

## **ADMINISTRATIVE PANEL DECISION**

Vida Shoes International, Inc. v. 朱杰 (Jie Zhu)  
Case No. D2025-0085

### **1. The Parties**

The Complainant is Vida Shoes International, Inc., United States of America ("U.S."), represented by Kane Kessler, P.C., U.S.

The Respondent is 朱杰 (Jie Zhu), China.

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

The disputed domain name <jambuwomenshoes.com> is registered with Cloud Yuqu LLC (the "Registrar").

### **3. Procedural History**

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on January 9, 2025. On January 10, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 13, 2025, 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 (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 20, 2025, 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 January 23, 2025.

On January 20, 2025 the Center informed the Parties in Chinese and English, that the language of the Registration Agreement for the disputed domain name is Chinese. On January 23, 2025, 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 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 January 24, 2025. In accordance with the Rules, paragraph 5, the due date for Response was February 13, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on February 18, 2025.

The Center appointed Rachel Tan as the sole panelist in this matter on February 21, 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 is a company based in the U.S. and is a manufacturer and distributor in the footwear industry.

The Complainant is the owner of the JAMBU and JAMBU & CO trade marks in various jurisdictions. In the U.S., the Complainant owns U.S. Trade Mark Registration No. 3887252 for JAMBU registered on December 7, 2010 in Class 25; U.S. Trade Mark Registration No. 5400713 for JAMBU & CO. registered on February 13, 2018 in Class 25; and U.S. Trade Mark Registration No. 5856462 for JAMBU & CO registered on September 10, 2019 in Classes 1, 18, and 25. The Complainant claimed that it has used the trade marks as early as November 2009.

In addition, the Complainant is the registrant of the domain name <jambu.com> which resolves to the Complainant's official website. The Complainant has used its JAMBU mark on this website through which it conducts sales and marketing activities.

The disputed domain name was registered on May 31, 2024. Based on the undisputed evidence submitted by the Complainant, the disputed domain name resolves to a website in English which allegedly offers for sale the Complainant's products at a discounted price. The resolved website also displays the Complainant's JAMBU mark and product images.

#### **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 JAMBU mark and its official website at "www.jambu.com". The Complainant's JAMBU mark is incorporated in the disputed domain name in its entirety. The additional generic terms "women shoes" do not prevent a finding of confusing similarity.

The Complainant further alleges that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent has not received any licence or authorization of any kind to use the Complainant's trade mark in a domain name or otherwise. There is no evidence that the Respondent is commonly known by the disputed domain name. Moreover, the Complainant has submitted evidence and alleges that the disputed domain name is operated as a website to impersonate the Complainant to sell counterfeit JAMBU branded products. Accordingly, the Respondent is not using the disputed domain name for a bona fide offering of goods or services.

Finally, the Complainant argues that the disputed domain name was registered and is being used in bad faith. It is alleged that the Respondent is falsely holding itself out as the Complainant and/or affiliated with and/or an authorized distributor of the Complainant. The Complainant contends that the website noticeably

displays the Complainant's JAMBU mark and likewise offers footwear products for sale. The registration and use of the disputed domain name is for the aim of attracting for commercial gain, Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's JAMBU mark as to the source, affiliation, or endorsement of the Respondent's website.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **6.1 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 (i) all of the text presented on the website is in English; and (ii) the Privacy Policy on the Respondent's website contains provisions targeted at consumers located in the U.S. and European Economic Area where English is the common language.

The Respondent did not make any specific 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.

### **6.2 Substantive Issues**

#### **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 Complainant has shown rights in respect of a trade mark 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 confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, i.e. "women" and "shoes", may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Lastly, it is permissible for the Panel to disregard the applicable Top-Level Domain (“TLD”) in the disputed domain name, i.e. “.com”. It is accepted by UDRP panels that the practice of disregarding the TLD in determining identity or confusing similarity under the first element. [WIPO Overview 3.0](#), section 1.11.1.

Based on the available record, 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.

The Respondent has not provided evidence of a legitimate noncommercial or fair use of the disputed domain name or reasons to justify the choice of the disputed domain name that is confusingly similar to the Complainant’s JAMBU mark. There is also no indication to show that the Respondent is commonly known by the disputed domain name or otherwise has rights or legitimate interests in it. Moreover, the Complainant has not granted the Respondent any license or authorization to use the Complainant’s JAMBU mark or register the disputed domain name.

The Panel notes that the disputed domain name resolves to a website which allegedly offers the counterfeit JAMBU products for sale. The website noticeably displays the Complainant’s JAMBU mark together with images of the Complainant’s products at a discounted price. The website does not accurately and prominently disclose the lack of a relationship between the Complainant and the Respondent. Therefore, the facts do not support a claim of bona fide use under the “Oki Data test”. See *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#), and [WIPO Overview 3.0](#), section 2.8.

Furthermore, the nature of the disputed domain name carries a risk of implied affiliation with the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

None of the circumstances in paragraph 4(c) of the Policy are present in this case. For these reasons, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

Based on the available record, 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 Panel notes that the Complainant's JAMBU mark was registered well before the registration of the disputed domain name. Through use and advertising, the Complainant's mark is known throughout the world. Search results using the key words "JAMBU" and "shoes" on Internet search engines refer almost exclusively to the Complainant. The Panel notes that the disputed domain name resolves to a website displaying the Complainant's JAMBU mark. As such, the Respondent clearly knew of the Complainant's mark when registering the disputed domain name. [WIPO Overview 3.0](#), section 3.2.2.

The Panel is of the view that by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Respondent's website, by creating a likelihood of confusion with the Complainant's JAMBU mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website. This demonstrates bad faith registration and use of the disputed domain name, as provided in paragraph 4(b)(iv) of the Policy.

Given all the circumstances of the case, the Panel finds that the Respondent must have known of the Complainant when registering the disputed domain name, and considering the Respondent's lack of rights or legitimate interests, and the Respondent's registering and using the disputed domain name as discussed above, the Panel is led to conclude that the disputed domain name was registered and is being used in bad faith.

Based on the available record, 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 <jambuwomenshoes.com> be transferred to the Complainant.

*/Rachel Tan/*

**Rachel Tan**

Sole Panelist

Date: March 7, 2025