

ADMINISTRATIVE PANEL DECISION

Winnebago Industries, Inc. v. Lakisha Moore
Case No. D2022-1911

1. The Parties

Complainant is Winnebago Industries, Inc., United States of America, represented by Faegre Drinker Biddle & Reath, United States of America (“United States”).

Respondent is Lakisha Moore, United States.

2. The Domain Name and Registrar

The disputed domain name <ourwinnebago.com> (the “Domain Name”) is registered with Alibaba.com Singapore E-Commerce Private Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 26, 2022. On May 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On May 31, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email to Complainant on May 31, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on June 4, 2022.

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 Respondent of the Complaint, and the proceedings commenced on June 8, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 28, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on June 29, 2022.

The Center appointed Robert A. Badgley as the sole panelist in this matter on July 12, 2022. 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

Complainant has manufactured “outdoor lifestyle products,” most notably, recreational motor homes, in the United States for more than 50 years under the trademark WINNEBAGO.

Complainant holds various registered trademarks comprised of or featuring the word WINNEBAGO, including United States Patent and Trademark Office (“USPTO”) Reg. No. 1,908,349 for the word mark WINNEBAGO, registered on August 1, 1995, in connection with “motor homes and conversion vans” in class 12 with a first use in commerce of April 1959, and USPTO Reg. No. 4,279,952 for the word mark WINNEBAGO, registered on January 22, 2013, in connection with clothing, including hats and shirts in class 25.

The Panel observes that the WINNEBAGO trademark is rather well-known within the United States in connection with Complainant’s motor homes.

Since 1996, Complainant has owned the domain name <winnebagoind.com> and has used that domain name to operate a commercial website featuring its WINNEBAGO products.

The Domain Name was registered on March 7, 2022. The Domain Name resolves to a website in Chinese language which features graphic pornographic material and which appears to include hyperlinks to other commercial sites. Respondent has not denied the allegation that she derives pay-per-click revenue via this website.

5. Parties’ Contentions

A. Complainant

Complainant contends that it has established all three elements required under the Policy for a transfer of the Domain Name.

B. Respondent

Respondent did not reply to Complainant’s contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to the Domain Name:

- (i) the Domain Name is 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) the Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Panel concludes that Complainant has rights in the trademark WINNEBAGO through registration and use demonstrated in the record. The Panel also concludes that the Domain Name is confusingly similar to that mark. The Domain Name entirely incorporates the WINNEBAGO mark and merely adds the

inconsequential possessive word “our.” This slight difference does not overcome the fact that the WINNEBAGO trademark is clearly recognizable within the Domain Name.

Complainant has established Policy paragraph 4(a)(i).

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

- (i) before any notice to you [Respondent] of the dispute, your 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) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Domain Name, even if you have acquired no trademark or service mark rights; or
- (iii) you [Respondent] are making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel concludes that Respondent lacks rights or legitimate interests in respect of the Domain Name. Respondent has not come forward in this proceeding to articulate or demonstrate any legitimate basis for registering this Domain Name, which, again, resolves to a pornographic website with no apparent relation to the trademark WINNEBAGO. The site apparently and allegedly contains hyperlinks to commercial websites, for which Respondent derives pay-per-click revenue. Such a use of the Domain Name is clearly not legitimate for purposes of the Policy.

The Panel concludes that Complainant has established Policy paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that the following circumstances, “in particular but without limitation,” are evidence of the registration and use of the Domain Name in “bad faith”:

- (i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or
- (ii) that Respondent has registered the Domain Name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that Respondent has engaged in a pattern of such conduct; or
- (iii) that Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or
- (iv) that by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent’s website or other online location, by creating a likelihood of confusion with Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of Respondent’s website or location or of a product or service on Respondent’s website or location.

The Panel concludes that Respondent has registered and is using the Domain Name in bad faith. The Panel incorporates its discussion above in the “Rights or Legitimate Interests” section. As noted above, the undisputed record is that Respondent has used a Domain Name which features Complainant’s well-known trademark. The Panel finds it more likely than not that Respondent had Complainant’s well-known trademark in mind when registering the Domain Name. The Panel also concludes, based on the undisputed record here, that Respondent is using the Domain Name to derive pay-per-click revenue by appropriating

Complainant's trademark and thereby attracting unwary Internet users to Respondent's website. Such conduct is clearly violative of the above-quoted Policy paragraph 4(b)(iv).

Complainant has established Policy paragraph 4(a)(iii).

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 Domain Name <ourwinnebago.com> be transferred to Complainant.

/Robert A. Badgley/

Robert A. Badgley

Sole Panelist

Date: July 26, 2022