

## Decision for dispute CAC-UDRP-105383

Case number	CAC-UDRP-105383
Time of filing	2023-04-20 09:45:11
Domain names	vintagechanelbags.com

### Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)
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### Complainant

Organization	Chanel Inc
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### Complainant representative

Organization	SILKA AB
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### Respondent

Name	Eve Ly
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#### OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

#### IDENTIFICATION OF RIGHTS

Complainant has provided evidence of multiple trademarks registrations consisting of the CHANEL sign held by the Chanel Group in several countries, hereinafter referred to as "**the CHANEL trademarks**", amongst which:

- The United States trademark CHANEL No. 195360, dated of February 4, 1925, duly renewed, covering services in classes 3;
- The United States trademark CHANEL No. 302690, dated of April 25, 1933, duly renewed, covering services in classes 3;
- The United States trademark CHANEL No. 626035, dated of May 01, 1956, duly renewed, covering services in classes 18;
- The United States trademark CHANEL No. 915139, dated of June 15, 1971, duly renewed, covering services in classes 25;
- The United States trademark CHANEL No. 1079438, dated of December 13, 1977, duly renewed, covering services in classes 25;
- The International trademark CHANEL No. 1190042, dated of July 8, 2013, duly renewed, covering goods and services in classes 1, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 20, 21, 22, 23, 24, 25, 26, 27, 28, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45, designating, inter alia, China, Spain and Russia.
- The International trademark CHANEL No. 1431822, dated of May 24, 2018, duly renewed, covering goods and services in classes 3, 9, 14, 18 and 25, designating Singapore, China, Italy and Benelux amongst other territories.

The disputed domain name was registered on November 8, 2022, with Registrar Key-Systems GmbH and resolves to a webpage displaying pornographic content.

It appears that Complainant was the owner of the disputed domain name <vintagechanelbags.com> between 2013 to 2018 which was then deleted in 2019.

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## FACTUAL BACKGROUND

Complainant is a subsidiary of the Chanel Group. Chanel Group is known internationally as a world leader in creation, development, manufacture and distributes luxury products. Founded by Gabrielle Chanel, the luxury house offers a diverse range of luxury goods from fashion to jewellery.

The renown character of the CHANEL trademark is well established. Indeed, its trademark is amongst the most prestigious in the world according to certain ranking agencies such as Reputation Institute (27th in 2022).

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## PARTIES CONTENTIONS

### A. Complainant

Firstly, Complainant argues that the disputed domain name is confusingly similar to its CHANEL trademark as it includes Complainant's trademark in its entirety.

Complainant claims that the generic terms "vintage" and "bags" do not lower the risk of confusion between the CHANEL trademark and the disputed domain name since the latter includes the well-known trademark in its entirety. In addition, these fashion-related terms relate to Complainant's field of activity and products.

Complainant asserts that the addition of the gTLD ".com" does not prevent the risk of confusion between the disputed domain name and the CHANEL trademark (see for instance *Fendi Srl v. Ren Fu Rong*, WIPO Case No. D2021-2115).

Moreover, Complainant adds that Internet users may associate the disputed domain name with Complainant's activities and its CHANEL trademark.

Secondly, Complainant claims that Respondent has no rights or legitimate interests in this disputed domain name.

Complainant states that it has not granted any license or authorization to Respondent to use its CHANEL trademark in association with the disputed domain name.

According to Complainant, it appears that Respondent does not own any trademark rights on the disputed domain name and that Respondent is not commonly known via the term "vintagechanelbags".

Complainant also alleges that Respondent is not making a legitimate noncommercial or fair use of the disputed domain name. Indeed, the disputed domain name resolves to a webpage displaying pornographic content.

Furthermore, Complainant adds that he was the owner of the dispute domain name between 2013 and 2018, strengthening the link that Internet users can establish between its CHANEL trademark and Respondent.

Finally, Complainant asserts that Respondent registered and uses the disputed domain name in bad faith:

#### 1. Bad faith registration

Complainant underlines that the identical use of its CHANEL trademark in association with the terms "vintage" and "bags" highlights Respondent's desire to take advantage of the notoriety of Complainant and its CHANEL trademark.

Considering the well-known character of the CHANEL trademark, Complainant argues that Respondent could not have ignored Complainant's rights at the time of registration.

Complainant also refers to previous UDRP decisions in which a presumption of bad faith was recognized in the event of the registration of a domain name identical or confusingly similar to the CHANEL trademark, by an unaffiliated entity, amongst which:

- *Chanel v. Lequang Chau*, WIPO Case No. D2021-4287;
- *Chanel v. Domain Administrator*, See *PrivacyGuardian.org* / *JINJIN JIANG, SEGESW*, WIPO Case No. D2021-4208.

As such, Complainant concludes that the disputed domain name has been registered in bad faith.

#### 2. Use in bad faith

Complainant claims that Respondent registered the disputed domain name for the purpose of generating confusion with Complainant's CHANEL trademark in order to attract Internet users to its website, which links to pornographic content and generates commercial gain.

Complainant refers to previous UDRP decisions in which the use of a domain name to tarnish Complainant's trademark, including for commercial purposes, has been accepted as evidence of registration and use of a domain name in bad faith, amongst which:

- *FENDI S.r.l. v. Wubo, Wubo, WIPO Case No. D2021-2019*;
- *VIVENDI v. Guseva Svetlana, WIPO Case No. D2018-2631*.

As such, Complainant concludes that the disputed domain name is used in bad faith.

## B. Respondent

No administratively compliant Response has been filed.

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## RIGHTS

According to paragraph 4(a)(i) of the Policy, Complainant must prove that the disputed domain name is confusingly similar to a registered trademark in which Complainant has rights.

Complainant has registered many “CHANEL” trademarks in United States and abroad.

Therefore, the Panel considers that the trademarks rights of Complainant in the sign “CHANEL” are established in view of the evidence submitted by Complainant.

The Panel agrees that the CHANEL trademark is are entirely reproduced by the disputed domain name.

The well-established UDRP decisions emphasizes that confusing similarity is established when the disputed domain name fully reproduces a trademark (see section 1.7 of WIPO Policy 3.0).

The addition of the generic and descriptive terms “vintage” and “bag” would not prevent a finding of confusing similarity under Policy, paragraph 4(a)(i). Indeed, these terms refer to Complainant and its activities, which strengthens the likelihood of confusion.

Moreover, since the “.com” gTLD is only a material requirement for the registration of a domain name, it is not generally taken into account when assessing the likelihood of confusion between a domain name and a trademark. Indeed, it is well established that the gTLD is insufficient to avoid a finding of confusing similarity (See *Fendi Srl v. Ren Fu Rong WIPO Case No. D2021-2115*).

Taking into consideration all the above-mentioned reasons, the Panel finds that the disputed domain name <vintagechanelbags.com> is confusingly similar to Complainant’s trademark.

Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

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## NO RIGHTS OR LEGITIMATE INTERESTS

Under Policy paragraph 4(a)(ii), Complainant must submit a prima facie case showing that Respondent lacks rights and legitimate interests in respect of the disputed domain name. Then, the burden of proof shifts to Respondent, who needs to provide evidence of rights or legitimate interests. If Respondent fails to do so, Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

In the present case, Respondent did not submit arguments in response to the complaint.

Respondent is neither affiliated with Complainant in any way nor has he been authorized by Complainant to use its registered trademark, or to seek registration of any domain name incorporating said trademark.

Moreover, Respondent is not commonly known by the disputed domain name and does not hold any trademark rights on the term “vintagechanelbags”. Respondent does not provide any evidence of the contrary.

The disputed domain name is used for a website displaying pornographic content with no link to the terms “vintage” and “bags”. These terms are also associated with Complainant’s CHANEL trademark and Complainant itself, whose activities include the manufacture of luxury bags. Indeed, these terms are not related to Respondent’s activities, reinforcing its lack of legitimate interests.

Long-standing UDRP decisions have considered these circumstances to be sufficient to make a prima facie case showing that Respondent lacks rights or interests in the disputed domain name.

Finally, the Panel finds that Respondent has never replied to Complainant’s cease-and-desist letter nor to the complaint itself, in order to defend his case.

Complainant has, to the satisfaction of the Panel, shown Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

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To fulfil the third requirement of the Policy, Complainant must prove that the disputed domain name was registered and used in bad faith.

### 1) Registration in bad faith

Evidence of bad faith can result from the fact that Respondent “knew or should have known” Complainant’s trademark rights and nevertheless registered a domain name in which he had no rights or legitimate interests (see for instance *Research In Motion Limited v. Privacy Locked LLC/Nat Collicot*, WIPO Case No. D2009-0320 and *The Gap, Inc. v. Deng Youqian*, WIPO Case No. D2009-0113).

Complainant is an internationally well-known luxury house founded at the beginning of the previous century. Moreover, the registration of the sign “CHANEL” as a trademark predates the registration of the disputed domain name.

The Panel notes that prior UDRP panels have recognised the reputation and well-known nature of the trademark CHANEL (see for instance *Chanel v Lequang Chau*, WIPO Case No. D2021-4287, in respect of the domain name <nuochoachanell.com>). As such, it appears obvious that Respondent was aware of Complainant and its trademark when fully incorporating the CHANEL trademark into the disputed domain name and by adding terms relating to Complainant’s activities.

### 2) Use in bad faith

The Panel finds that the terms “vintage” and “bags” are not related to Respondent’s activities. It seems clear that these terms, which refer to Complainant’s field of activity, are intended to attract Internet users to Respondent’s website.

Moreover, Respondent’s use of the disputed domain name infringes Complainant’s CHANEL trademark. Indeed, long standing UDRP decisions have considered that the use of a domain name linking to defamatory content constitutes evidence of Respondent’s use in bad faith (see for instance *FENDI S.r.l. v. Wubo, Wubo*, WIPO Case No. D2021-2019).

It is not possible to conceive of any plausible actual or contemplated active use of the disputed domain name by Respondent that would not be illegitimate.

It seems that Respondent was aiming at taking advantage of Complainant’s notoriety by creating confusion with its CHANEL trademark, in order to attract Internet users to its website which generates commercial gains.

Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

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### PROCEDURAL FACTORS

The complaint was filed with the CAC on April 19, 2023. On the same day, the Center transmitted a request for registrar verification to the Registrar by e-mail. The Center sent a communication via e-mail to Complainant, on April 20, 2023, providing information disclosed by the Registrar. Complainant then filed an amendment to the Complaint within the appointed deadline.

In accordance with the rules, the Center formally notified Respondent, and the proceedings started on April 21, 2023. Respondent did not submit any response. Respondent’s lack of answer was then notified on May 12, 2023.

The Center appointed Nathalie Dreyfus as the sole panelist in this matter on May 12, 2023. The Panel found that it was properly constituted and thus submitted the Statement of Acceptance and Declaration of Impartiality and Independence.

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

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### PRINCIPAL REASONS FOR THE DECISION

1/ The Panel finds that the disputed domain name is confusingly similar to Complainant’s CHANEL trademark since it incorporates in its entirety Complainant’s trademark in addition with generic terms referring to Complainant’s field of activity.

2/ The Panel finds that Complainant successfully submitted evidence that Respondent has made no use of, or demonstrable preparation to use, the disputed domain name in connection with a bona fide offering of goods or services, nor is Respondent making a fair use of the disputed domain name, nor is Respondent commonly known under the disputed domain name. On the contrary, the disputed domain name has been used in relation to a website displaying pornographic content, which cannot constitute rights or legitimate interests in the disputed domain name.

3/ The Panel finds that Respondent knew Complainant’s CHANEL trademark when he registered the disputed domain name. Finally, the disputed domain name is used in bad faith as it resolves to a website displaying pornographic content with no link to the generic terms “vintage” and “bags” referring to Complainant’s activities.

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, <vintagechanelbags.com> be transferred to Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

- 1. **vintagechanelbags.com**: Transferred

PANELLISTS

Name	Nathalie Dreyfus
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DATE OF PANEL DECISION 2023-05-30

Publish the Decision