

ADMINISTRATIVE PANEL DECISION

CWI, Inc. v. ze dong zhan

Case No. D2023-0457

1. The Parties

The Complainant is CWI, Inc., United States of America (“United States”), represented by Neal & McDevitt, United States.

The Respondent is ze dong zhan, China.

2. The Domain Name and Registrar

The disputed domain name <campingworld.cyou> (the “Domain Name”) is registered with Sav.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 31, 2023. On February 1, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On February 1, 2023, 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 (Privacy Protection) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 2, 2023 providing the 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 February 2, 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 February 9, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 1, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 3, 2023.

The Center appointed Nicholas Smith as the sole panelist in this matter on March 10, 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 is a United States company which since 1968 has operated a network of centers focusing on the sale and servicing of recreation vehicles, equipment, and accessories. The Complainant currently operates 190 service centers in North America, employs over 12,000 people and serves more than 4 million customers per year.

The Complainant is the owner of trade marks in the United States consisting of the words CAMPING WORLD (the "CAMPING WORLD Mark"), including Registration No. 930179, registered February 29, 1972 for retail and mail-order sale of camping equipment, recreational vehicles and supplies.

The Domain Name was registered on January 9, 2023. The Domain Name is used to divert Internet users to a series of websites offering weight loss supplements unconnected to any descriptive meaning of the Domain Name for which the Respondent may receive affiliate revenue.

5. Parties' Contentions

A. Complainant

The Complainant makes the following contentions:

- (i) that the Domain Name is identical or confusingly similar to the Complainant's CAMPING WORLD Mark;
- (ii) that the Respondent has no rights nor any legitimate interests in respect of the Domain Name; and
- (iii) that the Domain Name has been registered and is being used in bad faith.

The Complainant is the owner of the CAMPING WORLD Mark, having registered the CAMPING WORLD Mark in the United States. The Domain Name is identical to the Complainant's CAMPING WORLD Mark.

There are no rights or legitimate interests held by the Respondent in respect of the Domain Name. The Complainant has not granted any license or authorization for the Respondent to use the CAMPING WORLD Mark nor is the Respondent commonly known by the Domain Name. The Respondent does not use the Domain Name for a *bona fide* purpose or legitimate noncommercial purpose. Rather the Respondent is using the Domain Name to divert Internet users to commercial websites for which it likely receives revenue.

Given the reputation of the Complainant and the CAMPING WORLD Mark, the Respondent must have been aware of the Complainant at the time it registered the Domain Name. By using the Domain Name to resolve to commercial websites for which it likely receives revenue, the Respondent is using the Domain Name to divert Internet users searching for the Complainant for commercial gain. Such conduct amounts to registration and use of the Domain Name in bad faith.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

To prove this element, the Complainant must have trade or service mark rights and the Domain Name must be identical or confusingly similar to the Complainant's trade or service mark.

The Complainant is the owner of the CAMPING WORLD Mark, having a registration for the CAMPING WORLD Mark as a trade mark in the United States.

Disregarding the generic Top Level Domain (“gTLD”) “.cyou”, as a necessary technical requirement of the Domain Name, the Domain Name is identical to the CAMPING WORLD Mark. Consequently, the requirement of paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

To succeed on this element, a complainant must make out a *prima facie* case that the respondent lacks rights or legitimate interests in the domain name. If such a *prima facie* case is made out, then the burden of production shifts to the respondent to demonstrate rights or legitimate interests in the domain name.

Paragraph 4(c) of the Policy enumerates several ways in which a respondent may demonstrate rights or legitimate interests in a domain name:

“Any of the following circumstances, in particular but without limitation, if found by the Panel to be proved based on its evaluation of all evidence presented, shall demonstrate your rights or legitimate interests to the domain name for purposes of Paragraph 4(a)(ii):

- (i) before any notice to you 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 (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trade mark or service mark rights; or
- (iii) you 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 trade mark or service mark at issue.”

The Respondent is not affiliated with the Complainant in any way. The Respondent has not been authorized by the Complainant to register or use the Domain Name or to seek the registration of any domain name incorporating the CAMPING WORLD Mark. There is no evidence that the Respondent is commonly known by the Domain Name or any similar name. There is no evidence that the Respondent has used or made demonstrable preparations to use the Domain Name in connection with a legitimate noncommercial fair use or a *bona fide* offering of goods and services; the use of the Domain Name to resolve to a rotating series of third party commercial websites unrelated to any dictionary meaning of the Domain Name (for which the Respondent is likely to receive revenue) does not amount to use for a *bona fide* offering of goods and services.

The Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the Domain Name. The Respondent has failed to rebut that *prima facie* case and establish that it has rights or legitimate interests in the Domain Name under the Policy. The Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

For the purposes of paragraph 4(a)(iii) of the Policy, the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of the Domain Name in bad faith:

- (i) circumstances indicating that the Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registrations to the Complainant who is the owner of the trade mark or service mark or to a competitor of the

Complainant, for valuable consideration in excess of its documented out-of-pocket costs directly related to the Domain Name; or

- (ii) the Respondent has registered the Domain Name in order to prevent the owner of the trade mark or service mark from reflecting the mark in a corresponding domain name, provided that the Respondent has engaged in a pattern of such conduct; or
- (iii) the Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the Domain Name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on the Respondent's website or location.

The Domain Name was registered over 50 years after the CAMPING WORLD Mark was first used and registered. The Panel finds, on the balance of probabilities, that the Respondent would have been aware of the Complainant and its reputation in the CAMPING WORLD Mark at the time the Respondent registered the Domain Name. There is no obvious reason, nor has the Respondent offered an explanation, for the Respondent to register a domain name identical to the CAMPING WORLD Mark and have it resolve to a commercial website unrelated to any descriptive meaning of the Domain Name unless there was an intention to create a likelihood of confusion between the Domain Name and the CAMPING WORLD Mark for the Respondent's commercial gain.

The Domain Name has been used for series of websites purporting to offer weight loss supplements for which the Respondent likely receives some commercial gain. In these circumstances where the Respondent has offered no plausible explanation for the registration of the Domain Name, the Panel finds that the Respondent is using the Domain Name to intentionally attempt to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the CAMPING WORLD Mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website. As such the Panel finds that the Domain Name is being used in bad faith pursuant to 4(b)(iv) of the Policy.

Accordingly, the Panel finds that the Respondent has registered and is using the Domain Name in bad faith under paragraph 4(a)(iii) 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 Domain Name, <campingworld.cyou> be transferred to the Complainant.

/Nicholas Smith/

Nicholas Smith

Sole Panelist

Date: March 23, 2023