

ADMINISTRATIVE PANEL DECISION

Benda Bili v. 郑冰烟 (regre grh)
Case No. D2023-4890

1. The Parties

The Complainant is Benda Bili, France, represented by Nameshield, France.

The Respondent is 郑冰烟 (regre grh), Brazil.

2. The Domain Name and Registrar

The disputed domain name <sezanemall.com> is registered with West263 International Limited (the "Registrar").

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on November 23, 2023. On November 24, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 27, 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 November 30, 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 amended Complaint in English on November 30, 2023.

On November 30, 2023, the Center informed the parties in Chinese and English, that the language of the registration agreement for the disputed domain name is Chinese. On the same day, the Complainant requested English to be the language of the proceeding. The Respondent did not submit any comment on the Complainant's submission.

The Center verified that the Complaint together with the amended 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 in English and Chinese of the Complaint, and the proceedings commenced on December 6, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 26, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 11, 2024.

The Center appointed Andrew Sim as the sole panelist in this matter on January 17, 2024. 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 company specialising in ready-to-wear collections and accessories for women and trades under the name "Sezane". The Complainant is the owner of the numerous trademarks comprising of the term "sezane", including the international trademark SÉZANE (Registration No. 1170876, registered on June 3, 2013). The Complainant also owns the domain name <sezane.com> which was registered on April 3, 2003, to promote its brand.

The disputed domain name was registered on November 21, 2023. The disputed domain name previously resolved to a website where the Complainant's SÉZANE trademark was prominently displayed, and the clothes and accessories were offered for sale. At the time of filing the Complaint, and drafting this decision, the disputed domain name has been disabled.

5. Parties' Contentions

A. Complainant

Firstly, the Complainant contends that the disputed domain name is identical or at least confusingly similar to the Complainant's registered trademark and its associated domain name <sezane.com>. Notably, the Complainant asserts that the disputed domain name includes in its entirety the Complainant's registered trademark. The addition of the term "mall" does not disregard the fact that the disputed domain name is confusingly similar.

Secondly, the Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant asserts that the Respondent is not affiliated with nor authorised by the Complainant in any way and no licence or authorisation has been granted by the Complainant to the Respondent to use any of the Complainant's registered trademarks or apply for registration of the disputed domain name.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. The Complainant asserts that its trademark SÉZANE has acquired distinctiveness over the years and the Respondent cannot be said to have innocently registered the disputed domain name.

B. Respondent

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

6. Discussion and Findings

6.1 Procedural Matter - Language of the Proceeding

The language of the registration agreement for the disputed domain name is Chinese. Under the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the

registration agreement, the language of the administrative proceedings shall follow the language of the registration agreement.

The Complainant on the other hand submits that the language of the proceeding be in English, noting that the disputed domain name consists of English characters. The Respondent did not make submissions with respect to the language of the proceeding.

Having considered relevant circumstances of the case (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1), the Panel determines under the Rules, paragraph 11(a), that the language of the proceeding shall be English. In particular, the Panel observes that the disputed domain name has previously resolved to an online store which is in English which demonstrates that the Respondent had some familiarity in the English language. The Panel has further considered the likelihood of undue delay and prejudicial effect on the Complainant in asserting its rights should the proceeding be conducted in Chinese.

6.2 Substantive Matter - Three Elements

Under the Policy, the Complainant must prove that:

- (i) the disputed domain name is identical or confusingly similar to a trademark in which it has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has established that it has rights in the registered trademark SÉZANE.

Confusing similarity is determined by a straightforward side-by-side comparison of the relevant trademark and the disputed domain name. In the present case, the disputed domain name has incorporated the Complainant's registered trademark SÉZANE (despite the accent), which the Panel finds it is sufficient in establishing confusing similarity in the present proceeding ([WIPO Overview 3.0](#), section 1.7). The presence of a Top-Level Domain element ".com" is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test ([WIPO Overview 3.0](#), section 1.11.1).

The Panel therefore finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights in accordance with the Policy, paragraph 4(a)(i).

B. Rights or Legitimate Interests

The Panel accepts the Complainant's submissions that it has no connection with the Respondent and has not authorised the Respondent's use of the Complainant's trademark in any manner. Based on the available record, the Panel finds that the Complainant has made out a prima facie case that the Respondent does not have any rights or legitimate interests in the disputed domain name, and the burden of production of evidence shifts to the Respondent ([WIPO Overview 3.0](#), section 2.1).

The Respondent has not responded, and the Panel is unable to conceive of any basis upon which the Respondent could sensibly be said to have any rights or legitimate interests in respect of the disputed domain name. Moreover, the disputed domain name previously resolved to a website where the Complainant's SÉZANE trademark was prominently displayed without any disclaimer of the lack of relationship between the Complainant and the Respondent, and the clothes and accessories were offered for sale. The Panel finds that the use of the disputed domain name for impersonating the Complainant can never confer any rights or legitimate interests on the Respondent. The Panel therefore finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name in accordance with the Policy, paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

The disputed domain name was registered on November 21, 2023, long after the Complainant registered its trademark. Further, evidence submitted by the Complainant indicates that the disputed domain name was previously resolved to an online store prominently displaying the Complainant's SÉZANE mark without any disclaimer of the lack of relationship between the Complainant and the Respondent, which sold clothes and accessories at discounted prices. The Panel finds that the Respondent was aware of the Complainant's trademark and intended to create a likelihood of confusion with the Complainant's mark by impersonating the Complainant. This itself is sufficient in proving bad faith (*Arla Foods Amba and Mejeriforeningen Danish Dairy Board v Mohammed Alkurdi*, WIPO Case No. [D2017-0391](#)).

Having considered the circumstances of the case, the Panel finds that the current non-use of the disputed domain name does not prevent a finding of bad faith.

The Panel finds the disputed domain name being registered and used in bad faith in accordance with the Policy, paragraph 4(a)(iii).

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 <sezanemall.com> be transferred to the Complainant.

/Andrew Sim/

Andrew Sim

Sole Panelist

Date: January 30, 2024