

ADMINISTRATIVE PANEL DECISION

Fremaux Delorme v. Nncjsd Ybnns
Case No. D2023-2705

1. The Parties

The Complainant is Fremaux Delorme, France, represented by Plasseraud IP, France.

The Respondent is Nncjsd Ybnns, China.

2. The Domain Name and Registrar

The disputed domain name <yvesdelormesale.com> is registered with Name.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 23, 2023. On June 23, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 26, 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 Agent, Domain Protection Services, Inc.) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 3, 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 July 3, 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 July 6, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 26, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 28, 2023.

The Center appointed William A. Van Caenegem as the sole panelist in this matter on August 8, 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, the Fremaux Delorme Group, is a French linen house of long standing. The Complainant is the registered proprietor of a number of trademarks, including the word mark YVES DELORME, International Trademark Registration No 1616953, in classes 03; 04; 05; 20; 24; 25 registered on June 15, 2021 for Australia, Brazil, United Kingdom, India, Japan, Korea, Canada, Russian Federation and most relevantly China.

The Complainant owns and operates a number of website under the Yes Delorme brand, including in France (“<https://france.yvesdelorme.com/>”), the United States of America (“<https://usa.yvesdelorme.com/>”), and the United Kingdom (“<https://uk.yvesdelorme.com/>”).

The disputed domain name resolves to an online shop purporting to offer linen goods for sale branded Yves Delorme at prices that are discounted by 40% - 70%.

The disputed domain name was registered on July 8, 2022.

5. Parties’ Contentions

A. Complainant

The Complainant is a French linen house founded in 1875 and the YVES DELORME trademark is widely used by the Complainant to designate luxury bedding, bath and home accents. The Complainant says that it generates a turnover of more than EUR 150 Million (without citing a particular year) of which 15% is by Internet sales. It has an extensive presence online via nationally registered websites, via social media and is also involved, as a sponsor or exhibitor, with various international social events such as the Society of British & International Interior Design awards (as sponsor in 2019). The Complainant says that it is present in 50 countries, with 450 shops and 9 active e-shops.

The Complainant also asserts that as a result of all the exposure noted above, its YVES DELORME brand is well-known in the field of luxury home linens, and more generally in the luxury market.

The Complainant says its trademark rights in YVES DELORME predate the date of registration of the disputed domain name. It says the latter is confusingly similar to the YVES DELORME trademark which is identically reproduced within it. The Complainant adds that the inclusion of the term “sale” does not serve to distinguish the disputed domain name from the trademark in any significant way, as it is a descriptive dictionary term. Adding a term related to its activities (“sale”) is likely to further increase consumer confusion, the Complainant maintains. The Complainant adds that by virtue of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (“[WIPO Overview 3.0](#)”), section 1.15 the fact that its trademark is replicated in the website to which the disputed domain name resolves further strengthens the conclusion that the disputed domain name is confusing similar.

The Complainant says that it has not located by its searches any indication that the Respondent owns any registered mark or trade name in the terms YVES DELORME, and points out that the disputed domain name does not correspond to the Respondent’s name. The Complainant asserts that it has never granted any authorization to the Respondent to register or use any domain name including its YVES DELORME trademark.

The Complainant further points to the fact that the disputed domain name resolves to a website that constitutes an online shop which purports to offer for sale bed linen branded YVES DELORME for what the Complainant states are abnormally low prices. There is thus no fair, noncommercial or *bona fide* use of the disputed domain name in evidence. It says that as the disputed domain name reproduces the YVES DELORME trademark in full, as does the website to which it resolves (in the top banner of the main page and in the tag, for instance), and neither the disputed domain name nor the corresponding website are part of the Complainant's official distribution network, it is more than likely that the Respondent has registered and is using the disputed domain name to impersonate the Complainant and create a likelihood of confusion with its well-known trademark, for undue commercial gain and/or fraudulent purposes, for instance obtaining payment without delivering the products, selling counterfeit products, scams, collection of personal data, etc.). The Respondent cannot therefore have any legitimate interest in respect of the disputed domain name, the Complainant submits. Even if the products offered on the Respondent's website were genuine, the Complainant says that the *OKI Data* criteria are not met, principally because the website concerned does not in any way disclose the absence of a relationship with the trademark holder. On the contrary, as the prominent display of the YVES DELORME trademark suggests an official website, whereas the Complainant reiterates that it has not authorized the site at all.

The Complainant also contends that the Respondent could not have acted in good faith when registering the disputed domain name. Its YVES DELORME trademark is registered in many countries, including most notably the United States of America, where the Respondent has an office according to the contact address displayed on the website available through the disputed domain name, and in China, where the Respondent is located according to the information provided by the Center to the Complainant. The Respondent thus had constructive knowledge of the Complainant's YVES DELORME trademark and the Complainant adds that its mark being a well-known mark, at least in the luxury bedlinens and nightwear industry, the Respondent must be considered to have acted in bad faith when registering the disputed domain name (in accordance with According to the [WIPO Overviews 3.0](#) section 3.2.1). It adds that on the same basis, the Respondent should also be considered to have used the disputed domain name in bad faith.

The Complainant also points out that the online store to which the disputed domain name resolves masquerades as a genuine YVES DELORME online shop, which proves the Respondent is targeting the Complainant. It says that all the facts rehearsed above point to an attempt by the Respondent to impersonate the Complainant and to create a likelihood of confusion with its trademarks so as to mislead Internet users for commercial gain and/or fraudulent purposes. Internet users are led to believe that the Respondent's website is official due to the numerous and prominent references to the YVES DELORME trademark within it.

The Complainant adds that in accordance with [WIPO Overview 3.0](#) section 3.6, the use by the Respondent of a privacy proxy service to avoid being notified of a UDRP proceeding filed against him justifies an inference of bad faith. Finally, the Complainant points to a number of analogous previous WIPO Panel decisions relating to very similar facts where the Panel found in favor of the Complainant.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The disputed domain name is not identical to the YVES DELORME registered trademark of the Complainant. However, that distinctive mark is immediately recognizable within the disputed domain name. That alone has consistently been held by previous Panels to be sufficient to satisfy the first element. The addition of the generic term "sale" does not detract from that conclusion.

Therefore the Panel holds that the disputed domain name is confusingly similar to the YVES DELORME trademark of the Complainant.

B. Rights or Legitimate Interests

The Respondent has not replied to any of the contentions in the Complaint, has utilized a privacy service to disguise its identity, and the information revealed by the registrar upon request by the Center about the Respondent's identity ("Nncjsd Ybnns") is unlikely to be genuine. That name does not in any way relate to the disputed domain name or to "Yves Delorme", and there is nothing before the Panel to indicate that the Respondent has ever acquired proprietary rights or a legitimate interest in anything approximating the Complainant's trademark or the disputed domain name. The Respondent appears to have used the disputed domain name to establish an online store purporting to sell YVES DELORME marked goods, where that trademark is replicated without permission, and most likely with the goal of obtaining useful private information from unsuspecting Internet users. In other words, it can be inferred that the Respondent has acquired the disputed domain name with the aim of deceiving consumers to their ultimate financial detriment. Such a scheme is not of a kind that vests rights or results in the recognition of a legitimate interest in the party that perpetrates it.

Therefore the Panel holds that the Respondent has no rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

It is immediately apparent that the composition of the disputed domain name did not come about by coincidence, as it is composed of the two elements of the distinctive trademark of the Complainant, with the word "sale" added. In any case the Complainant has established that its mark is registered worldwide, used in many different markets, and has a substantial reputation in relation to linen ware and the like. A simple Internet search would have revealed that YVES DELORME is a proprietary mark of the Complainant. Therefore it is highly likely that the Respondent was well aware of the Complainant's rights at the time of registration of the disputed domain name. That conclusion is further reinforced by the subsequent use to which the disputed domain name was put: it resolves to a fake website where the Complainant's mark is replicated and where its goods are purportedly offered for sale. Everything before the Panel suggests that the primary aim of this site is to enable the Respondent to obtain financial details from Internet users who are deceived into thinking the website is authorized or even established by the Complainant. This is clearly a fraudulent scheme and a bad faith attempt to turn the YVES DELORME trademark into an instrument of deception.

Therefore the Panel holds that the disputed domain name was registered and used 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 <yvesdelormesale.com> be transferred to the Complainant.

/William A. Van Caenegem/

William A. Van Caenegem

Sole Panelist

Date: August 21, 2023