

ADMINISTRATIVE PANEL DECISION

Benda Bili v. Client Care, Web Commerce Communications Limited
Case No. D2024-1090

1. The Parties

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

The Respondent is Client Care, Web Commerce Communications Limited, Malaysia.

2. The Domain Name and Registrar

The disputed domain names <sezane-france.com>, <sezaneireland.com>, and <sezaneussale.com> are registered with Alibaba.com Singapore E-Commerce Private Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 12, 2024. On March 13, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On March 14, 2024, the Registrar transmitted by email to the Center its verification response, disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (NOT IDENTIFIED) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 18, 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 March 18, 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 March 25, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 14, 2024. The Respondent sent an email communication to the Center on March 25, 2024. On April 16, 2024, the Center informed the Parties that it would proceed to panel appointment.

The Center appointed Áron László as the sole panelist in this matter on May 1, 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 French simplified joint stock company based in Paris, specializing in women's ready-to-wear collections and accessories. The Complainant has been trading under the trade name "SÉZANE" since 2013. The Complainant's products are sold, in particular, in France, the United Kingdom, the United States of America, Switzerland and Italy, and are also available online.

The Complainant owns several trademarks, including the international registration SÉZANE (word) designating, inter alia, the European Union, No. 1170876, registered on June 3, 2013. The basic registration of the international registration is the French trademark SÉZANE (word) No. 13933287, registered on November 2, 2012.

The Complainant owns several domain names containing the mark SÉZANE, including <sezane.com>, registered on April 3, 2003.

The disputed domain names were registered on January 31, 2024.

At the time the Complaint was filed, the disputed domain names resolved to online stores displaying the Complainant's trademark and selling clothes and accessories. The Panel compared the screen shots provided by the Complainant with the Complainant's own web store and found that the online stores to which the disputed domain names resolved used images taken from the Complainant's website.¹ To date, no content is available under the websites at the disputed domain names, except for <sezaneussale.com>, which resolves to a website that appears to offer pay-per-click advertising related to the SÉZANE trademark.

The Respondent is based in Malaysia.

The Complainant has previously filed three complaints against the same Respondent concerning domain names containing the trademark SÉZANE, and the domain names have been transferred to the Complainant in all three previous cases (*Benda Bili v. Web Commerce Communications Limited, Client Care*, WIPO Case No. [D2024-1117](#), *Benda Bili v. Client Care, Web Commerce Communications Limited*, WIPO Case No. [D2024-0035](#), and *Benda Bili v. Client Care, Web Commerce Communications Limited*, WIPO Case No. [D2023-4403](#)).

5. Parties' Contentions

A. Complainant

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

In particular, the Complainant claims that the disputed domain names are confusingly similar to its SÉZANE trademark because they all contain the SÉZANE trademark and the additions are not sufficient to prevent the finding of confusing similarity.

¹Noting in particular the general powers of a panel articulated inter alia in paragraphs 10 and 12 of the UDRP Rules, it has been accepted that a panel may undertake limited factual research into matters of public record if it would consider such information useful to assessing the case merits and reaching a decision. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") section 4.8.

The Respondent has no rights or legitimate interests in the disputed domain names and is not commonly known by the disputed domain names. The Respondent is not affiliated with nor authorised by the Complainant in any way. The Complainant does not perform any activity for, nor has any business relationship with, the Respondent. The Complainant has not granted any licence or authorisation to the Respondent to use the SÉZANE trademark or to apply for registration of the disputed domain names.

The disputed domain names have been registered and are being used in bad faith. The disputed domain names contain the distinctive trademark SÉZANE, which has existed for many years and has no generic or descriptive meaning. The Respondent was aware of the Complainant's trademark and intended to create a likelihood of confusion with the Complainant's trademark by impersonating the Complainant. Therefore, given the distinctiveness of the Complainant's mark and its reputation, it is reasonable to conclude that the Respondent registered and used the disputed domain names with full knowledge of the Complainant's mark. Furthermore, the disputed domain names resolve to online stores that compete with the Complainant's products. The use of a domain name to offer competing services has often been held to be disruptive of the business of the trademark owner in bad faith. Furthermore, by using the disputed domain names, the Respondent has intentionally attempted to attract Internet users to its websites for commercial gain by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's websites or of a product or service on the Respondent's websites.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs this Panel to “decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable.”

Paragraph 4(a) of the Policy requires that a complainant must prove each of the following three elements to obtain an order that a domain name should be cancelled or transferred:

- i. the domain name registered by the respondent is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- ii. the respondent has no rights or legitimate interests in respect of the domain name; and
- iii. the domain name has been registered and is being used in bad faith.

In view of the Respondent's failure to submit a Response, the Panel shall decide this administrative proceeding on the basis of the Complainant's undisputed representations pursuant to paragraphs 5(f), 14(a) and 15(a) of the Rules and draw such inferences as it considers appropriate pursuant to paragraph 14(b) of the Rules. The Panel is entitled to accept all reasonable allegations set forth in a complaint. However, the Panel may deny relief where a complaint contains mere conclusory or unsubstantiated arguments. See [WIPO Overview 3.0](#), at section 4.3.

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 a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, “-france”; “ireland” and “ussale” may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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 names. 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 names such as those enumerated in the Policy or otherwise.

There is nothing to suggest that the Respondent was commonly known by any of the disputed domain names. The use of the disputed domain names was to impersonate the Complainant, as evidenced by the use of images taken from the Complainant’s own website. This cannot be considered a bona fide offer of goods or services, nor a legitimate noncommercial or fair use. Furthermore, the composition of the disputed domain names incorporating the Complainant’s trademark with “france”, “ireland” and “ussale” carries a risk of implied affiliation. [WIPO Overview 3.0](#), section 2.5.1.

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.

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.

In the present case, the Panel notes that the Respondent has been on the market for more than ten years using the Trademark, which is distinctive. Therefore, given the distinctiveness and reputation of the Complainant’s mark, it is reasonable to conclude that the Respondent registered and used the disputed domain names with full knowledge of the Complainant’s trademark.

The Panel notes that the Respondent has registered several similarly constructed domain names on separate occasions, all of which contain the Complainant's Trademark and all of which have been found by previous panels to be registered and used in bad faith. Therefore, the Panel is inclined to find that the Respondent has registered the disputed domain names in order to prevent the Complainant from reflecting the trademark in corresponding domain names, as contemplated by paragraph 4(b)(ii) of the Policy, and that the Respondent has engaged in a pattern of such conduct ([WIPO Overview 3.0](#), section 3.1.2.);

In addition, at the time the Complaint was filed, the disputed domain names resolved to websites offering competing goods, using the Complainant's trademark, imitated the general look and feel of the Complainant's website, and even used images taken from the Complainant's website. This leads the Panel to believe that the Respondent has intentionally attempted, for commercial gain, to attract Internet users to its website or other online location by creating a likelihood of confusion with the Complainant's trademark 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, as referred to in paragraph 4(b)(iv) of the Policy.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain names constitutes bad faith under the Policy.

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 names <sezane-france.com>, <sezaneireland.com>, and <sezaneussale.com> be transferred to the Complainant.

/Áron László/

Áron László

Sole Panelist

Date: May 3, 2024