

## ADMINISTRATIVE PANEL DECISION

Vida Shoes International, Inc. v. avafza urgtk  
Case No. D2025-0737

### 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 avafza urgtk, USA.

### 2. The Domain Name and Registrar

The disputed domain name <aquatashoe.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 21, 2025. On February 24, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. The next day, 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 26, 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 4, 2025. In accordance with the Rules, paragraph 5, the due date for Response was March 24, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 29, 2025.

The Center appointed Dennis A. Foster as the sole panelist in this matter on April 2, 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 which for several decades has engaged in the online sale of footwear. The Complainant conducts its business under 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 online footwear retail store services. Also, in offering its services, the Complainant utilizes a website attached to its domain name <aquatalia.com>.

The Respondent owns the disputed domain name <aquataliashoe.com>, which was registered on October 10, 2024. The disputed domain name is connected to a website that prominently displays the Complainant's AQUATALIA trademark and purports to sell footwear comparable to that sold by the Complainant.

#### **5. Parties' Contentions**

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

- For many years, the Complainant has been in the business of selling footwear online through its website at its domain name <aquatalia.com>. These sales predate by several decades 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 term “shoe” 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 from the Complainant to the Respondent.
- The Respondent is using the disputed domain name to host a website that traffics in the same type of shoes that the Complainant is marketing online, which use fails to conform to a “bona fide offering of goods or services” under the Policy.
- The Respondent's fraudulent sales actions do not constitute a “legitimate noncommercial or fair use” of the disputed domain name.
- The Respondent has not been commonly known by the disputed domain name.
- The disputed domain name has been registered and used in bad faith by the Respondent. The Respondent used the disputed domain name to impersonate the Complainant in the sale of duplicate footwear. By using the disputed domain name, the Respondent intentionally attempted to attract for commercial gain Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's mark.

##### **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 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 presented the Panel with sufficient evidence that it owns a valid USPTO registration for the service mark AQUATALIA, and thus the Panel finds that the Complainant possesses trademark 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 within the disputed domain name. As a result, the Panel concludes that the addition of the term "shoe" 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 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 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 this 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 case 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 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 this 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 offers Internet users purportedly the same merchandise offered by the Complainant under its AQUATALIA mark at the website connected to its domain name <aquatalia.com>. The Panel determines that this 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, so the Panel finds that Policy paragraph 4(c)(ii) 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 in 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 [the respondent] has registered or [the respondent] has 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 [the respondent’s] documented out-of-pocket costs directly related to the domain name; or

(ii) [the respondent] has 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 [the respondent] has engaged in a pattern of such conduct; or

(iii) [the respondent] has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, [the respondent] has intentionally attempted to attract, for commercial gain, Internet users to [the respondent’s] 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 [the respondent’s] web site or location or of a product or service on [the respondent’s] 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 in view of 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. Also, the Complainant has supplied evidence that the disputed domain name is connected to a website that purports to sell Internet users the same type of footwear that the Complainant markets through its own website. The Panel concludes that such usage is also a 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.”).

Accordingly, 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 <aquataliashoe.com> be transferred to the Complainant.

*/Dennis A. Foster/*

**Dennis A. Foster**

Sole Panelist

Date: April 16, 2025