

## ADMINISTRATIVE PANEL DECISION

Schottenstein Stores Corporation v. 刘营军 (liu ying jun)  
Case No. D2024-3300

### 1. The Parties

The Complainant is Schottenstein Stores Corporation, United States of America (“United States”), represented by Thompson Hine LLP, United States.

The Respondent is 刘营军 (liu ying jun), China.

### 2. The Domain Name and Registrar

The disputed domain name <valuecityfurniture.store> is registered with Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn) (the “Registrar”).

### 3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on August 12, 2024. On August 13, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 14, 2024, 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 sent an email communication to the Complainant on August 19, 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 an amended Complaint in English on August 23, 2024.

On August 19, 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 August 23, 2024, the Complainant requested English to 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 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 English and Chinese of the Complaint, and the proceedings commenced on August 27, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 16, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on September 17, 2024.

The Center appointed Jonathan Agmon as the sole panelist in this matter on September 24, 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 an American company based in Columbus, Ohio, holding various retail portfolios. It sells furniture under its VALUE CITY FURNITURE brand and has used the VALUE CITY FURNITURE trademark as early as 1962. Together with its sister brand, American Signature Furniture, it operates over 120 furniture stores in 18 states across the United States.

The Complainant owns, either directly or through its subsidiaries, various VALUE CITY FURNITURE-related trademarks, including the following:

- European Union trademark registration No. 3068509 for VALUE CITY, registered on October 14, 2004;
- European Union trademark registration No. 3068475 for VALUE CITY FURNITURE, registered on October 14, 2004;
- United Kingdom trademark registration No. UK00903068509 for VALUE CITY, registered on October 14, 2004;
- United Kingdom trademark registration No. UK00903068475 for VALUE CITY FURNITURE, registered on October 14, 2004;
- United States trademark registration No. 1151326 for VALUE CITY, registered on April 14, 1981;
- United States trademark registration No. 2132629 for VALUE CITY FURNITURE, registered on January 27, 1998;
- United States trademark registration No. 2755865 for , registered on August 26, 2003;
- United States trademark registration No. 3934215 for VCF.COM, registered on March 22, 2011;
- United States trademark registration No. 4292382 for , registered on February 19, 2013 ("VCF stylized mark").

The Complainant, through its subsidiary, owns and operates its primary domain name, <valuecityfurniture.com>, registered on February 23, 1998.

The disputed domain name was registered on November 21, 2023. At the time of filing the Complaint, it resolved to a website resembling the Complainant's website, displaying the Complainant's trademarks, and purportedly offering for sale the Complainant's products.

## **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 identical or confusingly similar to the Complainant's VALUE CITY FURNITURE trademark. The Complainant has used the marks VALUE CITY FURNITURE and VALUE CITY in various formats since at least as early as 1962. The disputed domain name consists of the VALUE CITY FURNITURE trademark together with the generic Top-Level Domain ("gTLD") ".store". The usage of the gTLD ".store" is a mandated addition by domain name conventions, and is a minor difference.
- The Respondent has no rights or legitimate interests in the disputed domain name. The Respondent's name is "Liu Ying Jun", and there is no evidence that the Respondent is commonly known by the name "value city furniture". The Respondent is not associated with the Complainant and has not been licensed or authorized to use the disputed domain name, or the Complainant's VALUE CITY FURNITURE trademarks. The Respondent is neither using the disputed domain name in connection with a bona fide offering of goods and services nor making a legitimate noncommercial or fair use of the disputed domain name.
- The disputed domain name was registered and is being used in bad faith. The Complainant's VALUE CITY FURNITURE trademark was registered and used long before the disputed domain name was registered. The Respondent had actual knowledge of the Complainant and its business operations, even before registering the disputed domain name. The registration of the disputed domain name was done in the name of a company that is a competitor of the Complainant and harms the Complainant. The Respondent had constructive knowledge of the Complainant and its trademarks. The Respondent's registration of the disputed domain name may have been for the primary purpose of selling, renting, or otherwise transferring the disputed domain name to the Complainant or a competitor of the Complainant for valuable consideration in excess of the Respondent's out-of-pocket costs related to the acquisition and maintenance of the disputed domain name. The Respondent likely registered the disputed domain name to compete with the Complainant and harm and disrupt the Complainant's business by redirecting consumers to the Respondent's website. The Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's VALUE CITY FURNITURE marks as to the source, sponsorship, affiliation, or endorsement of the Respondent's website.

### **B. Respondent**

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

## **6. Discussion and Findings**

### **Preliminary Issue - 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 for several reasons, including the fact that:

- the Respondent is capable of understanding English;

- the disputed domain name resolves to a webpage that is entirely in English;
- there is no information regarding a connection to China; and
- the Respondent's website is directed to consumers in the United States.

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).

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.

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

The Complainant has shown rights in respect of a trademark or service mark 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. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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 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.

There is no evidence to suggest that the Respondent is commonly known by the disputed domain name. The Complainant's registration of its trademarks predates the registration of the disputed domain name. The disputed domain name resolves to a webpage that displays not only the Complainant's VALUE CITY

FURNITURE trademark, but also displays its VCF stylized mark. It is effectively impersonating the Complainant's website. Further, there is no prominent and accurate disclaimer on the website disclosing the (lack of) relationship between the Parties. Panels have held that the use of a domain name for illegal activity here, claimed impersonation/passing off can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Moreover, the composition of the disputed domain name, being identical to the Complainant's trademark, is inherently misleading, suggesting an affiliation with the Complainant.

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 disputed domain name resolves to a webpage displaying the Complainant's VALUE CITY FURNITURE trademark, and the VCF stylized mark. The website further shows the wording "Value City Furniture - Official Site". On the website the Respondent purports to offer the Complainant's goods for sale. The gTLD of the disputed domain name, ".store", is likely to aggravate any confusion, as customers would likely believe that the disputed domain name is the Complainant's official online store. This evidence clearly shows that the Respondent is targeting the Complainant and its trademarks. This is evidence of bad faith registration and use of the disputed domain name.

Further, the Panel notes that the Respondent registered the disputed domain name long after the Complainant registered its VALUE CITY FURNITURE trademark. The use of the Complainant's VCF stylized mark shows that the Respondent knew of the Complainant and its trademarks prior to registering the disputed domain name and has registered the disputed domain name to specifically target the Complainant.

Further, the Respondent did not submit a response to the Complaint. This is further indication of bad faith, and the Panel draws further negative inferences accordingly.

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 <valuecityfurniture.store> be transferred to the Complainant.

*/Jonathan Agmon/*

**Jonathan Agmon**

Sole Panelist

Date: October 8, 2024