

ADMINISTRATIVE PANEL DECISION

Benda Bili v. Web Commerce Communications Limited, Client Care
Case No. D2024-1117

1. The Parties

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

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

2. The Domain Names and Registrar

The disputed domain names <sezane-ireland.com> and <sezanevetement.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 14, 2024. On March 14, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On March 15, 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 (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 19, 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 19, 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 20, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 9, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 11, 2024.

The Center appointed Alan L. Limbury as the sole panelist in this matter on April 24, 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, Benda Bili, is a company specialized in ready-to-wear collections and accessories for women, trading under its commercial name and trademark SÉZANE, a contraction of the first name and last name of the Complainant's founder and President, Morgane Sezalory. The Complainant, based in France, registered the International trademark SÉZANE, No. 1170876, on June 3, 2013, in Classes 14, 18 and 25. It provides its clothing and accessories online through its website via the domain name <sezane.com>, which was registered on April 3, 2003.

The domain names <sezanevetement.com> and <sezane-ireland.com> were both registered on February 20, 2024. They resolve to websites which prominently display the Complainant's mark SÉZANE on the home pages and offer for sale clothes and accessories at discounted prices.

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 names.

Notably, the Complainant contends that the disputed domain names are confusingly similar to its SÉZANE trademark and the Respondent has no rights or legitimate interests in respect of the disputed domain names, which were registered and are being used in bad faith.

As to legitimacy, the Respondent is not identified as the disputed domain names and uses privacy services; the Respondent is not affiliated with nor authorized by the Complainant in any way; the Complainant does not carry out any activity for, nor has any business with the Respondent; neither license nor authorization has been granted by the Complainant to the Respondent to make any use of the trademark SÉZANE, nor to apply for registration of the disputed domain names, which the Respondent uses to disrupt the Complainant's business and to attract users by impersonating the Complainant by displaying its trademark.

As to bad faith, the disputed domain names include the distinctive trademark SÉZANE, which has existed for many years and has no generic or descriptive meaning. The mark is displayed on the Respondent's websites. The Respondent was aware of the Complainant's mark and intended to create a likelihood of confusion with the Complainant's mark by impersonating the Complainant. Thus, given the distinctiveness of the Complainant's trademark and its reputation, it is reasonable to infer that the Respondent has registered and used the disputed domain names with full knowledge of the Complainant's trademark. Furthermore, the disputed domain names redirect to online stores which compete with the products offered by the Complainant. Using a domain name to offer competing services has often been held to disrupt the business of the owner of the relevant mark in bad faith. Further, by using the disputed domain names, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its websites, 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 of WIPO Panel Views on Selected UDRP Questions, Third Edition, (“[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 that it has rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds that the mark is recognizable 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 additional terms “vetement” (French for clothing) and “-Ireland” 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 inconsequential “.com” generic top-level domain (“gTLD”) may be ignored.

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 no evidence that the Respondent, Web Commerce Communications Limited, Client Care, is or has been commonly known by either of the disputed domain names. The only use of the disputed domain names has been to masquerade as the Complainant. This is not a bona fide offering of goods or services, nor a legitimate noncommercial or fair use.

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, including:

(iv) by using the domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line 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 its website or location.

In the present case, the Panel notes that the Respondent registered the disputed domain names several years after the registration of the Complainant's SÉZANE mark and displays that mark on the home pages of its websites, which offer clothing and accessories of the kind provided by the Complainant. These circumstances satisfy the Panel that the Respondent was fully aware of the Complainant's SÉZANE mark when the Respondent registered the disputed domain names and that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Respondent's websites, by creating a likelihood of confusion with the Complainant's mark as to the source of the Respondent's websites and of the goods promoted on those websites. This demonstrates registration and use in bad faith to attract users for commercial gain under Policy paragraph 4(b)(iv).

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-ireland.com> and <sezanevetement.com> be transferred to the Complainant.

/Alan L. Limbury/

Alan L. Limbury

Sole Panelist

Date: April 26, 2024