

ADMINISTRATIVE PANEL DECISION

Credit Saison Co. Ltd. v. dwa guteng
Case No. D2023-5328

1. The Parties

The Complainant is Credit Saison Co. Ltd., Japan, represented by IP Twins, France.

The Respondent is dwa guteng, United States of America.

2. The Domain Name and Registrar

The disputed domain name <saizon-card.top> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 22, 2023. On December 22, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 22, 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 (PrivacyGuardian.org llc) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 9, 2024, 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 on January 12, 2024.

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 of the Complaint, and the proceedings commenced on January 17, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 6, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 7, 2024.

The Center appointed Willem J. H. Leppink as the sole panelist in this matter on February 14, 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 following facts are undisputed.

The Complainant is a Japanese financial services company and a large credit card issuer in Japan with over 20 million cardholders. The Complainant was founded in 1951 and is listed in the Tokyo Stock Exchange index, and had a consolidated business profit of JPY 52.3 billion in the fiscal year 2021. The Complainant markets credit cards, under the name Saison Card, that are branded Visa, Mastercard, JCB, or American Express.

The Complainant is the owner of multiple trademark registrations SAISON CARD containing the word elements in Japan, including:

- Japanese Trademark for a logo with the only word elements SAISON CARD, registered on August 8, 1997, with registration number 3337687;
- Japanese Trademark for a logo with the only word elements SAISON CARD, registered on November 21, 2008, with registration number 3337687/01.

(“Trademarks”)

The Complainant’s Trademarks cover services in classes 35 and 36, e.g., financing services and administrative services related thereto. All of the Complainant’s Trademarks were registered before the disputed domain name, which was registered on March 14, 2023.

The Complainant is also registrant of the domain name <saisoncard.co.jp>, which resolves to its official website.

At the time of filing the Complaint, and still at the time of this decision, the disputed domain name resolves to an active website which, through several redirections and pop-ups about a “security breach”, displays adult content.

5. Parties’ Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends the following:

The Complainant submits that the disputed domain name is confusingly similar to the Trademarks. The disputed domain name reproduces the earlier trademarks of the Complainant in their entirety, with the sole addition of a hyphen between the two terms of the marks. It is established case law that the addition of a hyphen to a well-known trademark in a domain name does nothing to diminish the likelihood of confusion arising from that domain name.

The Complainant has found no trademark registered by the Respondent. Furthermore, the Complainant has found no evidence that the Respondent has been commonly known by the disputed domain name as an individual, business, or other organization. Nor has the Complainant licensed or authorized the Respondent for the use of its trademarks.

Besides that, the disputed domain name resolves, through several redirections, to an active website of adult content which does not appear to feature the Trademarks. The adult content on the website resolved from the disputed domain name has a risk of tarnishing the Trademarks of the Complainant.

Furthermore, the Complainant contend that at the very least, the Respondent knew or should have known that, when acquiring and using the disputed domain name, it would do so in violation of the Complainant's earlier rights. In addition, the current use of the disputed domain name, in connection with a website displaying adult content cannot be seen as a good faith use of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of (the word elements) of the mark is reproduced within the disputed domain name, albeit that the space between the elements SAISON and CARD, which cannot be reflected in a domain name is replaced by a hyphen. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The fact that the disputed domain name resolves, through several redirections, to an active website of adult content which does not appear to feature the Trademarks, also does not indicate any legitimate interest, to the contrary.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the Respondent is intentionally attempting to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's Trademark.

Furthermore paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith.

[WIPO Overview 3.0](#), section 3.2.1.

The Panel finds that on a balance, and certain lacking a Response, there is no plausible reason for the Respondent not registering the disputed domain name in bad faith. It is more likely than not that the Respondent was aware of the Trademark when registering the disputed domain name.

In addition, the use of the disputed domain name for adult content without any (relevant) use of any term equal to the Trademark would lead to an inference of use in bad faith, also as the use may result in the tarnishing of the Complainant's Trademarks. In addition, the Respondent concealed its identity through the use of a proxy service.

Therefore, the Panel finds that given all the circumstances of the matter before it, the Complainant has established that the Respondent has registered and is using the disputed domain name in bad faith.

The Panel finds that the Complainant has established the third element 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 <saizon-card.top> be transferred to the Complainant.

/Willem J. H. Leppink/

Willem J. H. Leppink

Sole Panelist

Date: February 23, 2024