Decision for dispute CAC-UDRP-107963

Case number	CAC-UDRP-107963
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Domain names	soldewefashion.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	TREND FIN B.V.

Complainant representative

Organization	Waalwear Brands S.A.R.L

Respondent

Name	Zhaoxue Lin

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 states that it is the owner of the following trademark registrations:

- Benelux registration No.1183606 “WE FASHION”, registered on 22 June 2009, for goods and services in classes 18, 25, 35;
- International registration No. 1223927 “WE FASHION”, registered on 20 May 2014, for goods and services in classes 18, 25, 35;
- International registration No. 515958 “WE”, registered on 22 December 1987, for goods and services in classes 3, 18, 24, 25, 26;
- International registration No. 1067898 “WE”, registered on 27 September 2010, for goods and services in classes 3, 9, 14, 18, 25, 35;
- International registration No. 1213402 “WE” (device mark), registered on 20 May 2014, for goods and services in classes 18, 25, 35;
- International registration No. 709486 “WE” (device mark), registered on 24 February 1999, for goods and services in classes 3, 18, 24, 25, 26;
- United Kingdom registration No. UK00001223927 “WE FASHION”, registered on 20 May 2014, for goods and services in classes 18, 25, 35;
- EUTM registration No. 007029571 “WE”, registered on 3 September 2008, for goods and services in classes 3, 9, 14, 18, 25;
- EUTM registration No. 000960201 “WE” (device mark), registered on 19 October 1998 for goods and services in classes 3, 18, 24, 25, 26;
- EUTM registration No. 011312667 “WE” (device mark), registered on 1 November 2012, for goods and services in classes 9, 14, 35.

The Complainant proved its ownership of the aforementioned trademark registrations by the submitted extracts from the databases of the WIPO, EUIPO and the respective national/regional registration offices.

FACTUAL BACKGROUND

The Complainant is the exclusive owner of the “WE” trademarks registered and used throughout the world since 1962, notably for clothing and fashion accessories. WE stores and its distinctive and well-known trademarks are well recognized and have acquired a valuable reputation in the European Union and Switzerland. The Complainant’s trademarks include registrations solely consisting of the sign “WE”, as well as combined registrations such as “WE FASHION”.

Apart from the 130 physical WE stores, customers can also purchase WE-branded fashion products online. For this purpose, the Complainant operates various websites www.wefashion.com, as well as various local ones such as www.wefashion.nl, www.wefashion.fr, www.wefashion.de, www.wefashion.at, www.wefashion.ch, and www.wefashion.be.

The disputed domain name <soldewefashion.com> (hereinafter “disputed domain name”) was registered on 1 November 2023. According to the Registrar, the Respondent is ‘Zhaoxue Lin’. The Respondent’s provided address as being in China.

PARTIES CONTENTIONS

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

RESPONDENT:

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 UDRP).

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 UDRP).

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 UDRP).

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

In the present case, the Respondent has not submitted any Response and consequently has not contested any of the contentions made by the Complainant. Therefore, the Panel proceeds to decide only on the basis of the Complainant’s factual statements and the documentary evidence provided in support of them [Paragraph 5(f) of The Rules].

1. CONFUSING SIMILARITY

The Panel finds that the disputed domain name is confusingly similar to the Complainant's trademarks.

The WIPO Overview 3.0 in Paragraph 1.2.1 states: "Where the complainant holds a nationally or regionally registered trademark or service mark, this prima facie satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case."

The WIPO Overview 3.0 in Paragraph 1.7 states: "[…] in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing."

The WIPO Overview 3.0 in Paragraph 1.8 states: "Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element."

The WIPO Overview 3.0 in Paragraph 1.11.1 states: "The applicable Top Level Domain ("TLD") in a domain name (e.g., ".com", ".club", ".nyc") is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test."

In the present case, the Complainant has established that it owns numerous national, regional and international trademark registrations for the "WE" and "WE FASHION" verbal elements, protected for the classes in connection with clothing (evidenced by the extracts from the databases of the WIPO, EUIPO and the respective national/regional registration offices).

The disputed domain name <soldewefashion.com> contains the Complainant's "WE FASHION" trademarks in its entirety, with the mere addition of the general term "SOLDE" ("SALE" in French).

Past panels have declared that the addition of a general term to an already existing trademark cannot prevent the finding of confusing similarity of the disputed domain name.

Similarly, the ".com" element of the disputed domain name does not affect the finding of confusing similarity.

Therefore, the disputed domain name is considered to be confusingly similar to the relevant trademark.

As a result, the Panel finds that the Complainant has satisfied Paragraph 4(a)(i) of the UDRP.

2. THE RESPONDENT´S LACK OF RIGHTS OR LEGITIMATE INTEREST IN THE DISPUTED DOMAIN NAME

The Panel finds that the Respondent lacks rights or legitimate interest in the disputed domain name.

According to Paragraph 4(a)(ii) of the UDRP, the Complainant shall make a case that the Respondent lacks rights and legitimate interests in the disputed domain name. If the Complainant fulfils this demand the burden of proof shifts to the Respondent and so the Respondent shall demonstrate rights or legitimate interests in the disputed domain name. If the Respondent fails to prove its rights or legitimate interests, it is assumed that the Complainant satisfied the element of Paragraph 4(a)(ii) of the UDRP (see CAC Case No. 102430, Lesaffre et Compagnie v. Tims Dozman). Moreover, past panels were of the view that it is difficult or sometimes impossible to prove negative facts, i.e., absence of rights or legitimate interest on the part of the Respondent. In this respect, past panels referred to the WIPO Case No. D2000-1769, Neusiedler Aktiengesellschaft v. Vinayak Kulkarni. Within the meaning of Paragraph 4(a)(ii) of the Policy, once the complainant has made something credible (prima facie evidence), the burden of proof shifts to the Respondent to show that he has rights or legitimate interests in the domain name at issue by providing concrete evidence.

The WIPO Overview 3.0 in Paragraph 2.5.1 states: "Generally speaking, UDRP panels have found that domain names identical to a complainant's trademark carry a high risk of implied affiliation. Even where a domain name consists of a trademark plus an additional term (at the second- or top-level), UDRP panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner."

The WIPO Overview 3.0 in Paragraph 2.8.1 states: "Panels have recognized that resellers, distributors, or service providers using a domain name containing the complainant's trademark to undertake sales or repairs related to the complainant's goods or services may be making a bona fide offering of goods and services and thus have a legitimate interest in such domain name. Outlined in the "Oki Data test", the following cumulative requirements will be applied in the specific conditions of a UDRP case: (i) the respondent must actually be offering the goods or services at issue; (ii) the respondent must use the site to sell only the trademarked goods or services; (iii) the site must accurately and prominently disclose the registrant's relationship with the trademark holder; and (iv) the respondent must not try to "corner the market" in domain names that reflect the trademark."

The Complainant claims that it has never assigned, granted, licensed, sold, transferred or authorized the Respondent to register or use any of the "WE" trademarks. The Complainant affirms that there is no relationship between the Complainant or its affiliated companies and the Respondent, which would entitle the Respondent to use the Complainant's trademarks.

The Complainant adds that the Respondent has never used or made preparations to use the disputed domain name in connection with a bona fide offering of goods or services. To the contrary, the Respondent uses the disputed domain name to create the impression that he is related to the website to advise on the "WE" trademark.

The Complainant contends that to the extent of its knowledge, the Respondent does not appear to be known by all or part of the disputed domain name nor to have acquired any trademark rights on the sign "WE" nor "WE FASHION". Moreover, it is extremely

unlikely that the Respondent would be known by the disputed domain name, given that the Complainant has been holding rights in its trademarks for decades.

The Complainant assumes that the Respondent is selling unauthorized products which can not be verified as being legitimate. The generation of revenue from the utilization of the "WE" trademarks in such manner shows that the registration/use of the disputed domain name is ex aequo et bono (i.e. in bad faith).

To the satisfaction of the Panel, the Complainant made a prima facie case that there is no connection between the Complainant and the Respondent and that the Respondent does not have authorization in the disputed domain name from the Complainant.

The Complainant furnished evidence (screenshots of the website) proving that the website under the disputed domain name uses the Complainant's trademarks, signs and images that are similar to the content at the Complainant's official websites.

Even if the Respondent would claim that he is a reseller/distributor, in the circumstances of the present case, the requirement (iii) of the Oki Data test is not met, since the corresponding website does not disclose the Respondent's relationship with the Complainant. By that, the Respondent's website simply impersonates the Complainant, and the Internet users might be confused about the affiliation between the Respondent's and Complainant's business activities.

From the Panel's view, the Respondent attracts Internet users to the website under the disputed domain name for the purpose of his own commercial gain.

In this regard, the Panel cannot see any rights or legitimate interest from the Respondent in the disputed domain name.

The Respondent did not file any Response to the Complaint. Thus, the Respondent failed to demonstrate rights or legitimate interest in the disputed domain name.

Therefore, the Panel finds that the Complainant has satisfied the requirement under Paragraph 4(a)(ii) of the UDRP.

3. THE REGISTRATION AND USE OF THE DISPUTED DOMAIN NAME IN BAD FAITH

The Panel finds that the Respondent registered and uses the disputed domain name in bad faith.

The WIPO Overview 3.0 in Paragraph 3.1.4 states: "Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith […]."

In the WIPO Case No. D2021-1802, PRADA S.A. v. Domain Administrator, See PrivacyGuardian.org / Zan zhang, the Panel stated: "The website corresponding to the disputed Domain Name displays products bearing the mark PRADA and images of the Complainant's products for sale with the clear intention to attract, for commercial gain, Internet users to its website, by creating confusion and/or association with the Complainant's trademarks. This Panel finds that the Respondent's attempt to take undue advantage of the trademark PRADA for commercial gain as described in paragraph 4(b)(iv) of the Policy has been demonstrated. For the above reasons, the Panel finds that the condition of paragraph 4(a)(iii) of the Policy has been satisfied, i.e., the disputed Domain Name has been registered and is being used in bad faith.".

In the present case, the Complainant has established that it owns numerous national, regional and international trademark registrations for the "WE" and "WE FASHION" verbal elements, protected for the classes in connection with clothing (proved by the extracts from the databases of the WIPO, EUIPO and the respective national/regional registration offices).

As stated above, the disputed domain name is confusingly similar. This finding indicates the bad faith of the Respondent.

The Panel is of the opinion that the Respondent must have been aware of the Complainant and its trademarks at the moment of registering the disputed domain name on 1 November 2023.

This conclusion is supported by the fact that the Respondent's website includes "WE" trademarks, product names and copyright-protected images taken from the Complainant's official website, leading Internet users to believe that it is the Complainant's official website. The Respondent was and is clearly aware of the Complainant and its products.

Since there is no indication of an affiliation between the Complainant and the Respondent at the corresponding website, it can be presumed that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the website by creating a likelihood of confusion with the Complainant and its trademarks. Such use cannot be understood as being in good faith.

Overall, it might be concluded that the Respondent did not register and is not using the disputed domain name in good faith.

Following the above-mentioned, the Panel finds that the Complainant has satisfied conditions pursuant to Paragraph 4(a)(iii) of the UDRP.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **soldewefashion.com**: Cancelled

PANELLISTS

Name	**Radim Charvát**

DATE OF PANEL DECISION 2025-10-26

Publish the Decision