

ADMINISTRATIVE PANEL DECISION

Le Sportsac, Inc. v. lianjie4 li
Case No. D2022-5003

1. The Parties

The Complainant is Le Sportsac, Inc., United States of America (“United States”), represented by ArentFox Schiff LLP, United States.

The Respondent is lianjie4 li, Hong Kong, China.

2. The Domain Name and Registrar

The disputed domain name <lesportsac-us.com> (the “Domain Name”) is registered with Name.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 28, 2022. On December 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On January 3, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on January 4, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint on January 6, 2023.

The Center verified that the Complaint together with the amendment to the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on January 9, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 29, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 30, 2023.

The Center appointed Jonas Gulliksson as the sole panelist in this matter on February 9, 2023. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and

Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant offers, among other things, lines of handbags, travel totes, messenger bags, backpacks, and accessories under the LESPORTSAC trademark. The Complainant is the proprietor of *inter alia* the following trademark registrations for LESPORTSAC:

- United States trademark registration no. 2827370, registered March 30, 2004 (word mark);
- United States trademark registration no. 1184195, registered December 29, 1981 (figurative mark);
- United States trademark registration no. 1269197, registered March 6, 1984 (figurative mark); and
- Chinese trademark registration no. 1106166, registered September 21, 1997 (figurative mark).

The Domain Name was registered July 18, 2022. The Domain Name resolves to a website offering for sale what appears to be the Complainant's proprietary bags at discounted prices.

5. Parties' Contentions

A. Complainant

The Complainant asserts, substantially, the following:

The Domain Name is identical or confusingly similar to a trademark in which the Complainant has rights.

The Respondent has no rights or legitimate interests in respect to the Domain Name. The Respondent cannot demonstrate that any of the following circumstances apply – (i) that before any notice of the dispute, the Respondent used, or made 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; (ii) that 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) that the Respondent is making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark at issue. The Respondent's use of the Domain Name is unauthorized and is a clear exploitation of the goodwill owned by the Complainant. The use of the Domain Name also misleads and preys on innocent Internet users by offering what it holds out to be genuine LESPORTSAC products sold by the Complainant. The Complainant and some customers have not received confirmation of their product orders from the Domain Name, despite being charged for these purchases. The customers erroneously believed that the Complainant owned or operated the Domain Name, or that the Domain Name was authorized and affiliated with the Complainant.

The Domain Name was registered and is being used in bad faith. The Respondent has intentionally attempted to attract, for commercial gain, Internet users to its unauthorized website by creating a likelihood of confusion with the LESPORTSAC trademark.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

The burden for the Complainant under paragraph 4(a) of the Policy is to prove:

- (i) that the Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) that the Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) that the Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has established that it holds trademark rights in relation to LESPORTSAC.

The Domain Name incorporates the Complainant's LESPORTSAC trademark in its entirety while adding "-us" and the generic Top-Level Domain ("gTLD") ".com". According to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8, 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. In this case, the addition of "-us" does not prevent a finding of confusing similarity between the Domain Name and the Complainant's LESPORTSAC trademark. Further, it is well established that ".com", as a gTLD, is typically disregarded in the assessment of confusing similarity (see section 1.11.1 of the [WIPO Overview 3.0](#)).

Accordingly, the Panel finds that that the Domain Name is confusingly similar to a trademark in which the Complainant has rights, in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, a complainant must first make out a *prima facie* case showing that the respondent lacks rights or legitimate interests in respect of a disputed domain name and then the burden, in effect, shifts to the respondent to come forward with evidence of its rights or legitimate interests, if the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element (see [WIPO Overview 3.0](#), section 2.1).

The Complainant claims that the Domain Name has adopted the look and feel of the Complainant's website and that the Respondent has defrauded customers despite them paying for the LESPORTSAC's products. Considering all of the evidence presented in the case, and the Complainant's un rebutted contentions that the Respondent has no rights or legitimate interests in the Domain Name, the Panel finds that the Complainant has made out an undisputed *prima facie* case.

In addition, the Panel finds that the Domain Name, incorporating the Complainant's LESPORTSAC trademark in its entirety with the term "-us", carries a risk of implied affiliation with the Complainant (see [WIPO Overview 3.0](#), section 2.5.1).

Therefore, the conditions set out in paragraph 4(a)(ii) of the Policy have been met by the Complainant.

C. Registered and Used in Bad Faith

As mentioned above, the Domain Name incorporates the Complainant's LESPORTSAC trademark in its entirety. The Complainant has not authorized the Respondent to use its LESPORTSAC trademark.

The content of the website to which the Domain Name resolves (the "Domain Name Website") clearly reflects the Respondent's awareness of and intent to target the Complainant. The content of the Domain Name Website indicates that the Respondent intentionally has tried to attract, for commercial gain, Internet users to the Domain Name Website by creating a likelihood of confusion with the Complainant's LESPORTSAC trademark as to the source, sponsorship, affiliation, or endorsement of the Domain Name Website and the products supposedly offered on such websites. The Panel also notes that the addition of

“-us” to the Complainant's LESPORTSAC trademark in the Domain Name in some regard strengthens the likelihood of confusion since the addition could make Internet users believe that the Domain Name Website constitutes an official website for the Complainant's business relating to the United States. Based on the aforementioned use of the Domain Name, the documentation presented in the case and the confusing similarity between the Domain Name and the Complainant's LESPORTSAC trademark, the Panel finds that the Domain Name was registered and is being used in bad faith.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the Domain Name <lesportsac-us.com> be transferred to the Complainant.

/Jonas Gulliksson/

Jonas Gulliksson

Sole Panelist

Date: February 23, 2023