

ADMINISTRATIVE PANEL DECISION

Sessun v. 宋雪瑞

Case No. D2023-1526

1. The Parties

The Complainant is Sessun, France, represented by BBLM Avocats, France.

The Respondent is 宋雪瑞, China.

2. The Domain Name and Registrar

The disputed domain name <sessunfrance.shop> is registered with Dynadot, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 6, 2023. On April 6, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 7, 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 (Unknown / Redacted for Privacy, Dynadot Privacy Service) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 14, 2023, 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 April 14, 2023.

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 May 2, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 22, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 23, 2023.


The Center appointed Marilena Comanescu as the sole panelist in this matter on May 30, 2023. 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 Sessun, a French company incorporated in 1996 and specialized in the manufacture of clothing, shoes, and accessories for women. The Complainant enjoys success in its field of activity (having a turnover of EUR 40,402,400.00 in 2021) and therefore it expanded its activity worldwide.

The Complainant owns several trademark registrations containing the term SESSÙN, such as the following:

- the French trademark number 3064067, for the semi-figurative  **Sessùn** mark, filed/registered on November 13, 2000, covering goods in Nice classes 3, 18, and 25; and
- the European Union trademark number 014666994, for the word mark SESSÙN, filed on October 13, 2015, and registered on January 29, 2016, covering goods in Nice classes 20, 21, and 26.

The Complainant promotes its SESSÙN line of products on the website at the domain name <sessun.com>, which was registered on January 11, 2000.

The disputed domain name was registered on October 6, 2022, and at the time of filing the Complaint, it was connected to a commercial website displaying the Complainant's trademark, and offering a range of women's clothes, shoes, and accessories, including products marked SESSÙN with significant price reductions which also used the Complainant's product images.

Before commencing the present proceeding, on November 4, 2022, the Complainant sent a cease and desist letter to a company acting as an editor for the website associated with the disputed domain name. The Complainant sent another cease and desist letter to a hosting provider for the website associated with the disputed domain name on January 12, 2023. No response was received.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is quasi-identical or at least confusingly similar to its distinctive trademark SESSÙN; that the Respondent has no rights or legitimate interests in the disputed domain name; and that the Respondent registered and is using the disputed domain name in bad faith.

B. Respondent

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

6. Discussion and Findings

In view of the Respondent's default, the discussion and findings will be based upon the contentions in the Complaint and any reasonable position that can be attributable to the Respondent. Under paragraph 4(a) of the Policy, a complainant can only succeed in an administrative proceeding under the Policy if the following circumstances are met:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;

- (ii) the respondent has no rights or legitimate interests in the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The Panel will further analyze the potential concurrence of the above circumstances.

A. Identical or Confusingly Similar

The Panel finds that the Complainant holds rights in the SESSÙN trademark.

The disputed domain name incorporates the Complainant's SESSÙN trademark (saved for the accent) with an additional term "france". However, such addition does not prevent a finding of confusing similarity as the Complainant's trademark is clearly recognizable within the disputed domain name.

Numerous UDRP panels have considered that the addition of other terms (whether geographical, descriptive, pejorative, meaningless, or otherwise) to trademarks in a domain name does not prevent a finding of confusing similarity, where the relevant trademark is recognizable within the domain name. See section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Further, it is well established in decisions under the UDRP that the Top-Level Domain ("TLD") (e.g., ".com", ".shop", ".info", or ".net") may typically be disregarded for the purposes of consideration of confusing similarity between a trademark and a domain name as it is viewed as a standard registration requirement. See section 1.11 of the [WIPO Overview 3.0](#).

Given the above, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark SESSÙN, pursuant to the Policy, paragraph 4(a)(i).

B. Rights or Legitimate Interests

The Complainant asserts that the Respondent does not hold any trademark rights, license, or authorization whatsoever to use the mark SESSÙN, that the Respondent is not commonly known by the disputed domain name, and that the Respondent has not used the disputed domain name in connection with a legitimate noncommercial or fair use or a *bona fide* offering of goods and services.

In line with the case law, "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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element". See section 2.1 of the [WIPO Overview 3.0](#).

The Complainant has put forward a *prima facie* case that the Respondent does not have any rights or legitimate interests in the disputed domain name. The Respondent has not replied to the Complainant's contentions and has not come forward with relevant evidence to rebut the Complainant's *prima facie* case.

There is nothing in the record suggesting that the Respondent has ever been commonly known by the disputed domain name or that the Respondent made a *bona fide* offering of goods or services or a legitimate noncommercial or fair use under the disputed domain name.

In fact, at the time of filing the Complaint, the disputed domain name resolved to a commercial website offering for sale identical goods to those offered by the Complainant, including purportedly discounted products branded SESSÙN.

In certain cases, UDRP panels have recognized that resellers or service providers using a domain name containing the complainant's mark to undertake sales or repairs related to the complainant's goods and

services may have a right or legitimate interest in such domain name. Relevant UDRP panel decisions in relation to this issue are helpfully summarized in section 2.8 of the [WIPO Overview 3.0](#) as follows:

Normally, a reseller, distributor or service provider can be making a *bona fide* offering of goods and services and thus have a right or legitimate interest in the domain name if its use meets certain requirements. These requirements normally include the actual offering of goods and services at issue, the use of the site to sell only the trademarked goods, the site's accurately and prominently disclosing the registrant's relationship with the trademark holder, and the respondent not trying to "corner the market" in domain names that reflect the trademark.

This summary is based on UDRP panel decision *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#). At least one condition that is outlined has clearly not been satisfied by the Respondent in this case: at the time of filing the Complaint, on the website under the disputed domain name, there was no accurate and clear disclaimer regarding the Respondent's rights and its (lack of) relationship with the Complainant. Further, images of the Complainant's trademarks and official pictures were displayed without any consent from the Complainant, thus generating a likelihood of confusion for the Internet users accessing the Respondent's website and suggesting a false commercial relationship between the website under the disputed domain name and the Complainant.

In addition, UDRP panels have found that domain names that consist of a trademark plus an additional term cannot constitute fair use if they effectively impersonate or suggest sponsorship or endorsement by the trademark owner. See section 2.5.1 of the [WIPO Overview 3.0](#).

For all these reasons, the Panel finds that the second element of the Policy is established, and the Respondent has no rights or legitimate interests in respect of the disputed domain name, pursuant to the Policy, paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

The Complainant holds registered trademark rights for SESSÜN and corresponding domain name since 2000, as well as company name since 1996.

The disputed domain name was created in October 2022, and incorporates the Complainant's mark with an additional term "france" at the second-level part, and is using the TLD ".shop", both terms being closely related to the Complainant's business and country of origin. Furthermore, it is used to provide purportedly SESSÜN branded goods.

For the above reasons, the Panel finds that the disputed domain name was registered in bad faith, with knowledge of the Complainant, its business, and particularly targeting the Complainant's trademark.

The Respondent is using without permission the Complainant's distinctive trademark in order to get Internet traffic on her web portal and to obtain commercial gain from the false impression created for Internet users with regard to a potential connection with the Complainant. This impression is created particularly by the incorporation of the Complainant's trademark in the disputed domain name, and the content on the website provided thereunder which includes the Complainant's trademarks and images of official products.

Paragraph 4(b)(iv) of the Policy provides that the use of a domain name to intentionally attempt "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 [the respondent's] website or location" is evidence of registration and use in bad faith.

Given that the disputed domain name incorporates the Complainant's trademark and the website operated under the disputed domain name copied the look-and-feel of the Complainant's website, displays the Complainant's trademark and product images and was offering very likely counterfeit copies of the

Complainant's products, indeed in this Panel's view, the Respondent intended to attract Internet users accessing the website corresponding to the disputed domain name who may be confused and believe that the website is held, controlled by, or somehow affiliated or related to the Complainant, for its commercial gain.

Further, the Respondent failed to provide a response to the Complainant's allegations and the physical address listed in the Whois database was inaccurate or incomplete because the Written Notice could not be delivered to the Respondent by courier. Along with other circumstances in this case, such facts constitute a further sign of bad faith.

For all the above reasons, the Panel finds that the Respondent registered and is using the disputed domain name in bad faith, pursuant to the Policy, paragraph 4(a)(iii).

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 <sessunfrance.shop> be transferred to the Complainant.

/Marilena Comanescu/

Marilena Comanescu

Sole Panelist

Date: June 11, 2023