

ADMINISTRATIVE PANEL DECISION

Williams-Sonoma, Inc. v. 郭清兵 (Guo Qing Bing)
Case No. D2024-0287

1. The Parties

The Complainant is Williams-Sonoma, Inc., United States of America (“United States”), represented by Hanson Bridgett LLP, United States.

The Respondent is 郭清兵 (Guo Qing Bing), China.

2. The Domain Name and Registrar

The disputed domain names <potterybarnteen.store>, <potterybarn.website>, <westelm.company>, and <williamssonoma.website> (collectively, the “Disputed Domain Names”) are registered with DNSPod, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on January 23, 2024. On January 24, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Names. On February 18, 2024, 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 February 19, 2024 providing the registrant’s contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint in English on February 22, 2024.

On February 19, 2024, the Center informed the parties in Chinese and English, that the language of the registration agreement for the Disputed Domain Names is Chinese. On February 22, 2024, the Complainant confirmed its request that English to be the language of the proceeding. The Respondent did not submit any comment on the Complainant’s submission.

The Center verified that the Complaint together with the amendment to the 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 in English and Chinese of the Complaint, and the proceedings commenced on February 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 17, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 18, 2024.

The Center appointed Rachel Tan as the sole panelist in this matter on April 2, 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

The Complainant is a company based in the United States and is a manufacturer and retailer of premiere upscale and luxury home-goods selling internationally through its retail stores, catalogs, and online. The Complainant's brands include among others, "Williams Sonoma" (first launched in 1956), "Pottery Barn" (first launched in 1949), "Pottery Barn Teen" (first launched in 2003), and "West Elm" (first launched in 2002).

The Complainant is the owner of various marks, for example:

Mark	Jurisdiction	Registration Number	Date of Registration	Class(es)
WILLIAMS SONOMA	United States	2442099	April 10, 2001	21
WILLIAMS-SONOMA	European Union	011728631	September 12, 2013	3, 4, 6, 7, 8, 9, 11, 14, 16, 20, 21, 24, 28, 29, 30, 31, 35, 40
POTTERY BARN	United States	6130848	August 18, 2020	3, 4, 6, 8, 11, 16, 20, 21, 24, 27, 35
POTTERY BARN	United States	6389622	June 15, 2021	14, 18, 25, 26, 28, 31
POTTERY BARN TEEN	United States	6404996	June 29, 2021	9, 11, 16, 18, 20, 21, 24, 25, 27, 35
POTTERY BARN TEEN	International Registration	1515730	September 23, 2019	3, 4, 9, 11, 14, 16, 18, 20, 21, 24, 25, 27, 35
WEST ELM	United States	2845444	May 25, 2004	35
WEST ELM	European Union	011311719	April 25, 2013	4, 8, 11, 21

The above marks are collectively referred to as the "Complainant's Marks" hereinunder.

In addition, the Complainant is the registrant of the following domain names, for example <williams-sonoma.com> (registered in 1995 and first use in 1997), <potterybarn.com> (registered in 1995 and first use in 1995), <pbteen.com> (registered in 2002 and first use in 2003) and <westelm.com> (registered in 2001 and first use in 2002). The Complainant operates the said websites as the access point for its consumers to view and purchase goods under the Complainant's Marks.

The Disputed Domain Names were all registered by the Respondent on December 22, 2023. Based on the evidence submitted by the Complainant, each of the Disputed Domain Names resolved to a webpage allegedly featured the Complainant's Marks but sold home goods products such as furniture sets, curtain hardware, and coffee tables that were not produced or offered by the Complainant. Despite online sale appeared to be available on the websites, according to the Complainant, all the websites were not functional as an error message would pop up claiming that no payment methods were available at the checkout page. At the time of this Decision, all the Disputed Domain Names do not resolve to any 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.

Notably, the Complainant contends that the Disputed Domain Names are identical or confusingly similar to the Complainant's Marks. Each of the Disputed Domain Names incorporates one of the Complainant's Marks in entirety with generic Top-Level Domains ("gTLDs") such as ".company", ".website", and ".store". The Complainant argued that the Disputed Domain Names are an example of typosquatting. The inclusion of gTLDs is likely to divert users who are interested in reaching the Complainant's legitimate websites.

Moreover, the Complainant asserts that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Names. In particular, the Respondent is not commonly known by the Disputed Domain Names nor owns any trade mark rights to any of them. The Respondent is not licensed, permitted, or authorized by the Complainant to use the Disputed Domain Names. At the time of the Complaint, the Disputed Domain Names resolved to websites that sell home goods products but were not functional to process payment. The use of the Disputed Domain Names cannot constitute a bona fide offering of goods or services or a legitimate fair use.

Finally, the Complainant contends that the Respondent registered and used the Disputed Domain Names in bad faith by impersonating the Complainant and its well-known brands. The Respondent demonstrated actual knowledge of the Complainant's Marks and the reputation associated therewith. Each of the websites displayed the Complainant's Marks and misleading company information, including boilerplate and fake legal terms. The Respondent used the websites to deceive consumers to purchase products from the Complainant's competitor and potentially to collect personal financial information or funds for fraudulent purpose.

B. Respondent

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

6. Discussion and Findings

6.1 Preliminary Issue: Language of the Proceeding

The language of the Registration Agreement 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 (i) the Complainant is based in the United States and English is the Complainant's language, and (ii) the content displayed at the webpages located at each of the Disputed Domain Names is in English.

The Respondent did not make any specific 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.

6.2 Substantive Issues

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 trademark and the Disputed Domain Names. [WIPO Overview 3.0](#), section 1.7.

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

The entirety of the Complainant's Marks is reproduced within each of the Disputed Domain Names respectively. Accordingly, the Disputed Domain Names are identical to the Complainant's Marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Further, it is permissible for the Panel to disregard the applicable gTLDs in the Disputed Domain Names, i.e. ".store", ".website", and ".company". It is accepted by UDRP panels that the practice of disregarding the TLD in determining identity or confusing similarity is applied irrespective of the particular TLD (including with regard to "new gTLDs") and the ordinary meaning ascribed to a particular TLD would not necessarily impact assessment to the first element. [WIPO Overview 3.0](#), sections 1.11.1 and 1.11.2. See also *Axlebolt LTD v. Privacy Service Provided by Withheld for Privacy ehf / ARNOLD BRAIN*, WIPO Case No. [D2022-1655](#); *Alcon Inc. v. Metin Ekici*, WIPO Case No. [D2023-1525](#), and *O2 Worldwide Limited v. Domains By Proxy, LLC / Rodrigo P Braga, Ypse IT Solutions*, WIPO Case No. [D2019-0124](#);

Based on the available record, 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.

The Respondent has not provided evidence of a legitimate noncommercial or fair use of the Disputed Domain Names or reasons to justify his or her choice of the terms "potterybarnteen", "potterybarn", "westelm" and "williamssonoma" in the Disputed Domain Names (as applicable). There is no indication to show that the Respondent is commonly known by the Disputed Domain Names or otherwise has rights or legitimate

interests in them. Moreover, the Complainant has not granted the Respondent any license or authorization to use any of the Complainant's Marks or register the Disputed Domain Names.

The Panel notes that each of the Disputed Domain Names previously resolved to a website which allegedly offered home goods products that are not produced or offered by the Complainant for sale. The website noticeably displayed the Complainant's Marks and attempted to impersonate the Complainant with misleading company information. The website did not accurately and prominently disclose a lack of a relationship between the Complainant and the Respondent. Therefore, the facts do not support a claim of a bona fide offering of goods or services under the "Oki Data test". See *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#).

In addition, based on the undisputed evidence provided by the Complainant, all the websites at the Disputed Domain Names are non-functional as users cannot process payment at the checkout page. The Panel is satisfied that the Respondent is not making a legitimate noncommercial or fair use of the Disputed Domain Names.

Furthermore, the nature of each of the Disputed Domain Names carries a high risk of implied affiliation with the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

None of the circumstances in paragraph 4(c) of the Policy are present in this case. For these reasons, the Panel finds that the Respondent has no rights or legitimate interests in the Disputed Domain Names.

Based on the available record, 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 the present case, the Panel notes that the Complainant's Marks were registered well before the registration of the Disputed Domain Names. Through use and advertising, the Complainant's Marks are known throughout the world. Search results using the key words "pottery barn teen", "pottery barn", "west elm", and "williams sonoma" on Internet search engines direct Internet users to the Complainant and its business, which indicates that an exclusive connection between the Complainant's Marks and the Complainant has been established. The Panel notes that each of the inherently misleading Disputed Domain Names previously resolved to a website allegedly displaying the Complainant's Marks. As such, the Respondent clearly knew of the Complainant's Marks when registering the Disputed Domain Names. [WIPO Overview 3.0](#), section 3.2.2.

The Panel is of the view that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to his websites, by creating a likelihood of confusion with the Complainant's Marks as to the source, sponsorship, affiliation, or endorsement of each of the Respondent's websites. This demonstrates bad faith registration and use of the Disputed Domain Names, as provided in paragraph 4(b)(iv) of the Policy.

The Panel notes that the Disputed Domain Names currently all resolve to inactive websites. The current inactive use of the Disputed Domain Names in this case would not prevent a finding of bad faith under the doctrine of passive holding. In its determination, the Panel considers the degree of reputation of each of the Complainant's Marks, the Respondent's failure to respond in the face of the Complainant's bad faith allegations, as well as the implausibility of any good faith use that the Disputed Domain Names may be put. [WIPO Overview 3.0](#), section 3.3.

Given all the circumstances of the case, the Panel finds that the Respondent must have known of the Complainant before registering the Disputed Domain Names, and considering the Respondent's lack of rights or legitimate interests, and by registering and using the Disputed Domain Names as discussed above as well as continuing to hold the Disputed Domain Names, the Panel is led to conclude that the Disputed Domain Names were registered and are being used in bad faith.

Based on the available record, 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 <potterybarnteen.store>, <potterybarn.website>, <westelm.company>, and <williamssonoma.website> be transferred to the Complainant.

/Rachel Tan/

Rachel Tan

Sole Panelist

Date: April 16, 2024