

ADMINISTRATIVE PANEL DECISION

IM Production v. Hong Yang
Case No. D2023-0647

1. The Parties

The Complainant is IM Production, France, represented by Nameshield, France.

The Respondent is Hong Yang, China.

2. The Domain Name and Registrar

The disputed domain name <isabelmarantus.com> is registered with Gname.com Pte. Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on February 13, 2023. On February 13, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 14, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 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 in English on the same day.

On February 14, 2023, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On the same day, the Complainant submitted a request that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

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 Chinese of the Complaint, and the proceedings commenced on February 20, 2023. In accordance with

the Rules, paragraph 5, the due date for Response was March 12, 2023. The Respondent did not submit a response. Accordingly, the Center notified the Respondent's default on March 13, 2023.

The Center appointed Joseph Simone as the sole panelist in this matter on March 21, 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, IM Production, is a French company specializing in the manufacturing and marketing of apparel, shoes, handbags and jewelry and has stores around the world.

The Complainant has an extensive global portfolio of ISABEL MARANT trade marks, including the following:

- International Trade Mark Registration No. 1284453 for ISABEL MARANT in Classes 4, 8, 11, 16, 20, 27, and 28, designating a number of jurisdictions including China, registered on November 16, 2015; and
- European Union Trade Mark Registration No. 001035534 for ISABEL MARANT in Classes 3, 14, and 25, registered on May 3, 2000.

The disputed domain name was registered on February 8, 2023.

According to the evidence provided by the Complainant, at the time of filing of the Complaint, the disputed domain name resolved to a page purporting to be an online store selling the Complainant's ISABEL MARANT products at discounted prices. At the time of this decision, the disputed domain name continues to resolve to the same page.

5. Parties' Contentions

A. Complainant

The Complainant asserts that it has prior rights in the ISABEL MARANT trade mark and that it has acquired a strong reputation in its field of business.

The Complainant further notes that the disputed domain name registered by the Respondent is confusingly similar to the Complainant's ISABEL MARANT trade mark.

The Complainant asserts that it has not authorized the Respondent to use its ISABEL MARANT mark, and there is no evidence to suggest that the Respondent has used, or undertaken any demonstrable preparations to use, the disputed domain name in connection with a *bona fide* offering of goods or services.

The Complainant has presented evidence showing that the disputed domain name was used in association with a site purportedly offering for sale the Complainant's products, and that it is implausible that the Respondent registered the disputed domain name in good faith, and that any use of the disputed domain name must be in bad faith.

B. Respondent

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

6. Discussion and Findings

6.1. Preliminary Issue: Language of the Proceeding

In accordance with paragraph 11(a) of the Rules:

“[...] the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.”

In this case, the language of the Registration Agreement for the disputed domain name is Chinese. Hence, the default language of the proceeding should be Chinese.

However, the Complainant filed the Complaint in English, and requested that English be the language of the proceeding, asserting the followings:

- The English language is the language most widely used in international relations and is one of the working languages of the Center;
- The disputed domain name only contains Latin letters instead of Chinese characters; and
- To proceed in the Chinese language the Complainant would have to retain specialized translation services at a cost that is likely to be higher than the overall cost of the present proceeding.

The Respondent was notified in both Chinese and English of the language of the proceeding and the commencement of the proceeding and did not comment on the language of the proceeding or submit any response in either Chinese or English.

Considering the circumstances of this case, the Panel has determined that the language of the proceeding shall be English, and as such the Panel has issued this decision in English. The Panel further finds that such determination should not cause any prejudice to either Party and should ensure that the proceeding takes place with due expedition.

6.2. Substantive Issues: Three Elements

A. Identical or Confusingly Similar

The Panel acknowledges that the Complainant has established rights in the ISABEL MARANT trade mark.

Disregarding the generic Top-Level Domain (“gTLD”) “.com”, the disputed domain name incorporates the Complainant’s trade mark ISABEL MARANT in its entirety.

According to the Cambridge Dictionary, the additional word “us” can be interpreted “as the object of a verb or a preposition to refer to a group that includes the speaker and at least one other person”, or as the abbreviation of “United States of America”. Regardless of the nature, the additional element does not prevent a finding of confusing similarity pursuant to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 1.8.

The Panel therefore finds that the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy in establishing its rights in the ISABEL MARANT trade mark and in showing that the disputed domain name is confusingly similar to its mark.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, a complainant is required to establish a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name. Once such a *prima facie* case has been made out, the respondent bears the burden of producing evidence in support of its rights or legitimate interests in the disputed domain name. If the respondent fails to do so, the complainant may be deemed to have satisfied paragraph 4(a)(ii) of the Policy. See [WIPO Overview 3.0](#), section 2.1.

The Complainant asserts that it has not authorized the Respondent to use its trade mark and there is no evidence to suggest that the Respondent has used, or undertaken any demonstrable preparations to use, the disputed domain name in connection with a *bona fide* offering of goods or services.

Thus, the Complainant has presented evidence that is satisfactory to establish its *prima facie* case.

The Respondent did not file a response and has therefore failed to assert factors or put forth evidence to establish that he or she enjoys rights or legitimate interests in the disputed domain name. The disputed domain name resolves to a page purporting to be an online store selling the Complainant's ISABEL MARANT products at discounted prices.

Therefore, the Respondent has not shown that prior to the notice of the dispute, he or she has used or has demonstrated his or her preparation to use the disputed domain name in connection with a *bona fide* offering of goods or services. There is also no evidence showing that the Respondent has been commonly known by the disputed domain name or that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name.

As such, the Respondent has failed to rebut the Complainant's *prima facie* showing of the Respondent's lack of rights or legitimate interests in the disputed domain name, and none of the circumstances of paragraph 4(c) of the Policy is applicable in this case.

Furthermore, given the composition of the disputed domain name, which combines the Complainant's trade mark with the term "us", the disputed domain name carries a risk of implied affiliation, which cannot constitute fair use. See [WIPO Overview 3.0](#), section 2.5.1.

Accordingly, and based on the Panel's findings below, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name pursuant to paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy states that any of the following circumstances in particular but without limitation, shall be considered as evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that the respondent registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant (the owner of the trade mark or service mark) or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or
- (ii) circumstances indicating that the respondent registered the domain name in order to prevent the owner of the trade mark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) circumstances indicating that the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) circumstances indicating that the respondent is using the domain name to intentionally attempt 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 its website or location.

For reasons discussed under this and the preceding heading, the Panel believes that the Respondent's conduct in this case constitutes bad faith registration and use of the disputed domain name.

When the Respondent registered the disputed domain name, the ISABEL MARANT trade marks were already widely known and directly associated with the Complainant's activities. UDRP panels have consistently found that the mere registration of a domain name that is confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trade mark by an unaffiliated entity can by itself create a presumption of bad faith. See [WIPO Overview 3.0](#), section 3.1.4.

Given the extensive prior use and fame of the Complainant's marks, in the Panel's view, the Respondent should have been aware of the Complainant's marks when registering the disputed domain name and ultimately, given the use of the disputed domain name, it is clear that the Respondent was aware of the Complainant and intentionally targeted the Complainant when registering the disputed domain name.

In light of the foregoing facts, the Panel concludes there are no plausible reasons to suggest the Respondent registered the disputed domain name in good faith. The Panel further considers that the use of the disputed domain name in relation to a website displaying the Complainant's trade mark and claiming to offer for sale the Complainant's products, possibly with the purpose of obtaining credit card and contact information from unsuspecting Internet users, constitutes bad faith under paragraph 4(b)(iv) of the Policy.

Accordingly, the Panel finds that the Respondent registered and is using the disputed domain name in bad faith.

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 <isabelmarantus.com> be transferred to the Complainant.

/Joseph Simone/

Joseph Simone

Sole Panelist

Date: April 4, 2023