

ADMINISTRATIVE PANEL DECISION

Vida Shoes International, Inc. v. Lu Ni La

Case No. D2025-0414

1. The Parties

Complainant is Vida Shoes International, Inc., United States of America (“United States”), represented by Kane Kessler, P.C., United States.

Respondent is Lu Ni La, United States.

2. The Domain Name and Registrar

The disputed domain name <aquataliasale.com> (the “Domain Name”) is registered with Gname.com Pte. Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 31, 2025. On February 3, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On February 4, 2025, 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 (Redacted) and contact information in the Complaint. The Center sent an email communication to Complainant on February 5, 2025, 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 February 7, 2025.

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 February 10, 2025. In accordance with the Rules, paragraph 5, the due date for Response was March 2, 2025. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on March 3, 2025.

The Center appointed Harrie R. Samaras as the sole panelist in this matter on March 6, 2025. 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 owns United States Trademark Registration No. 4,349,879 for AQUATALIA (the “Mark”) (registered on June 11, 2013), which it uses in connection with, *inter alia*, footwear. Also, Complainant conducts business on the Internet at “www.aquatalia.com”.

The Domain Name was registered on January 26, 2024. Respondent is operating a website (the “Website”) at the Domain Name where it is offering for sale products such as footwear and handbags, which look exactly like products Complainant sells on its website, identified using Complainant’s Mark (e.g., “Handbags | Women ‘Aquatalia’ Siena Crossbody Cognac”; “Sandals | Men ‘Aquatalia’ Byron Olive”; “Heels | Women ‘Aquatalia’ Pasha Latino”). Furthermore, Respondent is using identifying terms for such goods that are the same as what Complainant uses for what appears to be the same product (e.g., “Pasha” heels, “Nadina” Sandals, “Lenora” boot; “Biagio dark blue combo” sneakers; and “Parma Carryall” handbag). At the top of every page of the Website, Respondent is using the Mark prominently in white lettering on a black background and in the same or similar font, as Complainant does on its website. The layout of the products Respondent is selling on the Website is similar to the layout of products on Complainant’s website including photographs of the various shoes, boots, and handbags that look very similar to the photographs of goods on Complainant’s website.

5. Parties’ Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

Notably, Complainant contends that the Domain Name is nearly identical to and confusingly similar to the Mark and to Complainant’s domain name. Respondent has appropriated the entirety of the Mark and Complainant’s domain name adding only the descriptive term “sale” to the Domain Name. Complainant contends Respondent is using the Mark on a fraudulent website in connection with counterfeit goods and that Respondent is holding itself out as Complainant. Furthermore, Complainant contends that Respondent’s unlawful actions have willfully deceived consumers and have caused it economic and brand harm. Complainant also maintains that it owns, among other things, copyright rights in certain photographs displayed on the Website and that Respondent’s unauthorized use of those photographs constitutes copyright infringement.

To the best of Complainant’s knowledge there is no evidence: (1) of 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; (2) Respondent (as an individual, business, or other organization) has been commonly known by the Domain Name, or acquired any rights in it; and (3) Respondent is making a legitimate non-commercial or fair use of the Domain Name, rather, it is intentionally and misleadingly diverting consumers to its fraudulent website and tarnishing the Mark. Complainant has no connection to Respondent and has never heard of Respondent before this dispute.

The Domain Name was registered by Respondent to disrupt Complainant’s business. By using the Domain Name, Respondent intentionally attempted to attract for commercial gain Internet users to Respondent’s website by creating a likelihood of confusion with the Mark as to source, sponsorship, affiliation, or endorsement of Respondent’s website and of a product or service on Respondent’s website or location.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

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 Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7.

Complainant has shown rights in respect of the Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the Mark is recognizable within the Domain Name. Accordingly, the Domain Name is confusingly similar to the Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, the term "sale" may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the Domain Name and the Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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 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 Complainant has established a *prima facie* case that Respondent lacks rights or legitimate interests in the Domain Name. Respondent has not rebutted Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Domain Name such as those enumerated in the Policy or otherwise.

Complainant has not authorized Respondent to use the Mark for any purpose and does not have any connection with Respondent. Most notably as described above, Respondent is not using the Domain Name in connection with a bona fide offering of goods or services nor is Respondent making a legitimate non-commercial or fair use of the Domain Name.

Panels have held that the use of a domain name for illegal activity as described above, claimed as applicable to this case the sale of counterfeit goods and impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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 finds that it is more likely than not that Respondent knew of Complainant and Complainant's rights in the Mark before registering and using the Domain Name and, thus, registered the Domain Name in bad faith. In this regard, the Panel finds that (1) Complainant has been using the Mark for over 10 years before Respondent registered the Domain Name; (2) Respondent is using the Domain Name in conjunction with the Website from which Respondent is selling goods that look exactly like goods Complainant is selling on its website; (3) Respondent is presenting the goods it is selling on the Website in a manner similar to how Complainant is presenting its goods on its website including using the same unique phraseology for identifying the goods and the same unique photographs of the goods; (4) Respondent uses the Mark throughout the Website including prominently on the top of each page of the website in the same font and color style as Complainant uses on its website; and (5) the Domain Name is confusingly similar to the Mark adding the descriptive term "sale" which is commonly used in selling goods.

The evidence as presented and discussed above clearly indicates that Respondent's aim in registering the Domain Name was to profit from or exploit Complainant's Mark.

Panels have held that the use of a domain name for illegal activity as described above here, the sale of counterfeit goods and impersonation/passing off, is bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds Respondent's registration and use of the Domain Name constitutes bad faith under the Policy.

The Panel finds that the third element of the Policy has been established.

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 <aquataliasale.com> be transferred to Complainant.

*/Harrie R. Samaras/
Harrie R. Samaras*

Sole Panelist

Date: March 13, 2025