

ADMINISTRATIVE PANEL DECISION

Karine v. Zhang Fei, na
Case No. D2024-2163

1. The Parties

The Complainant is Karine, France, represented by Nameshield, France.

The Respondent is Zhang Fei, na, China.

2. The Domain Name and Registrar

The disputed domain name <jonakcanada.com> (the “Domain Name”) is 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 May 27, 2024. On May 29, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On May 30, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Anonymous) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 4, 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 June 4, 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 June 5, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 25, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 26, 2024.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on July 3, 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 to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant's history dates back to 1964 when Marcel and Josette Nakam opened their first shoe boutique. Today, the Complainant is specialized in women's footwear.

The Complainant owns several trademark registrations for JONAK, such as International trademark No. 625324 (registered on October 14, 1994) and European Union trademark No. 002580223 (registered on August 7, 2003). The Complainant also owns several domain names including the trademark JONAK, such as <jonak.fr> registered in 1999.

The Domain Name was registered on November 1, 2023. The Domain Name, at the time of filing of the Complaint, resolved to a webpage prominently displaying "JONAK PARIS" (virtually identical to the sign on the Complainant's official website) and purportedly selling shoes and accessories at discounted prices under the Complainant's brand JONAK.

5. Parties' Contentions

A. Complainant

The Complainant provides evidence of trademark registrations before the Domain Name was registered. The Domain Name is confusingly similar to the Complainant's trademark as the Domain Name includes in its entirety the Complainant's trademark, and the addition of the geographical term "canada" is not sufficient to escape confusing similarity.

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the Domain Name. The Respondent is not authorized, licensed, or permitted to register or use a domain name incorporating the Complainant's trademark. The Respondent has used the Domain Name to disrupt the Complainant's business and to attract users by impersonating the Complainant. Impersonation, by using the Complainant's trademark and seeking to defraud or confuse users, indicates a lack of rights or legitimate interest.

Given the distinctiveness and reputation of the Complainant's trademark, the Complainant argues that the Respondent has registered and used the Domain Name with full knowledge of the Complainant's trademark. The Complainant contends that the Respondent has used the Domain Name 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 the Respondent's website or location.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the Domain Name. Where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing.

See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has established that it has rights in the trademark JONAK. The trademark is recognizable within the Domain Name. The Domain Name adds the geographical term "canada". The addition does not prevent a finding of confusing similarity. See [WIPO Overview 3.0](#), section 1.8. For the purpose of assessing the confusing similarity under paragraph 4(a)(i) of the Policy, the Panel may ignore the generic Top-Level Domain ("gTLD") ".com"; see [WIPO Overview 3.0](#), section 1.11.1.

Based on the available record, 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. While 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 often-impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. See [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the 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 Domain Name. Based on the record, the Respondent is not affiliated or related to the Complainant. There is no evidence that the Respondent has registered the Domain Name as a trademark or acquired trademark rights. There is no evidence of the Respondent's use of, or demonstrable preparations to use, the Domain Name in connection with a bona fide offering of goods or services. Rather, the Respondent's use of the Domain Name is evidence of bad faith and shows its intent for impersonation, see below, and as such cannot confer rights or legitimate interests upon the Respondent per section 2.13.1 of the [WIPO Overview 3.0](#).

In addition, the composition of the Domain Name is inherently misleading as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. See [WIPO Overview 3.0](#), section 2.5.1.

Based on the available record, 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.

The Respondent most likely knew of the Complainant when the Respondent registered the Domain Name. It follows from the composition of the Domain Name, and the use of the JONAK trademark on the website at the Domain Name. The Complainant's claimed use of the Domain Name for a website prominently displaying "JONAK PARIS" (virtually identical to the sign on the Complainant's official website) and purportedly to offer for sale products at discounted prices under the JONAK trademark indicates the Respondent's intent to impersonate the Complainant, to which has not been rebutted by the Respondent. The Respondent has not offered any explanation as to why it registered the Domain Name, nor provided any evidence of actual or contemplated good faith use of the Domain Name. The Respondent has tried to attract Internet users, for commercial gain, to the Respondent's website, by creating a likelihood of confusion with

the Complainant's trademark, which is per se evidence of bad faith.

For the reasons set out above, the Panel concludes that the Domain Name was registered and is being used in bad faith, within the meaning of paragraph 4(a)(iii) of the Policy.

The third element of the Policy has been established.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders the Domain Name <jonakcanada.com> be transferred to the Complainant.

/Mathias Lilleengen/

Mathias Lilleengen

Sole Panelist

Date: July 14, 2024