

ADMINISTRATIVE PANEL DECISION

Benda Bili v. Lu Ni La
Case No. D2024-0394

1. The Parties

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

The Respondent is Lu Ni La, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <sezaneonline.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 January 29, 2024. On January 30, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 31, 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 February 1, 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 February 1, 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 February 12, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 3, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 4, 2024.

The Center appointed María Alejandra López as the sole panelist in this matter on March 12, 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 pioneer French company specialized in ready-to-wear collections and accessories for women available through its online shop only. The Complainant is recognized for being the first French fashion Trademark born online. The Complainant has a significant worldwide presence, in particular across Europe and in the United States. The term “sézane” is a contraction of the first name and last name of the Complainant’s founder and President Morgane Sezalory. The Complainant trades under its commercial name and trademark SÉZANE.

According to the provided evidence, the Complainant owns the following Trademark:

- International Trademark for SÉZANE (word mark), Reg. No. 1170876, in International Classes 14, 18, and 25, registered on June 3, 2013, and in force until June 3, 2033.

The Complainant also owns the domain name <sezane.com>, registered on April 3, 2003, which the Complainant uses to connect with consumers, and to provide information about its products offered under its Trademark SÉZANE.

The disputed domain name was registered on January 28, 2024, and by the time of filing the Complaint, resolved to an online store for selling clothes and accessories at discounted prices, where the Complainant’s Trademark SÉZANE it is used along the entire website. By the time of this Decision, the disputed domain name resolves to an inactive website.

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 that the disputed domain name is confusingly similar to its Trademark SÉZANE, which it is reproduced on its entirety plus the term “online”, which is not sufficient to escape the finding that the disputed domain name is confusingly similar to the Trademark SÉZANE.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name, given that the Respondent is not affiliated with nor authorized by the Complainant in any way; that no license or authorization has been granted to the Respondent to make any use of the Complainant’s Trademark SÉZANE, included as a domain name; that the Respondent uses the disputed domain name to disrupt the Complainant’s business and to attract Internet users by impersonating the Complainant.

The Complainant contends that the disputed domain name was registered and that is being used in bad faith. The Complainant contends that given the Complainant’s SÉZANE Trademark distinctiveness and reputation, its non-generic or descriptive meaning, and the Complainant’s SÉZANE Trademark and logo references in the disputed domain name’s website, it is reasonable to infer that the Respondent registered the disputed domain name with full knowledge of the Complainant’s Trademark. The Complainant contends that the disputed domain name redirected to an online store which competes with the products offered by the Complainant; that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its 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 the Respondent’s website or location, in accordance to paragraph 4(b)(iv) of the Policy.

B. Respondent

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

6. Discussion and Findings

In accordance with paragraph 4(a) of the Policy, the Complainant must satisfy each of the three following elements:

(i) the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights; and

(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.

No Response or any kind of communication has been submitted by the Respondent, despite the fair opportunity given by the Center to present its case in accordance with paragraph 2(a) of the Rules. Therefore, this Panel shall decide this dispute based on paragraph 15(a) of the Rules and will analyze the evidence submitted by the Complainant on the "balance of probabilities" or "preponderance of the evidence" standard. See, paragraphs 14 and 15(a) of the Rules, and WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.2.

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 3.0](#), section 1.7.

The Complainant has shown rights in respect of the Trademark SÉZANE for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the Trademark SÉZANE is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the Complainant's Trademark SÉZANE for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here as "online", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's Trademark SÉZANE for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

In relation to the generic Top-Level Domain ".com", it is well established that such element may typically be disregarded when it is used as a technical requirement of a domain name. [WIPO Overview 3.0](#), section 1.11.1.

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 Panel finds that the Complainant has never granted any kind of authorization to the Respondent to use its Trademark SÉZANE, included as a domain name; that nor it is affiliated and/or related with the Respondent; that neither the Respondent has become commonly known by the disputed domain name or owns any related trademark. The Panel also finds, according to the evidence submitted, that at the time of filing of the Complaint, the disputed domain name resolved to an active website of an online store based on the Complainant’s Trademark SÉZANE for selling clothes and accessories at discounted prices. To this Panel, it is clear that the Respondent sought to impersonate the Complainant, which cannot be considered legitimate noncommercial or fair use as set out in paragraph 4(c)(iii) of the Policy. Furthermore, such fact, only reinforces the Panel’s finding that such use cannot constitute a bona fide offering of goods or services. [WIPO Overview 3.0](#), section 2.8.

Accordingly, UDRP panels have held that the use of a domain name for illegal activity (e.g., impersonation, sale of counterfeit goods, potential phishing, malware distribution, or other types of fraud), can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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

C. Registered and Used in Bad Faith

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.

On the issue of registration, the Complainant acquired its trademark rights over the term “sézane” since 2013, at least. The disputed domain name was registered on January 28, 2024, meaning with it, more than a decade after the Complainant. The reputation and well known status of the Trademark SÉZANE has been confirmed by previous UDRP panelist (see, e.g.,: *Benda Bili v. 温州富捷金融信息服务有限公司 (Wen Zhou Fu Jie Jin Rong Xin Xi Fu Wu You Xian Gong Si)*, WIPO Case No. [D2023-2399](#); *Benda Bili v. 胡燕 (Yan Hu)*, WIPO Case No. [D2023-3076](#); *Benda Bili v. Mariette Garreau*, WIPO Case No. [D2023-3216](#); and *Benda Bili v. 胡燕 (Yan Hu)*, WIPO Case No. [D2023-3623](#)). The fact that the Respondent selected a well known trademark as SÉZANE to build a website for the same line of business, on which the Complainant has been a sophisticated pioneer, where the Complainant’s Trademark and logo has been even reproduced along the entire website, seeking to impersonate the Complainant, to this Panel, can only reconfirms without question, that at the time of the registration of disputed domain name, the Respondent did it, with the Complainant’s business and Trademark in mind, therefore, incurring in bad faith. [WIPO Overview 3.0](#), section 3.2.2.

On the issue of bad faith use, as previous UDRP panels have found, impersonation by itself it is sufficient in proving bad faith (see *Benda Bili v. 郑冰烟 (regre grh)*, WIPO Case No. [D2023-4890](#) and [WIPO Overview 3.0](#), section 3.4). Furthermore, given the fact that, by the time of this Decision, the disputed domain name points to an inactive website, this Panel, it is inclined to address such non-use, under the passive holding doctrine.

Accordingly, UDRP panels have found that the non-use of a domain name (including a blank or “coming soon” page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding, including: (i) the significant online presence of the Trademark SÉZANE and its well known status, (ii) the failure of the Respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the Respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3.

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 <sezaneonline.com> be transferred to the Complainant.

/María Alejandra López/

María Alejandra López

Sole Panelist

Date: March 21, 2024