 18, 20, 22 and 25 filed on 10 February 2021 and which has proceeded to registration in over 20 territories. It takes the form of a word/figurative mark comprising the word Vaude in stylised text combined with a triangular device; and
- European Union trade mark registration no. 012275335 for “VAUDE” as a word mark in classes 18, 20, 22 and 25 with a filing date of 4 November 2013 and proceeding to registration on 11 March 2014.

FACTUAL BACKGROUND

The Complainant was founded by Albrecht von Dewitz in Germany in 1974 and is engaged worldwide in dealings in the mountain and sports equipment, including backpacks, tents, technical clothing and footwear. The brand name “VAUDE” comes from the founder’s initials.

Products under the brand VAUDE have been extensively marketed through official websites, retail partners and global distribution networks both physical and online. These products have also been sold in China.

The Domain Names were registered between June 2023 and September 2024, with the vast majority being registered on the 20 June 2023. They have each been linked to websites dedicated to the sale of goods bearing the Complainant’s trade marks, all of which have a similar layout. On these websites, the products have been offered for sale at prices that are significantly below the prices at which the Complainant sells these goods. By way of example a Batura jacket has been offered for sale for € 61.30 on the Respondent’s website, compared to € 250.00 on the Complainant’s official website.

Cease and desist letters were sent on 20 November 2024 to the e-mail address displayed in the Whois Record for the Domain Names. No response was forthcoming to the same.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the Domain Names should be transferred to it.

No administratively compliant Response has been filed.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the Domain Names are identical or confusingly similar to a trade mark 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 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 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

There are 34 Domain Names in issue in these proceedings. Each of these Domain Names together with the registration date, the

identity of the registrant according to the registration details disclosed on the publicly available WhoIs database at the time the proceedings were commenced, and the identity of the registrant and the city address provided for that registrant by the registrars for the Domain Names are set out below:

No.	Domain Name	Registration date	WhoIs Registrant	Disclosed Registrant	City	Country
1	vaudebelgie.com	20/06/2023	zhang qiang	zhang qiang	Wuhan	China
2	vaudebelgique.com	20/06/2023	zhang qiang	zhang qiang	Wuhan	China
3	vaudecanada.com	20/06/2023	zhang qiang	zhang qiang	Wuhan	China
4	vaudechile.com	20/06/2023	zhang qiang	zhang qiang	Wuhan	China
5	vaudecolombia.com	20/06/2023	zhang qiang	zhang qiang	Wuhan	China
6	vaudegreece.com	20/06/2023	zhang qiang	zhang qiang	Wuhan	China
7	vaudeireland.com	20/06/2023	zhang qiang	zhang qiang	Wuhan	China
8	vaudejakke.com	20/06/2023	zhang qiang	zhang qiang	Wuhan	China
9	vaudejakna.com	20/06/2023	zhang qiang	zhang qiang	Wuhan	China
10	vaudejapan.com	20/06/2023	zhang qiang	zhang qiang	Wuhan	China
11	vaudekuwait.com	20/06/2023	zhang qiang	zhang qiang	Wuhan	China
12	vaudelt.com	20/06/2023	zhang qiang	zhang qiang	Wuhan	China
13	vaudemexico.com	20/06/2023	zhang qiang	zhang qiang	Wuhan	China
14	vaudenederland.com	20/06/2023	zhang qiang	zhang qiang	Wuhan	China
15	vaudenz.com	20/06/2023	zhang qiang	zhang qiang	Wuhan	China
16	vaudeoutletargentina.com	20/06/2023	zhang qiang	zhang qiang	Wuhan	China
17	vaudeoutletbulgaria.com	20/06/2023	zhang qiang	zhang qiang	Wuhan	China
18	vaudeportugal.com	20/06/2023	zhang qiang	zhang qiang	Wuhan	China
19	vauderomania.com	20/06/2023	zhang qiang	zhang qiang	Wuhan	China
20	vaudesalehungary.com	20/06/2023	zhang qiang	zhang qiang	Wuhan	China
21	vaudesaleisrael.com	20/06/2023	zhang qiang	zhang qiang	Wuhan	China
22	vaudesalelatvija.com	20/06/2023	zhang qiang	zhang qiang	Wuhan	China
23	vaudesaleperu.com	20/06/2023	zhang qiang	zhang qiang	Wuhan	China
24	vaudesaleuae.com	20/06/2023	zhang qiang	zhang qiang	Wuhan	China
25	vaudeschweiz.com	20/06/2023	zhang qiang	zhang qiang	Wuhan	China

26	vaudesuisse.com	20/06/2023	zhang qiang	zhang qiang	Wuhan	China
27	vaudesuomi.com	20/06/2023	zhang qiang	zhang qiang	Wuhan	China
28	vaudeuk.com	20/06/2023	zhang qiang	zhang qiang	Wuhan	China
29	vaudesale.net	21/06/2023	zhang qiang	zhang qiang	Wuhan	China
30	vaudecz.com	20/06/2023	Whois Agent	Poppy Bradley	Genova	Italy
31	xn--vaudeespaa-19a.com	20/06/2023	Whois Agent	Louis Holmes	Bremen	Germany
32	xn--vaudetrkiye-yhb.com	20/06/2023	Whois Agent	Jayden Fuller	Bremen	Germany
33	vaudeparis.com	08/03/2024	Whois Agent	Julia Wagner	Berlin	Germany
34	vaudeslovenija.com	04/09/2024	REDACTED FOR PRIVACY	Corey Stone	Bremen	Germany

As is apparent from this table, the Domain Names fall into to at least two groups. Twenty-nine (29) of the Domain Names were registered in the name of "zhang qiang" of Wuhan in China, and all but one of these Domain Names was registered on 20 June 2023. The one that was not registered on 20 June 2023, was registered on 21 June 2023. The second group of Domain Names comprises three domains also registered on 20 June 2023, and two registered in March and September 2024 respectively. Two among this second set of Domain Names are extended character domain names that correspond to <vaudeespaña.com> and <vaudetürkiye.com>.

The Complainant has requested that these proceedings continue in respect of all the Domain Names, notwithstanding the wording of paragraph 3(c) of the UDRP Rules and the fact that some of the Domain Names are registered in names other than "zhang qiang". Generally, the consensus among panelists is that this is permissible provided that the panel is satisfied that the relevant domain names are subject to common control, and this would be fair and equitable to all parties (see WIPO Overview 3.0 section 4.11.2).

The Complainant contends that these requirements are satisfied in the present case.

In this respect, it relies upon the following factors:

- All but one of the second group of Domain Names (the exception being <vaudeslovenija.com>) is registered with the same registrar as the first group; i.e. Registrar Paknic (Private) Limited.
- One of the second group of Domain Names (i.e. <vaudecz.com>) shares the same hosting provider (i.e. Cloudflare Inc) as the first group.
- Three of the second group of Domain Names (the exceptions being <vaudeparis.com> and <vaudeslovenija.com) were registered on the same date as nearly all of the first group.
- All of the second group of Domain Names take the form of the VAUDE mark followed by a geographical term, as is also the case with a large number of the first group.
- Three of the second group of Domain Names provided a registration address in Bremen Germany.

The Complainant also claims that "all related websites [operating from the Domain Names] have the same look and feel". In this respect, the Complainant provides screenshots for each website operating from the Domain Names. These show almost identical webpages with the use of the same header, which includes the Complainant figurative mark, and the same photograph presented in a similar D shape, positioned next to the words "Eco-chic" followed by what appears to be the same text in different languages.

Although not expressly relied upon by the Complainant, it is also notable that all of the five Domain Names in the second group use a contact <cxtmail.com> e-mail address.

The Panel is satisfied that the Complainant has demonstrated that each of the Domain Names in the second group are under the common control of the person or entity that controls the first group. So far as the Domain Names and the registration details alone are concerned, the fact that three of the second group were registered on the same day as nearly all of the first group, and the fact that all of the second group (in common with the majority of the first group) comprise the term VAUDE in combination with a geographical term, is of itself compelling. However, any doubt in this respect, is dispelled by the almost identical form of the website operating from each of the Domain Names, including the much later registered <vaudeparis.com> and <vaudeslovenija.com> Domain Names.

There is also no reason of which the Panel is aware that would mean that would not be fair and equitable to all parties. Further a factor in this assessment is that the underlying registration details in respect of the second set of Domain Names was not available to the Complainant at the time that the proceedings were commenced.

The Panel therefore holds that the proceedings can continue in respect of all of the Domain Names.

In ECCO Sko A/S v zhouyiming CAC-UDRP-100389, where there was an issue of "consolidation" of proceedings, the Panel held that this justified a determination in accordance with paragraph 1 (b) of Annex A of UDRP Supplemental Rules of the Czech Arbitration Court, that an additional fee was due. However, that was a case where there were also other complications beyond the issue of "consolidation". Since that date, in LyondellBasell Industries Holdings B.V. v Riza Fermin and Others CAC-UDRP-106694 a different panel determined that an additional fee was due on the basis of consolidation alone.

Accordingly on 21 January 2025 the Panel determined that an additional fee would be appropriate in that case, and that determination was then notified to the Complainant. The additional fee was paid on 22 January 2025.

PRINCIPAL REASONS FOR THE DECISION

The Complainant has demonstrated rights in registered trade marks for the term "VAUDE". Each of the Domain Names can most sensibly be read as this term combined with one or a number of generic terms and ".com" gTLD. The relevant generic terms include "sales" and "outlet", but in the case of the vast majority of Domain Names, the generic terms comprise or include a geographical reference, whether that be the name of a country or a city or an abbreviation (such as "cz","nz", "lt" and "uk") that is likely to be understood as a references to a country.

Accordingly, the Complainant's trade mark is clearly recognisable in each of the Domain Names. This is sufficient for a finding of confusing similarity under the Policy (see sections 1.7 of the WIPO Overview 3.0). The Complainant has, therefore, satisfied the requirements of paragraph 4(a)(i) of the Policy, in respect of all of the Domain Names.

At the very least in the case of the Domain Names that comprise a combination of the term "vaude" with a geographical reference alone (whether that be the full name of a country or city, of letters that would be understood as a reference to a country), the Panel is satisfied that those Domain Names inherently impersonate the Complainant, and that this impersonation was intended by the Respondent. There is no obvious reading of these Domain Names that does not involve a reference to the Complainant's marks and the use of that mark with the relevant geographical term is likely to be understood by Internet users as indicating that the Domain Name is either authorised or controlled by the Complainant. There is no right or legitimate interest in holding such a domain name, and the deliberate registration and holding of a domain name that impersonates a trade mark owner is both positive evidence that no right or legitimate interest exists and involves registration and use in bad faith (see in this respect sections 2.5.1, 2.14, 3.1.1 and 3.2.1 of the WIPO Overview 3.0 and the analysis of this Panel in Johnson & Johnson v. Ebubekir Ozdogan WIPO Case No. D2015-1031).

Further and in any event, the Panel is satisfied that all of the Domain Names have been, as the Complainant alleges, registered and used for websites that falsely represent that they are affiliated with or endorsed by the Complainant, and that this has been for the purpose of selling counterfeit goods. This is clear from the almost identical form that each of the websites take, which all prominently use the Complainant's marks in a way that would most likely be understood by internet users as indicating that the website is operated, or at least authorised, by the Complainant. Further, so far as the allegation of counterfeit goods is concerned, the Panel is satisfied that the Complainant's contentions as to the significant difference in price between the products sold by the Complainant and their corresponding price on the websites operating from the Domain Names, sufficiently support that allegation (as to which see sections 2.13 WIPO Overview 3.0).

The registration and use of the Domain Names for websites that falsely represent that they are understood as being operated by or at least authorised by the Complainant, is activity that evidences a lack of right or legitimate interests and involves registration and use in bad faith. It is also activity that falls within the scope of the example of circumstances evidencing bad faith set out in paragraph 4(b)(iv) of the Policy. The registration use of a domain name to sell counterfeit products is also an activity that evidences a lack of right or legitimate interests and constitutes registration and use in bad faith (as to which see sections 2.13 and 3.1.4 of the WIPO Overview 3.0).

The Complainant has, therefore, also satisfied the requirements of paragraphs 4(a)(ii) and (iii) of the Policy, in respect of all of the Domain Names.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **vaudebelgie.com**: Transferred
2. **vaudebelgique.com**: Transferred

3. **vaudecanada.com**: Transferred
4. **vaudechile.com**: Transferred
5. **vaudecolombia.com**: Transferred
6. **vaudegreece.com**: Transferred
7. **vaudeireland.com**: Transferred
8. **vaudejakke.com**: Transferred
9. **vaudejakna.com**: Transferred
10. **vaudejapan.com**: Transferred
11. **vaudekuwait.com**: Transferred
12. **vaudelt.com**: Transferred
13. **vaudemexico.com**: Transferred
14. **vaudenederland.com**: Transferred
15. **vaudenz.com**: Transferred
16. **vaudeoutletargentina.com**: Transferred
17. **vaudeoutletbulgaria.com**: Transferred
18. **vaudeportugal.com**: Transferred
19. **vauderomania.com**: Transferred
20. **vaudesale.net**: Transferred
21. **vaudesalehungary.com**: Transferred
22. **vaudesaleisrael.com**: Transferred
23. **vaudesalelatvija.com**: Transferred
24. **vaudesaleperu.com**: Transferred
25. **vaudesaleuae.com**: Transferred
26. **vaudeschweiz.com**: Transferred
27. **vaudesuisse.com**: Transferred
28. **vaudesuomi.com**: Transferred
29. **vaudeuk.com**: Transferred
30. **xn--vaudeespaa-19a.com**: Transferred
31. **xn--vaudetrkiye-yhb.com**: Transferred
32. **vaudeslovenija.com**: Transferred
33. **vaudecz.com**: Transferred
34. **vaudeparis.com**: Transferred

PANELLISTS

Name	**Matthew Harris**

DATE OF PANEL DECISION 2025-01-23

Publish the Decision