



DECISION OF THE THIRD-PARTY DECIDER

Yves Saint Laurent Parfums / Ke Zhao

Case No. 444167: yslbeauty.be

1. THE PARTIES

1.1. Complainant

YVES SAINT LAURENT PARFUMS
Rue de Bellechasse 37-39
75007 PARIS
FRANCE

Represented by:

Ms. Nathalie DREYFUS
Counsel – Dreyfus & Associés
Avenue Raymond Poincaré 78
75116 PARIS
FRANCE

Hereafter referred to as the “Complainant”

1.2. Domain name holder

Mr. Ke, ZHAO
Weihai Rd, 750 Owner
200040 SHANGHAI
CHINA

Hereafter referred to as the “Domain Name Holder”

2. DOMAIN NAME

Domain name: yslbeauty.be
Registered on: 20 February 2017

Hereafter referred to as the “Domain Name”

3. PROCEDURE

On 11 May 2022, the Complainant filed a complaint concerning the Domain Name (“Complaint”) with the Belgian Centre for Arbitration and Mediation (“CEPANI”), in

accordance with the CEPANI rules for domain name dispute resolution (the “Rules”) and the dispute resolution policy of DNS Belgium, incorporated in article 10 of its Terms and conditions for .be domain name registrations (the “Policy”).

On 10 June 2022, CEPANI appointed the undersigned, Ms. Sarah van den Brande, as a third-party decider (the “Third-Party Decider”) to settle the dispute involving the Domain Name in question.

The deliberations were closed on 17 June 2022.


The Domain Name Holder did not file a response to the Complaint.

In accordance with article 6.4. of the Rules, this decision is based on the Complaint alone, including the exhibits attached to this Complaint.

4. FACTUAL BACKGROUND INFORMATION

The Complainant is a well-known international high-end luxury fashion house. Besides to high-end luxury clothes, the Complainant is active in the fields of cosmetics, fragrances and skincare products.

The Complainant conducts its activities under the brand “YVES SAINT LAURENT” and “YSL” for which the Complainant holds numerous trade mark registrations, including:

- the European Union trade mark for the word “YSL” with application number 004672358, applied for on 7 October 2005 and registered on 6 October 2006 for goods in Nice class 3;
- the international figurative trade mark  with application number 254533A, registered on 10 April 1962 for goods in Nice class 3, designating, amongst others, the Benelux territory; and
- the European Union trade mark for the word “YVES SAINT LAURENT” with application number 006036289, applied for on 25 June 2007 and registered on 22 May 2008 for goods in Nice class 3.

The Complainant furthermore holds the domain name “yslbeauty.com”.

The Domain Name has been registered on 20 February 2017 and has been connected to a website with sponsored links using SEDO domain parking services in the past.

The Complainant sent a cease-and-desist to SEDO by e-mail of 20 December 2021 (17:09:31). In this cease-and-desist letter, the Complainant requested SEDO to cease the sale of the Domain Name and to deactivate the commercial links set up for the Domain Name. SEDO informed the Complainant on 23 December 2021 that it has blocked the Domain Name from its website and services. The Domain Name is currently inactive, as no website is linked to it.

The Complainant furthermore sent a request to DNS Belgium on 20 December 2021 (17:19:55) in order to obtain the contact data of the Domain Name Holder, which information was received from DNS Belgium the same day (19:36:49). The Complainant subsequently put the Domain Name Holder on notice to cease any infringing use and to transfer the Domain Name to the Complainant free of charge by e-mail of 27 December 2021, with a reminder on 5 January 2022.

On 6 January 2022, the Complainant received an e-mail that the Domain Name could be transferred to the Complainant for 4,500 USD. The Complainant reiterated its notice to transfer the Domain Name to the Complainant free of charge by e-mail of 7 February 2022. The Complainant received a reply e-mail on the same day in which the Domain Name was offered for sale for 3,999 USD. By e-mail of 21 February 2022, the Complainant reiterated that the Domain Name must be transferred free of charge.

5. POSITION OF THE PARTIES

5.1. Position of the Complainant

The Complainant requests the transfer of the Domain Name and submits that the three cumulative conditions for such transfer are met:

- The Domain Name is confusingly similar to the Complainant’s trade mark “YSL”, as the Domain Name reproduces the Complainant’s trade mark in its entirety in combination with the generic term “BEAUTY”. The Complainant’s trade mark “YSL” has been considered as “well-known” or “famous” by WIPO decisions (WIPO Case No. D2016-1997 and WIPO Case No. D2001-0911). It is likely that the Domain Name could mislead Internet users into thinking that the Domain Name is associated with the Complainant.
- The Domain Name Holder has no legitimate interests in respect of the Domain Name. The Complainant’s trade mark registrations preceded the registration of the Domain Name for years. The Domain Name Holder is not commonly known by the name “YSL”, is not affiliated with the Complainant and not authorised or licensed to use the trade mark “YSL”. There are no indications that the Domain Name Holder has used the Domain Name in connection with a bona fide offering of goods and services, but instead the Domain Name Holder has used the Domain Name for a website displaying commercial links targeting the Complainant’s field of activity.

- The Domain Name was registered and is being used in bad faith. Taking into account the worldwide reputation of the Complainant and its trade marks, as well as the high level of notoriety of the Complainant, it is hard to believe that the Domain Name Holder was unaware of the existence of the Complainant and its trade marks at the time of registration of the Domain Name. The Domain Name Holder has furthermore offered the Domain Name for sale to the Complainant for a price exceeding real costs. The Domain Name Holder used the Domain Name to direct Internet users to a webpage displaying pay-per-click links which are likely to generate revenues for the Domain Name Holder. It is moreover likely that Domain Name Holder registered the Domain Name to prevent Complainant from using its trade marks in the Domain Name.

5.2. Position of the Domain Name Holder

The Domain Name Holder did not file a response to the Complaint.

6. DISCUSSION AND FINDINGS

Following Article 16.1 of the Rules, the Third-Party Decider shall rule on the Complaint with due regard for the views of the parties and in accordance with the Policy, the registration agreement between the Domain Name Holder and DNS Belgium and the Rules.

Pursuant to Article (b), 1) of the Policy, the Complainant must provide evidence that:

- i) the Domain Name is identical or confusingly similar to a trade mark, a trade name, a registered name or a company name, a geographical designation, a name of origin, a designation of source, a personal name or name of a geographical entity in which the Complainant has rights; and
- ii) the Domain Name Holder has no rights or legitimate interests in the Domain Name; and
- iii) the Domain Name has been registered or is being used in bad faith.

6.1. The Domain Name is identical or confusingly similar to the Complainant's trade mark(s)

The Complainant has established the existence of the European Union trade mark for the word "YSL" of which it holds the trade mark rights and which precedes the Domain Name registration.

According to established CEPANI case law, the suffix “.be” is irrelevant for determining the identity or similarity between the Domain Name and the Complainant’s trade mark (see *inter alia* WIPO D2016-1997).

The relevant part of the Domain Name “yslbeauty” is confusingly similar to the Complainant’s “YSL” trade mark:

- The Domain Name concerns a combination of (a) the entire reproduction of the Complainant’s “YSL” trade mark, with (b) the generic term “BEAUTY”.
- The “YSL” trade mark is the first and dominant element of the Domain Name (see *inter alia* WIPO DNL2015-0062). “YSL” has no semantic meaning and is not a generic term. WIPO rulings support the view that a domain name is to be considered as confusingly similar when the domain name includes a trade mark in its entirety, regardless of other terms in the domain name (see *inter alia* WIPO D2020-2923; WIPO D2013-0150; WIPO D2006-0662).
- The generic term “BEAUTY” refers to a sector in which the Complainant uses its “YSL” trade mark. The generic term does not serve to distinguish the Domain Name from the “YSL” trade mark in any significant way, but instead enhances the perception of association with the Complainant and its trade mark.

The Third-Party Decider agrees that the Domain Name creates a likelihood of confusion with Complainant’s trade mark, as Internet users could associate the Domain Name with the Complainant. This conclusion is reinforced by the fact that the Complainant uses its trade mark in the domain name “yslbeauty.com”.

The first condition of Article (b), 1) of the Policy is fulfilled.

6.2. The Domain Name Holder has no rights or legitimate interests in the Domain Name

The burden of proof of the second condition is considered to be satisfied when, taking into account all the facts of the case, the Complainant can credibly state that it is unaware of any reason or circumstance which could be indicative of a right or legitimate interest of the Domain Name Holder in the Domain Name (see *inter alia* WIPO D2001-1020; CEPANI 444110; CEPANI 444122).

The Complainant reasonably asserts in its Complaint that the Domain Name Holder does not have any rights or legitimate interests in the Domain Name.

By not submitting a response to the Complaint, the Domain Name Holder failed to provide any explanation or evidence to establish any rights or legitimate interests in the Domain Name

(see *inter alia* WIPO D2010-0138). The Complainant's contentions are therefore not contradicted by the Domain Name Holder.

There are no reasons or circumstances that are indicative of any rights or legitimate interests in the Domain Name by the Domain Name Holder:

- The Complainant is a luxury brand selling beauty products in various countries, including in Belgium. The Complainant has prior rights in the “YSL” trade mark, which precedes the registration of the Domain Name (see *inter alia* WIPO D2013-0150).
- The Domain Name Holder used the Domain Name for a website with sponsored links using SEDO domain parking services. The SEDO domain parking services are considered to generate “pay-per-click” income from sponsored links to websites of third parties offering goods and services that compete with those of Complainant, which is not considered a bona fide offering of goods or services (see *inter alia* CEPANI 44229).
- The Domain Name Holder offered the Domain Name for sale (see *inter alia* CEPANI 44229).

The second condition of Article (b), 1) of the Policy is fulfilled.

6.3. The Domain Name has been registered or is being used in bad faith

Bad faith must be reasonably proven and may be proved by any means, including by means of presumptions and circumstances that indicate with a reasonable degree of certainty the existence of bad faith (see *inter alia* CEPANI 44171; 44441; 444130).

All circumstances of the case indicate with a reasonable degree of certainty that the Domain Name has been registered and used in bad faith:

- The Domain Name Holder registered the Domain Name long after the Complainant registered its “YSL” trade mark. The “YSL” trade mark is known throughout the world, including in Belgium and China. A simple trade mark register search or Google search prior to the registration of the Domain Name would have informed the Domain Name Holder of the existence of the Complainant's trade marks (see *inter alia* WIPO DNL 2015-0062). It can be deducted that the Domain Name Holder knew or should have known of the Complainant's “YSL” trade mark at the time it registered the Domain Name, given the Complainant's widespread use of the trade mark (see *inter alia* WIPO D2000-0137).

- The Domain Name Holder has a long pattern of bad faith domain name registrations. The Domain Name Holder has been the subject of at least 5 WIPO proceedings (WIPO D2013-1264; D2012-0357; D2011-1943; D2011-1608), 7 Nominet Cases (Nominet D00018787; D00024135; D00022979; D00019745; D00015236; D00024098; D00023244; DNL2015-0062) and one CEPANI proceedings (CEPANI 444130), and in each case the transfer of the domain name has been ordered. This is evidence of the Domain Name Holder's registration and use of the Domain Name in bad faith (see *inter alia* WIPO D2010-0138).
- The Domain Name has been connected to a website containing sponsored links in the past. The Domain Name Holder has thus used the Domain Name to intentionally attract, for commercial gain, Internet users to the website by using a Domain Name confusingly similar to the Complainant's trade mark (see *inter alia* WIPO D2010-0138; DNL2015-0062). It can be found that the Domain Name Holder has registered the Domain Name with the primary purpose of diverting potential customers of the Complainant to the Domain Name Holder's website (see *inter alia* WIPO D2000-0137).
- When the Complainant contacted the Domain Name Holder to point out its trade mark rights and to obtain the transfer of the Domain Name free of charge, the Domain Name Holder offered the Domain Name for sale for 4,500 USD and 3,999 USD. The offer of remuneration for transfer of a disputed domain name constitutes use in bad faith (see *inter alia* WIPO D2010-0138; DNL2015-0062).

The third condition of Article (b), 1) of the Policy is fulfilled.

7. DECISION

Taking into account the foregoing, pursuant to Article 10, (e) of the Terms and conditions for .be domain name registrations of DNS Belgium, the Third-Party Decider hereby rules that the domain name registration for the domain name "yslbeauty.be" is to be transferred to the Complainant.

Brussels, 1 July 2022



Sarah van den Brande

Sarah van den Brande
The Third-Party Decider