

## ADMINISTRATIVE PANEL DECISION

BJ' s Wholesale Club, Inc. v. 郭星 (Guo Xing)  
Case No. D2025-0834

### 1. The Parties

The Complainant is BJ's Wholesale Club, Inc., United States of America ("United States"), represented by Nelson Mullins Riley & Scarborough, LLP, United States.

The Respondent is 郭星 (Guo Xing), China.

### 2. The Domain Name and Registrar

The disputed domain name <wellsley-farms.com> is registered with Shanghai Meicheng Technology Information Development Co., Ltd. (the "Registrar").

### 3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on February 27, 2025. On February 28, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 4, 2025, 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, and that the language of the Registration Agreement for the disputed domain name is Chinese. The Complainant requested English to be the language of the proceeding in its Complaint.

The Center verified that 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 Chinese and English of the Complaint, and the proceedings commenced on March 6, 2025. In accordance with the Rules, paragraph 5, the due date for Response was March 26, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 27, 2025.

The Center appointed James Wang as the sole panelist in this matter on April 2, 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**

The Complainant claims to be a leading operator of membership warehouse clubs concentrated primarily on the eastern half of the United States. The Complainant started using the WELLSLEY FARMS trademark in commerce in the United States as early as 2004. In addition to the Complainant's brick-and-mortar warehouse locations, the Complainant's members can also shop online through the Complainant's website at the domain name <bjs.com>.

The Complainant is the registrant of multiple registered trademarks consisting of or containing WELLSLEY FARMS, including but not limited to:

- United States trademark Reg. No. 2990045, registered on August 30, 2005;
- United States trademark Reg. No. 4969667, registered on May 31, 2016; and
- United States trademark Reg. No. 5069174, registered on October 25, 2016.

The disputed domain name was registered on July 10, 2024, and at the time of filing of the Complaint, resolved to a website purportedly offering for sale WELLSLEY FARMS branded products.

The Complainant sent a cease-and-desist email to the Respondent on February 19, 2025, but received no response as of the filing of the Complaint.

#### **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 name.

Notably, the Complainant contends that the disputed domain name is confusingly similar to the trademark in which the Complainant has rights. The Respondent has no rights or legitimate interests in respect of the disputed domain name. The disputed domain name was registered and is being used in bad faith.

The Complainant requested 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**

##### **6.1 Language of the Proceeding**

The language of the Registration Agreement for the disputed domain name 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.

Although the Respondent was notified in Chinese and English of the commencement of the proceeding including a notice on the language of the proceeding, the Respondent did not make any 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.

Considering the Center has already sent Chinese and English dual language case-related communications to the Parties, and thereby given the Respondent an opportunity to comment on or to oppose the Complainant's language request and arguments, and considering the Respondent's default and lack of reaction after having been given a fair chance to comment or oppose, together with the fact that the disputed domain name consists of only Latin letters instead of Chinese characters and resolved to a website in English, the Panel finds it would not be unfair to proceed in English as requested by the Complainant.

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 Elements**

According to paragraph 4(a) of the Policy, the Complainant must prove that:

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

### **A. Identical or Confusingly Similar**

The Complainant has provided evidence that it is the registrant of multiple registered trademarks consisting of or containing WELLSLEY FARMS.

The applicable Top-Level Domain ("TLD") in a domain name is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. Therefore, the TLD ".com" of the disputed domain name, shall be disregarded under the confusing similarity test in this case. See [WIPO Overview 3.0](#), section 1.11.1.

The disputed domain name incorporates the entirety of the Complainant's WELLSLEY FARMS trademark. As the WELLSLEY FARMS trademark is recognizable within the disputed domain name, the disputed domain name is confusingly similar to the Complainant's trademark. The addition of "-" into the disputed domain name does not prevent a finding of confusing similarity. See [WIPO Overview 3.0](#), sections 1.7 and 1.8.

The Panel finds the first element of the Policy has been established.

## **B. Rights or Legitimate Interests**

Proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. See [WIPO Overview 3.0](#), section 2.1.

The Complainant alleges that it has not authorized the Respondent to use the WELLSLEY FARMS trademark nor is the Respondent a licensee of the WELLSLEY FARMS trademark. There is no evidence that the Respondent has been commonly known by the disputed domain name. The disputed domain name resolved to a website purportedly offering for sale WELLSLEY FARMS branded products at the time of filing of the Complaint.

The Panel finds that the Complainant has made a prima facie case that the Respondent lacks rights or legitimate interests, and the Respondent failed to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name.

Moreover, the Panel finds that the nature of the disputed domain name is inherently misleading and carries a risk of implied affiliation. [WIPO Overview 3.0](#), section 2.5.1.

The Panel finds the second element of the Policy has been established.

## **C. Registered and Used in Bad Faith**

Given the distinctiveness of the Complainant's WELLSLEY FARMS trademark and use of the disputed domain name, it would be inconceivable that the Respondent registered the disputed domain name without knowledge of the Complainant's trademark at the time of the registration. The Panel finds that the disputed domain name was registered in bad faith.

The Panel noticed that the disputed domain name resolved to a website purportedly offering for sale WELLSLEY FARMS branded products at the time of filing of the Complaint, which indicates that the Respondent had an intent to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark. Such conduct constitutes bad faith under paragraph 4(b)(iv) of the Policy.

Having reviewed the record and also given the Respondent's lack of response to the Complainant's cease-and-desist email and the present proceeding, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

The Panel therefore 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 name <wellsley-farms.com> be transferred to the Complainant.

*/James Wang/*

**James Wang**

Sole Panelist

Date: April 16, 2025