

## **ADMINISTRATIVE PANEL DECISION**

C F E B SISLEY v. Ahkey key

Case No. D2023-2574

### **1. The Parties**

The Complainant is C F E B SISLEY, France, represented by Fidal, France.

The Respondent is Ahkey key, United States of America.

### **2. The Domain Name and Registrar**

The disputed domain name <sisley-mall.com> is registered with Gname.com Pte. Ltd. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 14, 2023. On June 15, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 16, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Redacted For Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 16, 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 June 19, 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 June 20, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 10, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 11, 2023.

The Center appointed Taras Kyslyy as the sole panelist in this matter on July 17, 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 is a French company established in 1972. The Complainant manufactures and distributes high end cosmetics, perfumes, and hair products under the name SISLEY all over the world.

The Complainant owns a large portfolio of trademarks incorporating the term SISLEY, including, for instance International Registration No. 385946, registered on February 10, 1972.

The Complainant is also the owner of a number of SISLEY domain names such as <sisley.fr> and <sisley.store> etc., which all redirect to the Complainant's official website "www.sisley-paris.com" owned by the Complainant since 2000.

The disputed domain name was registered on April 28, 2023 and redirected to a website merely composed of a mobile form prominently featuring the Complainant's logo and trademark suggesting clients to fill in to create an account.

At the time of this decision the disputed domain name does not resolve to any active website.

#### **5. Parties' Contentions**

##### **A. Complainant**

The disputed domain name is identical or confusingly similar to the Complainant's trademark. The Complainant's trademark is included in the disputed domain name in its entirety with the additional element "mall". The Complainant's trademarks have been filed and registered prior to the disputed domain name which reproduces the Complainant's trademarks. The additional word "mall" does not distinguish the disputed domain name from the Complainant's trademark and the Complainant's domain names and does not change the overall impression of the designation being related in some way the Complainant's trademark.

The Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not commonly known under the disputed domain name and the Complainant's trademark. The Respondent does not provide a *bona fide* offer of products or services. The Respondent does not make any use of a business name which includes the Complainant's trademark and the disputed domain name and has no rights on any trademark composed of this sign. The Complainant has been monitoring its trademarks worldwide for years and never noticed any SISLEY trademark in the name of the Respondent. The Complainant has not authorized licensed, permitted, or otherwise granted consent to the Respondent's use of the Complainant's trademark in the disputed domain name and has no relationship with the Respondent. The only activity of the website at the disputed domain name seems to be to act as an intermediary, the website merely redirecting to another website selling products under the Complainant's trademark, with obviously malignant intention of collecting client data to resell to third parties. The website is merely composed of a mobile form that clients may fill in to create an account and proceed, thereby providing personal information and data. Such use of the disputed domain name could be used to impersonate the Complainant in order to collect the contact details of Internet users, which could be likened to attempts at phishing or at the very least attempts to collect personal data, possibly for fraudulent purposes. Such acts are likely to be extremely damaging not only to the Complainant, but also to the public concerned. The fact that the disputed domain name redirects to another website also shows clear fraudulent intent on the part of the Respondent to mislead Internet users. The Respondent is deliberately creating confusion with the Complainant's business by using the Complainant's identity, and reproducing in its entirety without any prior authorization the Complainant's trademark.

The disputed domain name was registered and is being used in bad faith. The Respondent was aware of the Complainant's trademark and deliberately registered the disputed domain name in bad faith, since the Complainant's trademark was registered and used long before the registration of the disputed domain name, which reproduces the Complainant's trademark in its entirety. Also the disputed domain name imitates the Complainant's official domain name using the same structure, namely containing "sisley" and a generic term separated by a hyphen. The disputed domain name was created to impersonate the Complainant in order to attract its loyal customers and collect their personal data, which could be further used for phishing and fraudulent purposes. The Respondent has registered the disputed domain name to intentionally attract, for commercial gain or malicious intent, Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's mark as to the source, affiliation, or endorsement of the Respondent's website.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **A. Identical or Confusingly Similar**

According to section 1.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (the "[WIPO Overview 3.0](#)") the applicable generic Top-Level Domain ("gTLD") 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. Thus, the Panel disregards gTLD ".com" for the purposes of the confusing similarity test.

According to section 1.7 of the [WIPO Overview 3.0](#) in cases where a domain name incorporates the entirety of a trademark the domain name will normally be considered identical or confusingly similar to that mark for purposes of UDRP standing. The Panel finds that in the present case the disputed domain name incorporates the entirety of the Complainant's trademark.

According to section 1.8 of the [WIPO Overview 3.0](#) 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 Panel finds that in the present case the addition of a term "mall" and a hyphen do not prevent finding the confusing similarity of the disputed domain name to the Complainant's trademark.

Considering the above the Panel finds the disputed domain name is confusingly similar to the Complainant's trademark, therefore, the Complainant has established its case under paragraph 4(a)(i) of the Policy.

### **B. Rights or Legitimate Interests**

The Complainant has established *prima facie* that the Respondent has no rights or legitimate interests in the disputed domain name.

Furthermore, the Respondent provided no evidence that it holds rights or legitimate interests in the disputed domain name.

The available evidence does not confirm that the Respondent is commonly known by the disputed domain name, which could demonstrate its rights or legitimate interests (see, e.g., *World Natural Bodybuilding Federation, Inc. v. Daniel Jones, TheDotCafe*, WIPO Case No. [D2008-0642](#)).

The Complainant did not license or otherwise agree for use of its prior registered trademarks by the Respondent, thus no actual or contemplated *bona fide* or legitimate use of the disputed domain name could be reasonably claimed (see, e.g., *Sportswear Company S.P.A. v. Tang Hong*, WIPO Case No. [D2014-1875](#)).

The disputed domain name used to redirect Internet users to a website which copied the Complainant's logo to make the Internet users believe that they actually access the Complainant's website. Past UDRP panels confirmed that such actions prove registrant has no rights or legitimate interests in a disputed domain name (see *Daniel C. Marino, Jr. v. Video Images Productions, et al.*, WIPO Case No. [D2000-0598](#), *Houghton Mifflin Co. v. Weatherman, Inc.*, WIPO Case No. [D2001-0211](#)).

Considering the above the Panel finds the Respondent does not have rights or legitimate interests in the disputed domain name. Therefore, the Complainant has established its case under paragraph 4(a)(ii) of the Policy.

### **C. Registered and Used in Bad Faith**

According to section 3.2.2 of the [WIPO Overview 3.0](#) further factors including the nature of the domain name, the chosen TLD, any use of the domain name, or any respondent pattern, may obviate a respondent's claim not to have been aware of the complainant's mark.

In the present case the Respondent shortly after registration of the disputed domain name incorporating the Complainant's trademark and mocking the pattern of the Complainant's domain names placed a website prominently featuring the Complainant's trademark and logo.

The Panel finds that the nature of the disputed domain name and its use confirms the Respondent knew of the Complainant's prior trademark rights, which confirms the bad faith.

According to paragraph 4(b)(iv) of the Policy the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith: by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location.

In this case, the disputed domain name was resolving to a website featuring the Complainant's trademark and logo making false impression of being owned or authorized by the Complainant to intentionally attract Internet users by creating likelihood of confusion with the Complainant's trademark as to the source of the website and its products. The Panel finds the above confirms the disputed domain name was registered and used in bad faith.

Although at the time of this decision the disputed domain name resolves to an inactive webpage, its previous bad faith use and lack of explanation of possible good faith use from the Respondent makes any good faith use of the disputed domain name implausible. Thus, the current passive holding of the disputed domain name does not prevent a finding of bad faith (see section 3.3 of the [WIPO Overview 3.0](#)).

The Respondent ignored its possibility to comment on the contrary and provide any good explanations to prove its good faith while registering and using the disputed domain name.

Considering the above the Panel finds the disputed domain name was registered and is being used in bad faith. Therefore, the Complainant has established its case under paragraph 4(a)(iii) of the Policy.

## **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 disputed domain name, <sisley-mall.com>, be transferred to the Complainant.

*/Taras Kyslyy/*

**Taras Kyslyy**

Sole Panelist

Date: July 28, 2023