

ADMINISTRATIVE PANEL DECISION

Credit Saison Co., Ltd. v. hiroshi murozuka, yashimasoken co.
Case No. D2023-5329

1. The Parties

The Complainant is Credit Saison Co., Ltd., Japan, represented by IP Twins, France.

The Respondent is hiroshi murozuka, yashimasoken co., Japan.

2. The Domain Name and Registrar

The disputed domain name <saisoncard-promotion.com> is registered with GMO Internet, Inc. d/b/a Discount-Domain.com and Onamae.com (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on December 22, 2023. On December 22, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 22, 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 (Whois Privacy Protection Service by onamae.com) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 5, 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 10, 2024.

On January 5, 2024, the Center informed the parties in Japanese and English, that the language of the registration agreement for the disputed domain name is Japanese. On January 8, 2024, the Complainant confirmed its request that English 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 Japanese of the Complaint, and the proceedings commenced on January 22, 2024. In accordance with

the Rules, paragraph 5, the due date for Response was February 11, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on February 19, 2024.

The Center appointed Masato Dogauchi as the sole panelist in this matter on February 22, 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

Whereas the Respondent has not submitted any formal response, the following information from the Complaint is found to be the factual background of this case.

The Complainant is a Japanese financial services company founded in 1951, which is the third largest credit card issuer in Japan with over 20 million cardholders.

The Complainant is the holder of SAISON CARD trademark in Japan as follows:

- Japanese Registration No. 3337687, registered on August 8, 1997;
- Japanese Registration No. 3337687/01, registered on November 21, 2018;
- Japanese Registration No. 6717619, registered on July 14, 2023.

The Complainant generate significant revenue from the SAISON CARD business. The Complainant has the domain name <saisoncard.co.jp> registered on August 19, 1998.

The disputed domain name was registered on June 25, 2013, and resolves to a website impersonating the Complainant with affiliate advertisements.

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.

In respect of the language of the proceeding, the Complainant requests that English should be used for several reasons. See, 6.1 below.

B. Respondent

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

6. Discussion and Findings

6.1. Preliminary Issue: Language of Proceedings

The language of the Registration Agreement for the disputed domain name is Japanese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the Complainant's representative is not able to communicate in Japanese without a great deal of additional expense and delay due to the need for translation of the Complaint, the fact that the disputed domain name is in Latin script as a whole and contains the English term "promotion", that, although most of the content of the website associated with the disputed domain name is in Japanese, it does contain such generic English terms as "Tap On Mobile" and "All rights reserved"; that if the Respondent does not be able to undergo the proceedings in English, the Respondent would so indicate in its Response.

The Respondent did not make any specific submissions with respect to the language of the proceeding.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

6.2. Substantive Matters

In accordance with the Rules, paragraph 15(a), a panel shall decide a case on the basis of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable. Since the Respondent has not made any arguments in this case, the following decision is rendered on the basis of the Complainant's contentions and other evidence submitted by the Complainant.

In accordance with the Policy, paragraph 4(a), in order to qualify for a remedy, the Complainant must prove each of the following:

- (i) the disputed domain name 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 disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

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 SAISON CARD trademark 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 name. The addition of "-promotion" does not prevent the recognition the mark within the disputed domain name. And, the Top-Level Domain ("TLD") in the disputed domain name ".com" is to be viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.7, 1.8 and 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.

The Panel notes that the nature of the disputed domain name along with the content of the website passing off as the Complainant indicates the Respondent’s intention to create a risk of affiliation or association with the Complainant and its trademark.

Having reviewed the available record, the Panel finds that the Complainant has established a prima facie case that the Respondent has no 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 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.

In the present case, in consideration of the business activities of the Complainant’s credit card business in Japan using the SAISON CARD trademark for over 70 years and the fact the Complainant operates its business via the domain name <saioncard.co.jp> since 1998, it is highly unlikely that the Respondent could have been unaware of the Complainant’s trademark at the time of registration of the disputed domain name on June 25, 2013. [WIPO Overview 3.0](#), section 3.2.2. Therefore, it is found that the Respondent registered the disputed domain name in bad faith.

With regard to the requirement that the Respondent is using the disputed domain name in bad faith, the Panel considers the fact that the confusingly similar disputed domain name, including the entirety of the Complainant’s SAISON CARD trademark, resolves to a website impersonating the Complainant with affiliate advertisements shows that the Respondent’s use of the disputed domain name is being done in bad faith.

The Panel finds that the Complainant has established the third element of the Policy.

In conclusion, all three cumulative requirements as provided for in paragraph 4(a) of the Policy are determined to be satisfied.

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 <saisoncard-promotion.com> be transferred to the Complainant.

/Masato Dogauchi/

Masato Dogauchi

Sole Panelist

Date: March 7, 2024