

## ADMINISTRATIVE PANEL DECISION

Hydrojug, Inc. v. 魏建东 (JianDong Wei)  
Case No. D2024-3386

### 1. The Parties

The Complainant is Hydrojug, Inc., United States of America (“United States”), represented by Project CIP, United States.

The Respondent is 魏建东 (JianDong Wei), China.

### 2. The Domain Name and Registrar

The disputed domain name <buyhydrojug.com> is registered with Chengdu West Dimension Digital Technology Co., Ltd. (the “Registrar”).

### 3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on August 18, 2024. On August 19, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 20, 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 (NAME REDACTED) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 20, 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 amendment to the Complaint in English on August 28, 2024. On August 29, 2024, the Complainant also filed an amended Complaint in English to correct a clerical error.

On August 20, 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 28, 2024, the Complainant requested English to be the language of the proceeding. The Respondent did not submit any comment on the Complainant’s language submission.

The Center verified that the Complaint together with the amendment to the Complaint and 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 proceeding commenced on August 30, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 19, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on September 20, 2024.

On September 9, 2024, the Complainant sent an email communication to the Center, noting that it appeared the Respondent in this proceeding was also the Respondent in *Hydrojug, Inc. v. 魏建东 (Wei Jian Dong)*, WIPO Case No. [D2024-3385](#) and another UDRP complaint filed with the Center, and asking the Center to consider whether case consolidation was appropriate.

The Center appointed Sebastian M.W. Hughes as the sole panelist in this matter on September 26, 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**

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

The Complainant is a United States company, conducting business in marketing and selling a range of water bottles, traveler tumblers, and accessories in countries worldwide under the trade mark HYDROJUG (the "Trade Mark"),

The Complainant is the owner of registrations in jurisdictions worldwide for the Trade Mark, including United States registration No. 5,414,493, with a registration date of February 27, 2018; and Chinese registration No. 37929851, with a registration date of January 28, 2020.

The Complainant promotes its business online at "www.thehydrojug.com".

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

The Respondent is an individual located in China.

##### **C. The Disputed Domain Name**

The disputed domain name was registered on March 9, 2024.

##### **D. Use of the Disputed Domain Name**

The disputed domain name is resolved to an English language website, which appeared to be a website of, or associated with, the Complainant, containing the Trade Mark and copyright images taken from the Complainant's website, and apparently offering for sale the Complainant's products under the Trade Mark at discounted prices (the "Website").

#### **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.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **Consolidation**

Panels are generally reluctant to grant requests for addition of domain names to complaints after they have been notified to the respondent and the proceeding has formally commenced (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.12.2). In the circumstances, the Panel will not order consolidation in the present case.

### **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 Website is in the English language.

The Respondent did not make any submission 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. [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 Trade Mark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

The entirety of the Trade Mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the Trade Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms (here, "buy") 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 disputed domain name and the Trade 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 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.

Panels have held that the use of a domain name for illegal activity (here, claimed impersonation/passing off, or other types of fraud) 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 enumerates 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.

Here, the Website displays the Trade Mark and copyright images taken from the Complainant’s website, and apparently offers for sale the Complainant’s products at discounted prices, which falls squarely into paragraph 4(b)(iv) of the Policy.

Panels have held that the use of a domain name for illegal activity (here, claimed impersonation/passing off, or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Moreover, the Respondent’s registration of other domain names targeting the Complainant (see Section 3 above) may be further evidence of bad faith.

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 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 disputed domain name <buyhydrojug.com> be transferred to the Complainant.

*/Sebastian M.W. Hughes/*

**Sebastian M.W. Hughes**

Sole Panelist

Date: October 9, 2024