

ADMINISTRATIVE PANEL DECISION

Weworewhat LLC v. Ling Lin

Case No. D2023-1957

1. The Parties

The Complainant is Weworewhat LLC, United States of America (“United States”), represented by K&LGates, United States.

The Respondent is Ling Lin, China.

2. The Domain Name and Registrar

The disputed domain name <weworewhats.com> is registered with Name.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 2, 2023. On May 2, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 8, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details. The Center sent an email communication to the Complainant on May 9, 2023, providing the additional 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 May 14, 2023.

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 May 16, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 5, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 6, 2023.

The Center appointed Miguel B. O’Farrell as the sole panelist in this matter on June 12, 2023. 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

The Complainant offers clothing, accessories and other consumer goods for sale on its website at the domain name <weworewhat.com>.

The Complainant owns several trademark registrations for or including WEWOREWHAT, such as the following:

- United States Trademark Registration No. 6,217,305 WEWOREWHAT, registered on December 8, 2020 in class 25, based on use in commerce since August 1, 2019;
- United States Trademark Registration No. 5,265,857 WEWOREWHAT, registered on August 15, 2017 in class 41, based on use in commerce since August 10, 2011;
- United States Trademark Registration No. 6,365,160 WEWOREWHAT ACTIVE, registered on May 25, 2021 in class 25, based on use in commerce since August 19, 2020;
- China Trademark Registration No. 40,152,294 WEWOREWHAT registered on March 21, 2020, in class 25;
- Hong Kong Trademark Registration No. 305048992 WEWOREWHAT, registered on September 6, 2019, in class 25.

The Complainant also owns the domain name <weworewhat.com> registered on August 10, 2011, which resolves to a webpage in which the Complainant offers information related to its WEWOREWHAT goods and services.

The disputed domain name was registered on September 1, 2022, and resolves to a webpage which the Respondent uses to offer for sale clothing and accessories similar to those offered for sale by the Complainant.

5. Parties' Contentions

A. Complainant

The Complainant, in essence, claims that the disputed domain name is confusingly similar with the trademark WEWOREWHAT in which the Complainant has rights and that the Respondent has no rights or legitimate interests in the disputed domain name, which was registered and is being used in bad faith.

More specifically, the Complainant has used its WEWOREWHAT trademark in connection with the sale of its goods and services since at least August 10, 2011.

The Respondent has been using the disputed domain name for illegitimate purposes, namely, using for commercial benefit the Complainant's trademark WEWOREWHAT in association with the offering for sale of clothing and accessories not authorized by the Complainant.

The Complainant has not authorized or licensed the use of the trademark WEWOREWHAT to the Respondent or to register a domain name containing it.

The Respondent is fraudulently and intentionally attracting customers for commercial gain, by creating confusion with the Complainant's mark, using the disputed domain name as an official Complainant's contact mean.

Finally, the Complainant requests the Panel to issue a decision ordering that the disputed domain name be transferred to the Complainant.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the disputed domain name, the Complainant must prove each of the following, namely that:

- (i) the disputed domain name is identical or confusingly similar with a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name was registered and is being used in bad faith.

A. Identical or Confusingly Similar

As set forth in section 1.7 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") the standing test for confusing similarity involves a reasoned but relatively straightforward comparison between the trademark and the disputed domain name to determine whether the disputed domain name is confusingly similar with the trademark. The test involves a side-by-side comparison of the disputed domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name.

The Panel considers that the disputed domain name is confusingly similar to the Complainant's WEWOREWHAT trademark.

The disputed domain name incorporates the Complainant's trademark WEWOREWHAT in its entirety, with the addition of the letter "s" at the end, which certainly does not prevent a finding of confusing similarity under the first element.

The ".com" generic Top-Level Domain ("gTLD") is viewed as a standard registration requirement and is generally disregarded under the first element confusing similarity test, as set forth in section 1.11.1 of [WIPO Overview 3.0](#).

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the trademark WEWOREWHAT in which the Complainant has rights and that the requirements of paragraph 4(a)(i) of the Policy are fulfilled.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, a respondent may establish rights to or legitimate interests in a domain name by demonstrating any of the following non-exclusive defenses:

- (i) before any notice to it of the dispute, the respondent's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the respondent has been commonly known by the domain name, even if it has acquired no trademark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain, to misleadingly divert consumers.

Although the Policy addresses ways in which a respondent may demonstrate rights or legitimate interests in a disputed domain name, it is well established, as it is put in section 2.1 of [WIPO Overview 3.0](#), that a complainant is required to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the domain name. Once such *prima facie* case is made, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

There is no evidence in the present case that the Respondent has been commonly known by the disputed domain name, enabling it to establish rights or legitimate interests therein.

Furthermore, there is no evidence in the file to prove any of the circumstances mentioned in paragraph 4(c) of the Policy, nor any other circumstances to suggest that the Respondent has rights or legitimate interests in the disputed domain name.

Also, the nature of the disputed domain name, comprising the Complainant's trademark WEWOREWHAT and the additional letter "s", indicates an awareness of the Complainant and its trademark and intent to take unfair advantage of such, which does not support a finding of any rights or legitimate interests.

The Panel finds that the Complainant has made out a *prima facie* case, a case calling for an answer from the Respondent. The Respondent has not responded and the Panel is unable to conceive of any basis upon which the Respondent could sensibly be said to have any rights or legitimate interests in respect of the disputed domain name (*Telstra Corporation Limited. v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)).

The Panel finds that the Respondent has no rights nor legitimate interests in the disputed domain name and that the requirements of paragraph 4(a)(ii) of the Policy are fulfilled.

C. Registered and Used in Bad Faith

The Panel is satisfied that the Respondent must have been aware of the Complainant's trademark WEWOREWHAT mentioned in section 4 above (Factual Background) when it registered the disputed domain name on September 1, 2022. By that time, the Complainant had long ago registered and intensely used the trademark WEWOREWHAT.

By registering the disputed domain name that includes the Complainant's trademark WEWOREWHAT in its entirety with the addition of the letter "s", the Respondent was targeting the Complainant and its business. Furthermore, this is tantamount to "cybersquatting" with the intention to capitalize on the fame of the Complainant's trademark for its own benefit.

The fact that there is a clear absence of rights or legitimate interests coupled with no explanation for the Respondent's choice of the disputed domain name, the nature of the disputed domain name, the imitation of the Complainant's website to offer unauthorized goods which compete with those offered by the Complainant, are indicative of bad faith (as stated in section 3.2.1 of the [WIPO Overview 3.0](#)). The Panel finds that the Respondent registered and is using the disputed domain name in bad faith.

For the above reasons, the Panel finds that the requirements of paragraph 4(a)(iii) of the Policy have been fulfilled.

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 name <weworewhats.com> be transferred to the Complainant.

/Miguel B. O'Farrell/

Miguel B. O'Farrell

Sole Panelist

Date: June 23, 2023