

## **ADMINISTRATIVE PANEL DECISION**

Safari Supply Limited LLC v. Jinfeng Shi  
Case No. D2022-3831

### **1. The Parties**

The Complainant is Safari Supply Limited LLC, United States of America (“United States”), represented by Dorsey & Whitney, LLP, United States.

The Respondent is Jinfeng Shi, China.

### **2. The Domain Name and Registrar**

The disputed domain name <safari-supplys.com> is registered with Name.com, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 12, 2022. On October 13, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 14, 2022, 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 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 of the Complaint, and the proceedings commenced on October 24, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 13, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 14, 2022.

The Center appointed Geert Glas as the sole panelist in this matter on November 23, 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**

The Complainant is a company founded in 2012 selling online third party branded outdoor recreation equipment to world travelers, global hunters, and outdoor enthusiasts. Under its SAFARI SUPPLY trademark, the Complainant offers retail store services that include a broad selection of outdoor and safari gear, including clothing, camping equipment, hiking and travel accessories, among others.

The Complainant owns the domain name <safari-supply.com>, registered in 2011. This domain name gives access to the Complainant's global website, through which it offers third party third party branded outdoor recreation equipment for sale. The homepage of the website features in the upper-left corner a logo that consists of the words SAFARI SUPPLY, a buffalo head and the baseline "Adventure is a State of Mind".

The Complainant owns the United States word mark SAFARI SUPPLY, registration no. 4169432, registered on July 3, 2012.

The disputed domain name <safari-supplys.com> was registered on August 2, 2022, and leads to a website on which clothes are offered for sale, often at a discounted price. The website contains the word mark SAFARI SUPPLY, an identical buffalo head logo, an identical baseline "Adventure is a State of Mind", some identical photographs as on the Complainant's website and the words "Copyright 2022 © Deals Safari-Supply Store" at the bottom of each page. Some of the clothes offered for sale are also sold by the Complainant on its website.

#### **5. Parties' Contentions**

##### **A. Complainant**

The following is a summary of the Complainant's contentions.

The Complainant requests that the disputed domain name be transferred to it on the following grounds:

The Complainant claims that the disputed domain name is confusingly similar to its SAFARI SUPPLY trademark, trade name, and its associated <safari-supply.com> domain name, regardless of the addition of the letter "s" and the generic Top-Level Domain ("TLD") ".com" in the disputed domain name. The Complainant considers that the Respondent has voluntarily engaged in typo squatting, and has chosen the misspelling of its mark and domain name in the hope that consumers will inadvertently type the disputed domain name instead of the Complainant's domain name.

Subsequently, the Complainant contends that the Respondent does not have rights or legitimate interests in respect of the disputed domain name. It argues that the Respondent has not been authorized nor licensed by the Complainant to use the SAFARI SUPPLY trademark. Moreover, it claims that the website to which the disputed domain name leads shows the Respondent's intention of taking unfair advantage of the reputation of the Complainant's trademark.

Finally, the Complainant argues that the disputed domain name was registered and is being used in bad faith. According to the Complainant, it is obvious that the Respondent is intentionally attempting to take advantage of the Complainant's trademark to generate profits by misleading consumers with a domain name confusingly similar to its prior trademark and by using a website, which copies the look and feel of its official website.

##### **B. Respondent**

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

## 6. Discussion and Findings

### A. Identical or Confusingly Similar

The Panel observes that the disputed domain name comprises the Complainant's SAFARI SUPPLY word trademark in its entirety, with as only differences the addition of "s" and the TLD ".com".

Section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") states that "in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing."

Several decisions have also found that a common, obvious, or intentional misspelling of a trademark shall be considered confusingly similar to the relevant mark (e.g. *Fuji Photo Film U.S.A. v. La Porte Holdings*, WIPO Case No. [D2004-0971](#); *Sanofi Genzyme Corporation v. Domain Privacy*, WIPO Case No. [D2016-1193](#); *Schneider Electric S.A. v. Domain Whois Protect Service/Cyber Domain Services Pvt. Ltd.*, WIPO Case No. [D2015-2333](#)). Accordingly, the added "s" to the Complainant's trademark does not prevent a finding of confusing similarity.

Finally, it is a well-established principle that the use of a TLD is considered as a standard registration requirement and as such is to be disregarded in the confusing similarity test (section 1.11.1 of the [WIPO Overview 3.0](#)). The addition of the TLD ".com" in the disputed domain name <safari-supplys.com> does not prevent a finding of confusing similarity with the SAFARI SUPPLY trademark.

Therefore, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark and that the first element under paragraph 4(a)(i) of the Policy has been established.

### B. Rights or Legitimate Interests

Although the complainant bears the ultimate burden of establishing all three elements of paragraph 4(a) of the Policy, the consensus view is that, once the complainant has made 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 paragraph 4(a)(ii) of the Policy (section 2.1 [WIPO Overview 3.0](#); *Document Technologies, Inc. v. International Electronic Communications Inc.*, WIPO Case No. [D2000-0270](#); *Dow Jones & Company, Inc., (First Complainant) and Dow Jones LP (Second Complainant) v. The Hephzibah Intro-Net Project Limited (Respondent)*, WIPO Case No. [D2000-0704](#)).

Based on the evidence submitted by the Complainant, the Panel finds that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name.

Such finding is based on the following observations:

- i. The Respondent has not received any authorisation, license or permit from the Complainant to use its SAFARI SUPPLY trademark in association with the registration of the disputed domain name.
- ii. There is no indication that the Respondent holds trademark rights on the words "safari supplys", nor that the Respondent has been commonly known by the disputed domain name, in particular because the information available about the Respondent's identity does not suggest any correlation with the words "safari supply" (section 2.3 of the [WIPO Overview 3.0](#)).
- iii. The disputed domain name is almost identical to the SAFARI SUPPLY word trademark, which carries a risk of implied affiliation (section 2.5.1 of the [WIPO Overview 3.0](#)).

iv. Resorting to a misspelling in the disputed domain name signals an intention on the part of the Respondent to confuse users seeking or expecting the Complainant (section 1.9 of the [WIPO Overview 3.0](#)). The disputed domain name is misleading and is likely to be a pretext for commercial gain (section 2.5.3 of the [WIPO Overview 3.0](#)). It resolves to a website, which looks like a copycat of the Complainant's website, including the reproduction of the logo and photographs from the Complainant's website. Hence, it is very likely that the Respondent registered the disputed domain name knowing that it would attract interest from Internet users who are searching for the Complainant and mislead them into thinking that the website is operated by or affiliated with the Complainant, when in fact it is not. This cannot amount to a *bona fide* offering of goods or services (e.g. *Verisure Sàrl v. Withheld for Privacy Purposes, Privacy service provided by Withheld for Privacy ehf / Minh Choi*, WIPO Case No. [D2021-1363](#)).

v. The Respondent did not file a Response and by doing so failed to provide any evidence of any rights or legitimate interests it would claim to have in the disputed domain name.

Therefore, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name and that the second element under paragraph 4(a)(ii) of the Policy has been established.

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

The third element of paragraph 4(a) refers to the question of whether the disputed domain name has been registered and is being used in bad faith by the Respondent.

Paragraph 4(b) of the Policy describes some circumstances which, if found to exist, will be evidence of the registration and use of the domain name in bad faith. Among these circumstances is the use of a domain name to intentionally attempt to attract, for commercial gain, Internet users to a website or other online location, by creating a likelihood of confusion with the complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on the website or location (paragraph 4(b)(iv) of the Policy).

#### **(a) Registered in bad faith**

The Complainant has been benefitting from trademark protection for its SAFARI SUPPLY name from 2012 onwards. The disputed domain name was registered on August 2, 2022. Panels have consistently found that the mere registration of a domain name that is virtually identical to a widely known trademark by an unaffiliated entity can by itself create a presumption of bad faith (section 3.1.4 of the [WIPO Overview 3.0](#)). This is particularly true when the trademark has a distinctive character and has acquired a certain reputation.

A simple search in any search engine would have informed the Respondent of the existence of the Complainant's clothing stores and the corresponding SAFARI SUPPLY trademark (section 3.2.2 of the [WIPO Overview 3.0](#)). Therefore, the Respondent cannot reasonably dispute that it knew, or should have known, the Complainant's trademark when registering the disputed domain name. As the disputed domain name resolves to a copycat website of the Complainant's website, it is even less likely that the disputed domain name was registered in good faith (e.g. *Teva Pharmaceutical Industries Limited v. Miraj Albert*, WIPO Case No. [D2021-1707](#)). The fact that the Respondent chose to register the disputed domain name anyway and opted not to offer any explanation in response to the Complaint, strongly suggests that the decision to register the disputed domain name was made in bad faith with the Complainant and its trademark in mind.

In light of the above, the Panel finds that the Respondent registered the disputed domain name in bad faith.

#### **(b) Used in bad faith**

The disputed domain name is in use. It resolves to a website on which customers can purchase clothes, often at a discounted price. The website has the appearance of an official web-shop of the Complainant, in particular because it contains the Complainant's SAFARI SUPPLY word trademark, its buffalo head logo, an identical baseline "Adventure is a State of Mind", and the words "Copyright 2022 © Deals Safari-Supply

Store” at the bottom of each page without disclosure of any relationship or lack thereof with the Complainant. The resemblance between the Complainant’s retail website and the Respondent’s retail website includes the general layout, the search categories, the products sold, and some of the advertising pictures. All these elements are intended to create a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the Respondent’s website by the Complainant for Internet users and consumers.

Hence, the foregoing makes it very likely that Internet users will assume that there is an association between the disputed domain name and the Complainant. This indicates the Respondent’s intention to attempt to attract Internet users to its website by creating a likelihood of confusion between the disputed domain name and the SAFARI SUPPLY trademark.

Consequently, the Panel finds that the Respondent has also been using the disputed domain name in bad faith.

Therefore, the Panel concludes that the disputed domain name was registered and is being used in bad faith by the Respondent and that the third element under paragraph 4(a)(ii) 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 disputed domain name <safari-supplys.com> be transferred to the Complainant.

*/Geert Glas/*

**Geert Glas**

Sole Panelist

Date: December 7, 2022