

ADMINISTRATIVE PANEL DECISION

Benda Bili v. 黄海玲 (Hai Ling Huang)

Case No. D2024-0306

1. The Parties

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

The Respondent is 黄海玲 (Hai Ling Huang), China.

2. The Domain Name and Registrar

The disputed domain name <sezaneoutlet.shop> (the “Disputed Domain Name”) is registered with Chengdu West Dimension Digital Technology Co., Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on January 24, 2024. On January 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On January 28, 2024, 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 (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 30, 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 in English on January 30, 2024.

On January 30, 2024, the Center informed the Parties in Chinese and English, that the language of the registration agreement for the Disputed Domain Name is Chinese. On January 30, 2024, 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 February 5, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 25, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on February 26, 2024.

The Center appointed Kar Liang Soh as the sole panelist in this matter on March 7, 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 engages in the selling of ready-to-wear clothing and accessories for women through its online shop.

The Complainant owns the following International trademark registration for the trademark SÉZANE:

Registration No.	Registration Date	Office of Origin	Designated Jurisdictions
1170876	June 3, 2013	France	Australia, China, European Union, Japan, Republic of Korea, Mexico, Monaco, Norway, New Zealand, Russian Federation, Singapore, Switzerland, United States of America

The Complainant registered the domain name <sezane.com> on April 3, 2003 from which the Complainant operates a website. According to the Complainant's website, the Complainant has been operating for at least ten years and is active in corporate social responsibility activities, including having raised over EUR 5 million to help children access education, culture, and equal opportunities. The Complainant's website incorporates prominent banner designs and photography promoting the trademark SÉZANE in a stylized format.

The Respondent appears to be an individual based in China. Beyond the Whois information of the Disputed Domain Name, very little information about the Respondent is available.

The Disputed Domain Name <sezaneoutlet.shop> was registered on November 11, 2023. On or around January 23, 2024, the Disputed Domain Name resolved to a website purporting to sell clothes and accessories at discounted prices. This website incorporates many of the prominent banner designs and photography found on the Complainant's website.

5. Parties' Contentions

A. Complainant

The Complainant contends that:

- a) The Disputed Domain Name is confusingly similar to a trademark in which the Complainant has rights. The addition of the term "outlet" does not change the overall impression of the designation as being connected to the Complainant's trademark.
- b) The Respondent has no rights or legitimate interests in respect of the Disputed Domain Name. The Respondent is not affiliated with nor authorized by the Complainant in any way. The Respondent has not been granted a license or authorization by the Complainant to make any use of the Complainant's trademark

or apply for registration of the Disputed Domain Name. The Respondent is using the Disputed Domain Name to disrupt the Complainant's business and to attract users by impersonating the Complainant.

c) The Disputed Domain Name was registered and is being used in bad faith. It is reasonable to infer that the Respondent has registered and used the Disputed Domain Name with full knowledge of the Complainant's trademark. The Disputed Domain Name resolved to an online store offering competing services, disrupting the Complainant's business. The Respondent has intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's mark.

B. Respondent

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

6. Discussion and Findings

6.1 Language of the Proceeding

The Registration Agreement of the Disputed Domain Name is in Chinese. Accordingly, the default language of the proceeding should be Chinese. However, under paragraph 11 of the Rules, the Panel is empowered to determine a different language of proceeding having regard to the circumstances. The Panel determines that English shall be the language of the proceeding. In making this determination, the Panel has considered the following factors:

- a) the Respondent has chosen not to participate in the proceeding by not filing a Response, despite the Respondent having ample opportunity to communicate with the Center in Chinese;
- b) the Complaint has already been submitted in English and no obvious procedural benefit would arise should the Panel insist on Chinese being the language of the proceeding. On the contrary, doing so at such an advanced stage of the proceeding would in all likelihood delay proceedings unnecessarily; and
- c) the Center has sent its email communications in both, English and Chinese languages, Panel is bilingual in English and Chinese, and is well-equipped to deal with submissions by the Parties in either language.

6.2 Discussion

A. Identical or Confusingly Similar

The Panel accepts that the Complainant has rights in the SÉZANE trademark by virtue of trademark registration.

The Disputed Domain Name incorporates the Complainant's trademark entirely, and adds the term "outlet" and the new generic Top-Level Domain (TLD) ".shop".

According to section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), UDRP panels have established that domain names which incorporate the entirety of a trademark will normally be considered confusingly similar to the trademark for purposes of the first element of paragraph 4(a) of the Policy. The present case does not present any unusual circumstances which require the Panel to depart from this guideline. The Panel is of the view that the addition of the term "outlet" does not prevent a finding of confusing similarity between the Disputed Domain Name and the Complainant's trademark. [WIPO Overview 3.0](#), section 1.8.

Regarding the gTLD, according to section 1.11.1 of the [WIPO Overview 3.0](#), UDRP panels have established that the gTLD is disregarded under the first element of the confusing similarity test irrespective of the

particular gTLD. This principle also extends to new generic gTLDs, such as “.shop” in the present case. Hence, the gTLD “.shop” will not impact the assessment of the first element of confusingly similarity.

As such, the Panel finds that the Disputed Domain Name is confusingly similar to the SÉZANE trademark. The first limb of paragraph 4(a) of the Policy is thus established.

B. Rights or Legitimate Interests

There is no evidence before the Panel to suggest that the Respondent is commonly known by the Disputed Domain Name. There is also no evidence to suggest that the Respondent has registered any trademarks or holds unregistered rights to the terms “sézane” or “sézaneoutlet”. The Complainant has confirmed that the Respondent is neither affiliated nor authorized by the Complainant in any way. The Complainant has also confirmed that it has not granted any license or authorization to the Respondent to make use of the Complainant’s SÉZANE trademark, or to apply for registration of the Disputed Domain Name. Accordingly, the Panel is satisfied that the facts present a prima facie case that the Respondent does not have rights or legitimate interests in the Disputed Domain Name.

The Respondent did not file a response to demonstrate any rights or legitimate interests in respect of the Disputed Domain Name, and has thus failed to rebut the prima facie case. Therefore, the Complainant has successfully established the second limb of paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy states that certain circumstances, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith. In particular, paragraph 4(b)(iv) of the Policy states:

“by using the domain name, [the respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the respondent’s] 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 [the respondent’s] website or location or of a product or service on your website or location.”

The Disputed Domain Name resolved to a website which appears to offer products similar to those offered by the Complainant at heavy discounted prices (most with an 80%, and even a 90% discount). The website contains strong references to the Complainant and the SÉZANE trademark (including in the same stylized format as presented on the Complainant’s website). The banners on the website resolved from the Disputed Domain Name feature images identical or nearly identical to those on the Complainant’s website, such that its overall design and content appear to be very similar to the Complainant’s website. The Panel finds it implausible that the Respondent could not have known of the Complainant and the Complainant’s SÉZANE trademark. It is clear that the Respondent had intentionally referenced the Complainant’s trademark and website design to attract, for commercial gain, Internet users to the website resolved from the Disputed Domain Name. Accordingly, the Panel is convinced that the Disputed Domain Name was indeed registered and is being used in bad faith in accordance with the circumstances outlined in paragraph 4(b)(iv) of the Policy.

The Respondent has even self-identified its website as being associated with “SÉZANE” in the “About Us” section. The Complainant succinctly summarized the website resolved from the Disputed Domain Name as a vehicle for the Respondent to impersonate the Complainant. Several features of the website at the Disputed Domain Name support a conclusion that the Respondent likely tried to impersonate the Complainant. An ordinary respondent faced with such a severe allegation would have responded strongly if it were not true. The Respondent’s lack of response to the Complaint is highly suggestive of the Respondent’s inability to deny this serious allegation.

In light of the aforementioned circumstances, the Panel is of the opinion that the Disputed Domain Name was registered and is being used in bad faith. Therefore, the Complainant has successfully established the third limb of paragraph 4(a) of the Policy. The Complainant also raised an argument on the grounds of paragraph 4(b)(iii) of the Policy. As the Panel is satisfied that bad faith registration and use has already been made out under paragraph 4(b)(iv) of the Policy, the Panel sees no need to comment on the Complainant's submissions on paragraph 4(b)(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 <sezaneoutlet.shop> be transferred to the Complainant.

/Kar Liang Soh/

Kar Liang Soh

Sole Panelist

Date: April 3, 2024