

## **ADMINISTRATIVE PANEL DECISION**

Leg Avenue, Inc. v. yilei zhang  
Case No. D2025-0647

### **1. The Parties**

The Complainant is Leg Avenue, Inc. c/o Nolan Heimann LLP, United States of America (“United States”).

The Respondent is yilei zhang, China.

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

The disputed domain name <legavenueonsale.com> is registered with Dynadot Inc (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 19, 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 FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 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 did not amend the Complaint.

The Center verified that the 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 11, 2025. In accordance with the Rules, paragraph 5, the due date for Response was March 31, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 1, 2025.

The Center appointed Mihaela Maravela as the sole panelist in this matter on April 3, 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**

According to information in the Complaint, the Complainant began using the mark LEG AVENUE in commerce in 1998, to market and sell products through its online store located at the domain name <legavenue.com>.

The Complainant is the owner of various registered trademarks for LEG AVENUE, including the United States trademark no. 3343763 registered on November 27, 2007, covering goods in class 25, and the United States trademark no. 4600275 registered on September 9, 2014, covering goods in class 25.

The disputed domain name was registered on June 12, 2024, and resolves to a website purporting to offer goods under the LEG AVENUE trademark at discounted prices, displaying the LEG AVENUE trademark without a disclaimer as to the affiliation with the Complainant or lack thereof.

#### **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 to and/or confusingly similar to the Complainant's trademark LEG AVENUE, which the Complainant has extensively used in commerce since 1998.

As regards the second element, the Complainant submits that it never granted a license, consented to, or otherwise authorized the Respondent to use the LEG AVENUE registered trademark. The Respondent purports to offer for sale at the disputed domain name unauthentic goods under the brand LEG AVENUE. Therefore, the Complainant contends that it should be presumed that the only reason the Respondent selected the disputed domain name was because it was substantially similar to the Complainant's registered trademark and would cause consumers to believe that the Respondent is affiliated with the Complainant.

With regard to the third element, the Complainant contends that the Respondent registered the disputed domain name in June 2024, and by the time of such registration, the Complainant had been using the LEG AVENUE registered trademarks extensively in commerce for more than thirty-five years. The Respondent must have been aware of the Complainant and its trademarks. Further, the disputed domain name uses the Complainant's trademark on each webpage. Thus, it should be presumed that the only reason the Respondent selected the disputed domain name was because it was substantially similar to the Complainant's LEG AVENUE registered trademark and would cause consumers to believe the Respondent is affiliated with the Complainant. The Complainant submits that the Respondent is using the disputed domain name to impersonate the Complainant or create the impression that it is an authorized retail outlet of the Complainant.

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

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

#### **6. Discussion and Findings**

No response has been received from the Respondent in this case. Accordingly, the Panel considers it can proceed to determine the Complaint based on the statements and documents submitted by the Complainant as per paragraph 15(a) of the Rules. The applicable standard of proof in UDRP cases is the "balance of probabilities" or "preponderance of the evidence", and the Panel can draw certain inferences in light of the

particular facts and circumstances of the case. See section 4.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights, (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name, and (iii) the disputed domain name has been registered and is being used in bad faith.

### **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 the trademark LEG AVENUE 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, "onsale") 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 mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

It is the settled view of panels applying the Policy that the Top-Level Domain ("TLD") (here ".com") should be disregarded under the first element test. [WIPO Overview 3.0](#), section 1.11.

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 that the Respondent is using the disputed domain name in connection with a bona fide offering of goods or services. Rather, according to the unrebutted evidence provided by the Complainant, the website at the disputed domain name allegedly offers for sale at discounted prices the Complainant's branded goods, reproducing the Complainant's trademark and logo. While the genuine nature of the goods

allegedly offered is unclear, it is not necessary for the Panel to reach such conclusion given the lack of a disclaimer on the website at the disputed domain name as to their relationship with the trademark owner or the lack thereof, falsely suggests to Internet users that the website to which the disputed domain name resolves is owned by the Complainant or at least affiliated to the Complainant, contrary to the fact. (See the “Oki data test” outlined in *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#)). This cannot amount, in the Panel’s view, to a bona fide offering of goods or services within the meaning of paragraph 4(c)(i) of the Policy.

Given also the nature of the disputed domain name, that includes the Complainant’s LEG AVENUE trademark in its entirety, and therefore carries a risk of implied affiliation and cannot constitute fair use as it effectively impersonates or suggests sponsorship or endorsement by the Complainant, such use does not confer, in the Panel’s view, rights or legitimate interests on the Respondent. [WIPO Overview 3.0](#), section 2.5.1.

Also, there is no evidence that the Respondent is commonly known by the disputed domain name within the meaning of paragraph 4(c)(ii) of the Policy.

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.

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.

According to the unrebutted assertions of the Complainant, its trademarks were widely used in commerce well before the registration of the disputed domain name. The disputed domain name is confusingly similar to the Complainant’s trademarks and it resolves to a website reproducing the Complainant’s trademarks and purportedly offering for sale the Complainant’s products. Under these circumstances, it is reasonable to infer that the Respondent has registered the disputed domain name with knowledge of the Complainant’s trademarks, and to target those trademarks.

The disputed domain name is also being used in bad faith. The unauthorised impersonation of the Complainant and the alleged offering for sale of the Complainant’s products for which, as per the unrebutted statements of the Complainant, the Respondent has no authorization, is clear indication of use for illegal activity. The website at the disputed domain name appears to deliberately mislead Internet users that they are connected to, authorised by, or affiliated with the Complainant, as it displayed the Complainant’s trademark and logo, ostensibly offering the Complainant’s products without a disclaimer on the website regarding the relationship between the Respondent and the Complainant or lack thereof. In these circumstances, the Panel concludes that the Respondent has intentionally attempted to attract, for commercial gain, Internet users by misleading them into believing that the Respondent’s website and the products offered for sale on the website are those of or authorised or endorsed by the Complainant.

Panels have held that the use of a domain name for illegal activity, such as the sale of counterfeit goods or impersonation/passing off, or other types of fraud 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 <legavenueonsale.com> be transferred to the Complainant.

*/Mihaela Maravela/*

**Mihaela Maravela**

Sole Panelist

Date: April 11, 2025