

## ADMINISTRATIVE PANEL DECISION

Dan Foam ApS v. 杨勇波 (yongbo), Boss Cloud Technology (Zhejiang) Co., Ltd.

Case No. D2025-4677

### 1. The Parties

The Complainant is Dan Foam ApS, Denmark, represented by Vice Cox & Townsend PLLC, United States of America (“U.S”).

The Respondent is 杨勇波 (yongbo), Boss Cloud Technology (Zhejiang) Co., Ltd., China.

### 2. The Domain Name and Registrar

The disputed domain name <tempurmattresstoppers.com> is registered with Xin Net Technology Corporation (the “Registrar”).

### 3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on November 11, 2025. On November 12, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 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 (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 18, 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 November 19, 2025.

On November 18, 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 November 19, 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 November 20, 2025. In accordance with the Rules, paragraph 5, the due date for Response was December 10, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 11, 2025.

The Center appointed Douglas Clark as the sole panelist in this matter on December 17, 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 Dan Foam ApS, a corporation organized under the laws of Denmark and doing business in the U.S. and around the world through its related companies Tempur-Pedic Management, LLC, Tempur World, LLC, and Tempur Sealy International, Inc.

Tempur Sealy International, Inc., the parent company of the subsidiaries Tempur-Pedic Management, LLC and Dan-Foam ApS developed, manufactured, and marketed visco-elastic foam mattresses, cushions, pillows, and other comfort products and accessories under the TEMPUR-PEDIC, TEMPUR, and TEMPUR-PEDIC & Reclining Figure Design Marks (“TEMPUR Marks”). The Complainant began using the TEMPUR-PEDIC mark on October 30, 1992 and use of the TEMPUR mark began at least as early as November 10, 1994.

The Complainant has spent millions of U.S. dollars in advertising for products offered in connection with the TEMPUR Marks and has realized millions of U.S. dollars in sales of said products.

The Complainant is the owner of the following trademarks, as well as many others, which are registered on the Principal Register of the United States Patent & Trademark Office:

TEMPUR registered on October 10, 1995, under No. 1,926,469 for mattresses, cushions and furniture pads made of elastic viscous foam;

TEMPUR-PEDIC registered on September 6, 1994, under No. 1,853,088 for mattresses, cushions and furniture pads made of elastic viscous foam; and

TEMPUR SEALY registered on June 21, 2016, under No. 4,980,596 for business management and consultation services for the manufacture, marketing, distribution and sale of bedding and seating products, namely mattresses and cushions.

The Respondent is an individual based in China.

The disputed domain name was registered on October 13, 2025 and it resolved to a website in English with the TEMPUR-PEDIC trademark prominently shown that purported to sell the Complainant’s products.

#### **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:

- (a) that the disputed domain name is confusingly similar to the Complainant's TEMPUR Marks except that the Respondent has added the words "mattress toppers".
- (b) the Respondent has no rights or legitimate interests in the disputed domain name. It has not been granted any authorisation by the Complainant.
- (c) the Respondent registered the disputed domain name in bad faith. The disputed domain name was registered and is being used primarily with the intent to disrupt the business of the Complainant with knowledge of the Complainant by defrauding its retail partners.

## **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 the following reasons:

- (1) the language/script of the disputed domain name is in English, as are the Complainant's marks;
- (2) all of the content of the "www.tempurmattresstoppers.com" webpage is in English which shows that the Respondent has mastered the English language;
- (3) it would be unfair to the Complainant and cause unwarranted delay and expense should the Complainant be required to translate the Complaint into Chinese; and
- (4) the form of currency accepted on the "www.tempurmattresstoppers.com" webpage is U.S. dollars.

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 trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the mark is recognizable 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, "mattress" and "toppers" 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.

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 illegitimate activity here, claimed as applicable to this case: impersonation/passing off, 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 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 Respondent was using the webpage under the disputed domain name to impersonate or pass itself off as the Complainant. The Respondent must have known of the Complainant when registering the disputed domain name.

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.

Panels have held that the use of a domain name for illegitimate activity, here, claimed as impersonation/passing off constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. 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 <tempurmattresstoppers.com> be transferred to the Complainant.

*/Douglas Clark/*

**Douglas Clark**

Sole Panelist

Date: December 31, 2025