

## ADMINISTRATIVE PANEL DECISION

Walters & Mason Retail, Inc. v. wang su qing (王素清)  
Case No. D2024-2195

### 1. The Parties

The Complainant is Walters & Mason Retail, Inc., United States of America, represented by Venable, LLP, United States of America.

The Respondent is wang su qing (王素清), China.

### 2. The Domain Name and Registrar

The disputed domain name <altardstateshop.com> is registered with eName Technology Co., Ltd. (the "Registrar").

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on May 28, 2024. On May 29, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 30, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (REGISTRANT UNKNOWN) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 30, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed amendments to the Complaint on May 31, 2024, and June 6, 2024.

On May 30, 2024, the Center informed the parties in Chinese and English, that the language of the registration agreement for the disputed domain name is Chinese. On June 10, 2024, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not submit any comment on the Complainant's submission.

The Center verified that the Complaint together with the amended Complaints 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 June 11, 2024. In accordance with the Rules, paragraph 5, the due date for the Response was July 1, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 2, 2024.

The Center appointed Dr. Hong Xue as the sole panelist in this matter on July 16, 2024. 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 corporation founded in 2009 under the laws of the State of Tennessee, United States of America. It runs a chain of boutique retail stores of women's clothes, shoes, accessories, etc. in United States of America and other countries and operates online through the website at the URL "www.altardstate.com". The Complainant owns many trademark or service mark registrations over ALTAR'D STATE, including United States of America registration No. 3986450 from June 28, 2011, Australian registration No. 1260995 from November 21, 2014, United Kingdom registration No. UK00801260995 from June 15, 2016, and Chinese registration No. 21902235 from December 28, 2017.

The disputed domain name was registered on June 5, 2020. The website of the disputed domain name is purportedly offering to sell the goods of apparel, dresses, footwear, accessories, etc. to 170 countries, including United States of America, Australia, and United Kingdom.

According to the registration information provided by the Registrar, the Respondent is an individual based in China.

#### **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 Respondent through the disputed domain name has been unlawfully benefitting from the disputed domain name's similarity to <altardstate.com>, the authentic domain name for the Complainant to offer products and advertise the ALTAR'D STATE Marks, and the disputed domain name is calculated to confuse or deceive, as it falsely suggests an association with the Complainant.

The Complainant contends that the Respondent has not received any license or consent, express or implied, to use the ALTAR'D STATE Marks in a domain name or in any other manner from the Complainant, nor has the Complainant acquiesced in any way to such use or application of the ALTAR'D STATE Marks by the Respondent. To the best knowledge of the Complainant, the Respondent has no legitimate right or interests in the disputed domain name.

The Complainant contends that the website at the disputed domain name offers for sale counterfeit products under the false guise that they are authentic ALTAR'D STATE products and the Respondent had registered the disputed domain name to purposefully disrupt the business of the Complainant, and its authorized website "www.altardstate.com", and to create a likelihood of confusion with the ALTAR'D STATE Marks.

The Complainant requests 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**

### **A. Language of Proceeding**

Pursuant to paragraph 11 of the UDRP Rules, unless otherwise agreed by the parties, the default language of the proceeding is the language of the registration agreement, subject to the authority of the panel to determine otherwise.

The Registrar of the disputed domain name confirms that the language of the Registration Agreement is Chinese. The Complainant requests that English be the language of the administrative proceeding. Despite the Center's notifications to the Parties in both Chinese and English, the Respondent does not submit any comment on the Complainant's request. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 4.5.2.

Noting the aim of conducting the proceedings with due expedition, paragraph 10 of the UDRP Rules vests a panel with authority to conduct the proceedings in a manner it considers appropriate while also ensuring both that the parties are treated with equality, and that each party is given a fair opportunity to present its case. [WIPO Overview 3.0](#), section 4.5.1.

The Complainant's evidence shows that the contents (including interactions with the customers) on the website of the disputed domain name are entirely in English. The Respondent does not contend its authenticity.

Given that the Respondent can communicate in English through the website of the disputed domain name, the Panel finds that the Respondent must be able to understand the Complaint and effectively present the case in English proceeding. On the other hand, ordering the Complainant to translate the Complaint into the language of the registration agreement would result in potential unfairness or unwarranted delays.

Taking into account all the relevant circumstances, the Panel determines that the language of proceeding be English.

### **B. 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 the Complainant's trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of its ALTAR'D STATE marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name although the single quotation mark in the Complainant's mark is omitted. Accordingly, the disputed domain name is confusingly similar to the Complainant's marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7 and 1.9.

Although the addition of a term "shop" may bear on assessment of the second and third elements, the Panel finds the addition of such a term does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's marks 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.

### **C. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy provides a list of circumstances in which the 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 the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Moreover, the use of the disputed domain name for sale of likely counterfeit goods and passing off as the Complainant, which is discussed further in the third element, can never confer rights or legitimate interests on the Respondent. [WIPO Overview 3.0](#), section 2.13.1.

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

### **D. 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 notes that the Respondent is offering to sell to numerous countries (including the United Kingdom, United States of America, and Australia) through the website of the disputed domain name likely counterfeit goods of apparels, dresses, footwear, accessories, etc., all of which bearing ALTAR'D STATE marks without the Complainant’s authorization. The Panel finds that the Respondent not only registered the disputed domain name that is capable of disguising as the “shop” of the Complainant, but is using the disputed domain name to intentionally attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant’s marks used on identical or similar goods. The Respondent’s registration and use of the disputed domain name indicate the bad faith as provided in paragraph 4(b)(iv) of the Policy.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Moreover, the Respondent’s use of a domain name for sale of likely counterfeit goods and passing off as the Complainant constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent’s registration and use of the disputed domain name constitutes bad faith under the Policy.

The Panel 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 <altardstateshop.com> be transferred to the Complainant.

*/Dr. Hong Xue/*

**Dr. Hong Xue**

Sole Panelist

Date: July 30, 2024