

## ADMINISTRATIVE PANEL DECISION

Benda Bili v. 胡燕 (Yan Hu), and 黄海玲 (Hai Ling Huang)  
Case No. D2024-0217

### 1. The Parties

The Complainant is Benda Bili, France, represented by Nameshield, France.

The Respondents are 胡燕 (Yan Hu), and 黄海玲 (Hai Ling Huang), China.

### 2. The Domain Names and Registrar

The disputed domain names <sezane-outlet.shop> and <sezane-solde.shop> are registered with Chengdu West Dimension Digital Technology Co., Ltd. (the “Registrar”).

### 3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on January 18, 2024. On January 18, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On January 19, 2024, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 19, 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 19, 2024.

On January 19, 2024, the Center informed the Parties in Chinese and English that the language of the Registration Agreements for the disputed domain names is Chinese. On January 19, 2024, the Complainant requested English to be the language of the proceeding. The Respondents 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 Respondents in Chinese and English of the Complaint, and the proceeding commenced on February 1, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 21, 2024. The Respondents did not submit any response. Accordingly, the Center notified the Respondents' default on February 23, 2024.

The Center appointed Sebastian M.W. Hughes as the sole panelist in this matter on March 6, 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**

##### **A. Complainant**

The Complainant is a French company doing business as an online fashion brand under the trade mark SÉZANE (the "Trade Mark").

The Complainant is the owner of numerous registrations for the Trade Mark, including International registration No. 1170876, with a registration date of June 3, 2013.

The Complainant is also the owner of numerous domain names comprising the Trade Mark, including <sezane.com>, registered since April 3, 2003.

##### **B. Respondents**

The Respondents are located in China.

##### **C. The Disputed Domain Names**

The disputed domain names were registered on January 15, and January 17, 2024, respectively.

##### **D. Use of the Disputed Domain Names**

The disputed domain names were previously resolved to the same French language websites impersonating the Complainant, featuring the Trade Mark and images taken from the Complainant's website, and offering for sale clothing and accessories at heavily discounted prices (the "Website").

As at the date of this Decision, the disputed domain names no longer resolve to an active website.

#### **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 names.

##### **B. Respondents**

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

## 6. Discussion and Findings

### Language of the Proceeding

The language of the Registration Agreements for the disputed domain names is Chinese. 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 fact that one of the disputed domain names contains an English word “outlet”; the use of Chinese would impose a significant additional costs burden on the Complainant; and the Respondents have been notified of the proceeding in Chinese and been given the opportunity to file a response in Chinese.

The Respondents did not file a response in this proceeding and did not make any 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.

### Consolidation: Multiple Respondents

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are under common control, for the following reasons:

- (i) The disputed domain names are registered with the same Registrar;
- (ii) The disputed domain names were registered on January 15, and January 17, 2024; and
- (iii) The disputed domain names were previously resolved to the same Website.

The Respondents did not file a response in this proceeding, and did not make any submissions with respect to consolidation.

It is necessary therefore for the Panel to decide whether to consolidate the Complaint against multiple domain name registrants pursuant to paragraph 10(e) of the Rules.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In determining whether to order consolidation, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See [WIPO Overview 3.0](#), section 4.11.2.

As regards common control, the Panel notes the above submissions put forward by the Complainant.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below as “the Respondent”) in a single proceeding.

### **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 Trade Mark and the disputed domain names. [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of a trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the Trade Mark is reproduced within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the Trade Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms (here, “outlet”, and “solde” (meaning “discount” in French)) may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain names and the Trade Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain names. 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 names such as those enumerated in the Policy or otherwise.

Panels have held that the use of a domain name for illegal activity (as applicable to this case: impersonation/passing off), or other types of fraud, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The current non-use of the disputed domain names underscores the Respondent’s lack of rights or legitimate interests in the disputed domain names.

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 light of the manner of use of the disputed domain name in respect of the Website, the Panel finds that bad faith has been made out under paragraph 4(b)(iv) of the Policy.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have held that the use of a domain name for illegal activity (as applicable to this case: impersonation/passing off), or other types of fraud, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain names constitute bad faith under the Policy.

The current non-use of the disputed domain names does not change the Panel's finding of the Respondent's bad faith under the doctrine of "passive holding". [WIPO Overview 3.0](#), section 3.3.

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

### **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 names <sezane-outlet.shop> and <sezane-solde.shop> be transferred to the Complainant.

*/Sebastian M.W. Hughes/*

**Sebastian M.W. Hughes**

Sole Panelist

Date: March 15, 2024