Decision for dispute CAC-UDRP-107402

Case number	CAC-UDRP-107402
Time of filing	2025-03-13 15:05:53
Domain names	eu-sezane.com, sezanesale.com, eu-sezane.top

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	BENDA BILI

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondents

Name	Cai Jinhuang
Name	asdasd asdasd

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 owns multiple trademarks, including the international trademark SEZANE No. 1170876, registered on 3 June 2013.

FACTUAL BACKGROUND

The Complainant, BENDA BILI, is a company specializing in ready-to-wear collections and accessories for women, operating under the commercial name and trademark SEZANE. The term “SEZANE” is a contraction of the first and last name of the Complainant’s founder and President, Morgane SEZALORY. SEZANE’s clothing and accessories are exclusively available through its online store.

The Complainant also owns numerous domain names incorporating the term “SEZANE”, including <sezane.com>, which was registered on 3 April 2003.

The Respondents, Cainhuang and asdasd asdasd (hereinafter referred to as “Respondent”), appear to be individuals domiciled in China.

The registration dates of the disputed domain names are as follows:

- eu-sezane.com: 14 February 2025
- sezanesale.com: 21 February 2025
- eu-sezane.top: 27 April 2025

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed 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 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).

The Complainant claims rights in the SEZANE trademark through its international trademark registration. By virtue of its trademark registrations, the Complainant has proved that it has rights in the mark under paragraph 4(a) of the Policy. See Avast Software s. r. o. v Milen Radumilo, 102384, (CAC 2019-03-12).

Furthermore, the Complainant contends that the disputed domain names are identical or confusingly similar to its SEZANE trademark. The inclusion of additional geographical terms such as “EU” and the generic term “SALE” does not sufficiently differentiate the domain names or eliminate the likelihood of confusion. The Complainant also argues that the addition of a top-level domain (TLD) does not alter the overall impression of the designation as being connected to the Complainant’s trademark.

Through a side-by-side comparison, the Panel finds that the disputed domain names are indeed confusingly similar to the Complainant’s SEZANE trademark. The presence of additional terms and punctuation does not diminish the distinctiveness of the mark. See paragraph 1.7 of the WIPO Overview 3.0.

For the foregoing reasons, the Panel finds the Complainant has satisfied 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). More specifically, the Complainant must first make a prima facie case that the Respondent lacks rights and legitimate interests in the disputed domain names, and the burden of proof then shifts to the Respondent to show it does have rights or legitimate interests. See PepsiCo, Inc. v Smith power production, 102378, (CAC 2019-03-08) ("The Panel finds that the Complainant has made out a prima facie case that arises from the considerations above. All of these matters go to make out the prima facie case against the Respondent. As the Respondent has not filed a Response or attempted by any other means to rebut the prima facie case against it, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.").

The Complainant asserts that the Respondent is not known by the disputed domain names and has no affiliation with or authorization from the Complainant in any capacity. The Complainant does not conduct any business with the Respondent and has not granted any license or authorization for the Respondent to use the SEZANE trademark or to register the disputed domain names.

Furthermore, the Complainant contends that the Respondent has used the disputed domain names to disrupt the Complainant’s business and mislead users by impersonating the Complainant, as the Respondent has identified itself as “SEZANE”. The act of impersonating a complainant by incorporating its trademark into a domain name to deceive or confuse users demonstrates a lack of rights or legitimate interests on the part of the Respondent.

The Panel finds that the Complainant has established a prima facie case that the Respondent has no rights or legitimate interests in the disputed domain names. See Harley-Davidson Motor Company, Inc. v. Lina, 106758 (CAC, 2024-09-04) (“Past panels have agreed that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. See paragraph 2.13 of the WIPO Jurisprudential Overview 3.0.”).

The burden of proof has now shifted to the Respondent to demonstrate any rights or legitimate interests in the disputed domain names. However, the Respondent has failed to submit a response within the required timeframe to rebut the Complainant’s assertions.

For the foregoing reasons, the Panel finds the Complainant has satisfied 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).

The Complainant reiterates that the disputed domain names incorporate the distinctive trademark SEZANE, which has existed for many years and has no generic or descriptive meaning. The Complainant further asserts that the Respondent was aware of its trademark and intentionally sought to create a likelihood of confusion by impersonating the Complainant.

Moreover, the disputed domain names redirected to online stores offering competing products, which directly compete with the Complainant's offerings. The use of a domain name to promote competing services has frequently been held to disrupt the business of the trademark owner and constitutes bad faith.

After reviewing the content of the websites resolved by the disputed domain names, along with the Respondent's failure to submit a response within the required timeframe, the Panel concludes that the Respondent was likely aware of the Complainant's SEZANE trademark at the time of registration. Additionally, the Panel finds that the Respondent's deliberate act of impersonating the Complainant for commercial gain constitutes bad faith. See Xiaomi Inc. v. Nguyễn Đức Đạt, 107237 (CAC, 2025-02-12) ("Additionally, the Complainant argues that the Respondent registered the disputed domain name with actual knowledge of the Complainant's rights, as evidenced by its misleading use of the Complainant's XIAOMI mark in its entirety. While constructive knowledge alone is insufficient to establish bad faith under Policy paragraph 4(a)(iii), actual knowledge of a complainant's trademark rights is sufficient and may be inferred from a respondent's use of the disputed domain name to impersonate the complainant."). See also Esselunga S.p.A. v. Xuxu, 105785 (CAC, 2023-11-13) ("The Panel is persuaded that the Domain Name, comprising the Complainant's fanciful trademark and the ordinary word 'shop,' inherently impersonates the Complainant. Given the nature of the Domain Name and the size and reputation of the Complainant's business under the ESSELUNGA mark, the Panel is also persuaded that this impersonation is deliberate on the part of the Respondent.").

For the foregoing reasons, the Panel finds the Complainant has satisfied 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.

PRELIMINARY FINDINGS - CONSOLIDATION:

Pursuant to Paragraph 10(c) of the Rules, a Panel shall determine a Party's request to consolidate multiple domain name disputes in accordance with the Policy and the Rules. The Rules further define "Respondent" as the holder of a domain name registration against which a complaint is initiated.

The Complainant requests consolidation of the Respondents for the following reasons:

1. The disputed domain names <eu-sezane.com> and <sezanesale.com> were registered by the same Repondent ;
2. The disputed domain name <eu-sezane.top> was registered anonymously ;
3. The disputed domain names <eu-sezane.com> and <eu-sezane.top> follow the same registration pattern (i.e., geographical term + trademark).
4. The disputed domain names resolve to similar content, specifically online stores selling clothing and accessories under the SEZANE brand at discounted prices.

The Respondent failed to submit a timely Response within the required period.

Despite the details of the registrants of the disputed domain names are not entirely the same, the Panel notes that the content resolved by the disputed domain names are highly identical displaying the SEZANE trademark and products. It is highly likely that all of the disputed domain names are under common control. See Imiracle(Shenzhen)Technology Co, Ltd. v. Isabella Begum, Rosie Hewitt, ALMARCHA FERRANDEZ AARON, Kai Singh, ESCOTE VARGAS ALEJANDRO, GRAU SANCHIS ALEJANDRO and ALONSO ROLO IDALBERTO, 106942 (CAC 2024-11-22).

Although the registrant details of the disputed domain names are not entirely identical, the Panel observes that the content displayed on the associated websites is highly similar, featuring the SEZANE trademark and products. Given these similarities, it is highly likely that all of the disputed domain names are under common control. See Imiracle(Shenzhen)Technology Co,Ltd. v. Isabella Begum, Rosie Hewitt, ALMARCHA FERRANDEZ AARON, Kai Singh, ESCOTE VARGAS ALEJANDRO, GRAU SANCHIS ALEJANDRO and ALONSO ROLO IDALBERTO, 106942 (CAC 2024-11-22).

On this basis, the Panel accepts the consolidation request in accordance with Paragraph 10(e) of the Rules and article 4.11.2 of the WIPO Overview 3.0.

PRELIMINARY FINDINGS – LANGUAGE OF THE PROCEEDINGS:

The Panel notes that the Registration Agreements, as confirmed by the Registrars, are in English and Chinese. The Complaint was filed in English, and no Response was submitted by the Respondent.

Pursuant to paragraph 11 of the Rules, unless otherwise agreed by the parties or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement. However, the Panel retains discretion to determine otherwise, considering the circumstances of the administrative proceeding.

While the Complainant did not submit a formal request to change the language of the proceeding, the Panel observes that all of the websites associated with the disputed domain names are in French.

The Panel is bilingual and capable of conducting the proceeding in both English and Chinese. Having reviewed the overall circumstances, the Panel considers that conducting the proceeding in English would be fair to both the Complainant (based in France) and the Respondent (based in China). This approach also aligns with the UDRP's objective of ensuring a swift and efficient dispute resolution process.

Accordingly, the Panel determines that the language requirement has been satisfied and decides that the language of the proceeding shall be English.

PRINCIPAL REASONS FOR THE DECISION

Having established all three elements required under the UDRP Policy, the Panel concludes that the disputed domain names should be transferred to the Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **eu-sezane.com**: Transferred
2. **sezanesale.com**: Transferred
3. **eu-sezane.top**: Transferred

PANELLISTS

Name	**Mr Paddy TAM**

DATE OF PANEL DECISION 2025-04-11

Publish the Decision