

ADMINISTRATIVE PANEL DECISION

Vida Shoes International, Inc v. zjlswnv nvnns1
Case No. D2025-0644

1. The Parties

The Complainant is Vida Shoes International, Inc, United States of America (“USA”), represented by Kane Kessler, P.C., USA.

The Respondent is zjlswnv nvnns1, USA.

2. The Domain Name and Registrar

The disputed domain name <aquataliaonline.com> is registered with Gname.com Pte. Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 18, 2025. On February 19, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 20, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 24, 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 on February 28, 2025.

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 of the Complaint, and the proceedings commenced on March 3, 2025. In accordance with the Rules, paragraph 5, the due date for Response was March 23, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 24, 2025.

The Center appointed Dennis A. Foster as the sole panelist in this matter on March 28, 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 USA company whose business for almost 20 years has been the online sale of footwear. The Complainant conducts its business using the service mark AQUATALIA, which is registered with the United States Patent and Trademark Office ("USPTO") (registration no. 4,349,879, registered on June 11, 2013; international class 35 for on-line retail store services, namely, footwear). Also, in offering its services, the Complainant utilizes a website attached to its domain name <aquatalia.com>.

The Respondent owns the disputed domain name <aquataliaonline.com>, which was registered on November 23, 2024. The disputed domain name is connected to a website that prominently displays the Complainant's AQUATALIA trademark and purports to offer for sale footwear comparable to that sold by the Complainant.

5. Parties' Contentions

A. Complainant

- The Complainant has for many years been in the business of selling footwear online through its website at <aquatalia.com>. These sales predate the registration of the disputed domain name by the Respondent.
- The disputed domain name incorporates the Complainant's service mark AQUATALIA, and is therefore confusingly similar to that mark. The addition of the descriptive term "online" does not create a meaningful distinction.
- The Respondent does not possess rights or legitimate interests in the disputed domain name. There is no affiliation or grant of rights between the Complainant and the Respondent.
- The Respondent is using the disputed domain name to host a website that traffics in the same footwear that the Complainant is marketing online, which use fails to conform to a "bona fide offering of goods or services" under the Policy.
- Respondent's fraudulent sales do not constitute a "legitimate noncommercial or fair use" of the disputed domain name.
- The Respondent has not been commonly known as the disputed domain name.
- The disputed domain name has been registered and is being used in bad faith by the Respondent. By using the disputed domain name to impersonate the Complainant in the sale of duplicate footwear, the Respondent's purpose is to disrupt the Complainant's business. Also, by employing the disputed domain name in this manner, the Respondent is intentionally attempting to attract Internet users for commercial gain by creating the likelihood of confusion with the Complainant's mark 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

In accordance with paragraphs 4(a)(i) - (iii) of the Policy, the Panel may find for the Complainant and order a transfer of the disputed domain name, <aquataliaonline.com>, provided the Complainant can show that:

- The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- The Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- The disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has exhibited a USPTO registration for its service mark AQUATALIA, and thus the Panel finds that the Complainant owns rights in that mark in line with the requirements of the Policy. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.2.1; and *Ryan Tetsuo Onishi v. todd elliott, Elliott Financial Group*, WIPO Case No. [D2024-4132](#) ("The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy [...] by virtue of the Mark's registration with the USPTO").

The disputed domain name is not identical to the Complainant's AQUATALIA mark, but the mark is included in the disputed domain name. As a result, the Panel concludes that the addition of the term "online" does not prevent confusing similarity between the disputed domain name and the Complainant's mark. [WIPO Overview 3.0](#), sections 1.7 and 1.8. Therefore, the Panel finds that the disputed domain name is confusingly similar to the Complainant's AQUATALIA service mark. See *Missoni S.p.A. v. Rob Mayer*, WIPO Case No. [D2012-1250](#) (finding <missonishop.info> to be confusingly similar to the MISSONI mark); and *Campagnolo S.r.l. v. Marzena Zytka*, WIPO Case No. [D2008-1037](#) (finding <campagnoloshop.com> to be confusingly similar to the CAMPAGNOLO mark).

Accordingly, the Panel finds that the Complainant has established that the disputed domain name is confusingly similar to a service mark in which the Complainant owns rights per Policy paragraph 4(a)(i).

B. Rights or Legitimate Interests

The Complainant has set forth a prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name because it is confusingly similar to the Complainant's service mark, and because the Complainant contends the Respondent has no authorization to use that mark in any manner. As a result, in order to prevail in this case, the Respondent should come forward with evidence to rebut the Complainant's prima facie case. [WIPO Overview 3.0](#), section 2.1; and see *Stoxx AG v. 247 Holdings Group*, WIPO Case No. [D2012-1582](#) ("It is a consensus view under the UDRP that it is sufficient for the Complainant to make a prima facie showing that the Respondent has no rights or legitimate interests in the disputed domain name in order to place the burden of production on the Respondent.").

However, having not filed a Response, the Respondent can only rely on the Panel's assessment of the overall record as to whether there are any circumstances that might constitute a rebuttal to the Complainant's prima facie case. In rendering that assessment, the Panel will accept as true all reasonable contentions presented in the Complaint. See, *OSRAM GmbH. v. Mohammed Rafi/Domain Admin, Privacy Protection Service INC d/b/a PrivacyProtect.org*, WIPO Case No. [D2015-1149](#) ("The Respondent has not submitted a response to the Complaint, in the absence of which the Panel may accept all reasonable inferences and allegations in the Complaint as true").

The Complainant has contended and presented evidence that the website attached to the disputed domain name purports to offer Internet users the same footwear merchandise offered by the Complainant under its AQUATALIA mark at the website connected to its domain name <aquatalia.com>. The Panel finds that such

apparently illegitimate use of the disputed domain name by the Respondent fails to constitute “a bona fide offering of goods or services” per Policy paragraph 4(c)(i). Moreover, as the Complainant contends, it is hard to believe that the Respondent is commonly known by the disputed domain name, and thus the Panel finds that paragraph 4(c)(ii) of the Policy also does not apply in this case. Finally, as the aforementioned use of the disputed domain name is directed toward the Respondent's financial gain and not for “a legitimate noncommercial or fair use”, the Panel concludes that Policy paragraph 4(c)(iii) is inapplicable as well. Consequently, based on its analysis of the evidence in the Complaint, the Panel finds that the Complainant's *prima facie* case has not been rebutted and must prevail.

Accordingly, the Panel finds that the Complainant has established that the Respondent has no rights or legitimate interests in the disputed domain name per Policy paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy sets forth four non-exhaustive circumstances under which a panel might find that the disputed domain name was registered and is being used in bad faith as follows:

(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location.

Based on the submitted evidence, the Panel believes there is no doubt that the Respondent was aware of the Complainant and its AQUATALIA service mark, and targeted that mark in bad faith when registering the disputed domain name particularly noting the prominent display of the AQUATALIA trademark on the website at the disputed domain name and the use of the AQUATALIA trademark in product names. The Complainant has asserted and supplied evidence that the disputed domain name is connected to a website that purports to offer Internet users the same footwear that the Complainant markets through its own website. The Panel concludes that such usage is also an intentional bad faith attempt by the Respondent to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation or endorsement of the Respondent's website, in line with Policy paragraph 4(b)(iv) above. See *Contemporary RTW Co., LLC d/b/a Khaite v. Rui Sun*, WIPO Case No. [D2023-0998](#) (“...the Respondent copied products, collection names combined with identical model images from the Complainant [...] according to paragraph 4(b)(iv) of the Policy – this constitutes bad faith use of the disputed domain name.”).

Therefore, the Panel finds that the Complainant has established that the disputed domain name was registered and is being used in bad faith per Policy paragraph 4(a)(iii).

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 <aquataliaonline.com> be transferred to the Complainant.

/Dennis A. Foster/

Dennis A. Foster

Sole Panelist

Date: April 11, 2025