



Asian Domain Name Dispute Resolution Centre

Asian Domain Name Dispute Resolution Centre (ADNDRC) is a member of the International Centre for Dispute Resolution (ICDR).

(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-1300517
Complainant:	Paul Smith Group Holdings Limited
Respondent:	Jianming Lu
Disputed Domain Name(s):	<magasinpaulsmith.com>

1. The Parties and Contested Domain Name

The Complainant is Paul Smith Group Holdings Limited, of The Poplars, Lenton Lane, Nottingham, NG7 2PW GB.

The Respondent is Jianming Lu, of huojingzhenyengcun3zu, Tongxiashi, TONGDANSHI 611544 CN.

The domain name at issue is <magasinpaulsmith.com>, registered by Respondent with ENOM, INC., of 5808 Lake Washington Blvd. NE Ste. 300 Kirkland, WA 98033 USA.

2. Procedural History

A Domain Name Dispute Complaint concerning domain name <magasinpaulsmith.com> was filed with the Hong Kong Office of the Asian Domain Name Dispute Resolution Centre (ADNDRC) on 9 Jul 2013. The Complainant selected to have the case decided by a single member Panel.

On July 10, 2013 the ADNDRC sent an email to the domain name Registrar notifying it of the filing of the Complaint and seeking information verifying the registration of the domain name with that entity. The ADNDRC also notified the Complainant that the Complaint was received and made additional request in line with the processing of the Complaint.

On July 11, 2013 the ADNDRC received notification of receipt from the Registrar regarding the filed Complaint and additional information verifying the WHOIS data relative to the disputed domain name.

On July 12, 2013 written notice of the Complaint was sent by the ADNDRC to the Respondent.

On August 5, 2013 the Complainant was notified by the ADNDRC that the Respondent had failed to submit a response.

3. Factual background

Complainant is Paul Smith Group Holdings Limited, a subsidiary of Paul Smith Group Holdings, which owns the registered trademark PAUL SMITH. The mark is used in connection with the provision of goods and services in the clothing industry. Complainant has developed a significant global reputation in terms of its designs, fashions and accessories and has registered its trademark with a multitude of agencies throughout the world. Complainant's accessories include goods in a broad variety of associated international classes. Complainant has used the mark, in numerous forms, continuously in association with its goods and services since at least as early as 1983 when the mark was first registered in the UK and the USA.

Respondent is Jianming Lu. Respondent failed to respond to the complaint. Respondent registered the disputed domain name on or about September 28, 2012.

4. Parties' Contentions

A. Complainant

The Complainant's contentions may be summarized as follows:

- i. Complainant is the owner of the trademark PAUL SMITH which has been registered throughout the world primarily for use in connection with goods and services in the fashion industry and also for use with numerous related goods.
- ii. Complainant has used its' mark since at least as early as 1983 when it was first registered in the UK and the USA.
- iii. Respondent's domain name is confusingly similar to trademarks in which the Complainant has rights.
- iv. Respondent has no rights or legitimate interest regarding the disputed domain name as Complainant has never authorized Respondent to use Complainant's trademarks nor does Complainant have a recognized business relationship with Respondent.
- v. Respondent has shown bad faith in registering and using the domain name. Respondent is using the Disputed Domain Name to sell fake counterfeit products bearing Complainant's prior registered trademarks.
- vi. Respondent was aware of the Complainant's trademarks well before registering the disputed domain name.

B. Respondent

The Respondent failed to file a response to these proceedings.

5. Findings

The ICANN Uniform Domain Name Dispute Resolution Policy provides, at Paragraph 4(a), that each of three findings must be made in order for a Complainant to prevail:

- i. Respondent's domain name must be identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- ii. Respondent has no rights or legitimate interests in respect of the domain name; and

- iii. Respondent's domain name has been registered and is being used in bad faith.

A) Identical / Confusingly Similar

Complainant's PAUL SMITH registered trademarks designate a large range of goods, such as clothes, leather products, shoes, scarves, etc. Complainant's mark has gained a global reputation after continuous extensive use and marketing throughout the world. Complainant's global use and registrations establish Complainant's rights in the PAUL SMITH marks.

Since the ".com" is not taken into account in the comparison, "magasinpaulsmith" is the main part of the Disputed Domain Name, of which "paulsmith" is identical to the Complainant's PAUL SMITH marks. The relevant public would easily separate it into "paulsmith" + "magasin", when identifying the Disputed Domain Name. Further, as "magasin" is a general French word meaning "shop", "magasinpaulsmith", as a domain name, can be easily thought to suggest a French website for PAUL SMITH goods.

Because the Respondent's domain name incorporates Complainant's full trademark the Panel finds that the domain name is identical/confusingly similar to Complainant's mark.

The Complainant has satisfied this element.

B) Rights and Legitimate Interests

As previously noted Complainant asserts that Respondent has never been authorized by the Complainant to use the trademarks PAUL SMITH under any circumstances. Furthermore, the Respondent has no business relationship with the Complainant. Thus, the Respondent does not have any rights with regard to the trademark PAUL SMITH. The Respondent's name, address and other identifying information cannot be linked with PAUL SMITH. Additional searches fail to indicate that the Respondent has any rights or legitimate interest associated with Complainant or Complainant's PAUL SMITH marks. The WHOIS data for the disputed domain name reflects the name Jianming Lu which is in no way affiliated with Complainant.

Because the Respondent has not responded to these proceedings, and based on the above uncontroverted assertions, the Panel finds that Respondent has failed to meet its burden to prove that Respondent has any rights or legitimate interests in the disputed domain name.

The Complainant has satisfied this element.

C) Bad Faith

Complainant contends that the Respondent is using the Disputed Domain Name to sell fake counterfeit products bearing the Complainant's prior registered trademarks PAUL SMITH. Complainant alleges that such behavior by the Respondent indicates the Respondent's awareness of PAUL SMITH before registering the Disputed Domain Name and thus buttresses the evidence of Respondent's registration and use of the disputed domain name in bad faith. Furthermore, the images and models used on the Disputed Domain Name website are substantially similar to those used by the Complainant's trademarks PAUL SMITH thus indicating Respondent's intent to pass its website off as sponsored by or affiliated with the Complainant. Complainant additionally argues that there is also

evidence that the Respondent is promoting this website as the official Paul Smith French website for goods.

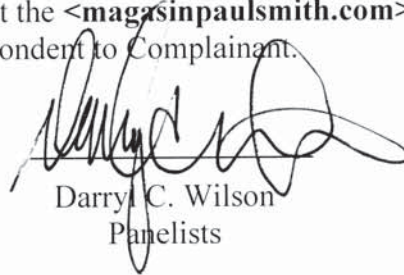
Because Respondent uses the domain name to intentionally confuse internet users for Respondent's commercial gain and also uses the disputed domain to sell fake goods the Panel finds bad faith use and registration by the Respondent.

The Complainant has satisfied this element.

6. Decision

Because the Complainant has established all three elements required under the ICANN Policy, the Panel concludes that Complainant's requested relief shall be **GRANTED**.

Accordingly, it is Ordered that the <**magasinpaulsmith.com**> domain name be **TRANSFERRED** from Respondent to Complainant.



Darryl C. Wilson
Panelists

Dated: August 19, 2013