

## **ADMINISTRATIVE PANEL DECISION**

Kepe1 STC, LLC v. Alli Pepperling  
Case No. D2026-1250

### **1. The Parties**

Complainant is Kepe1 STC, LLC, United States of America (“United States”), represented by Smith, Anderson, Blount, Dorsett, Mitchell & Jernigan, LLP, United States.

Respondent is Alli Pepperling, United States.

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

The disputed domain name <sweetwatertowncenter.com> is registered with GoDaddy.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 23, 2026. On March 24, 2026, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 24, 2026, the Registrar transmitted by email to the Center its verification response confirming that Respondent is listed as the registrant and providing the contact details.

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 Respondent of the Complaint, and the proceedings commenced on March 31, 2026. In accordance with the Rules, paragraph 5, the due date for Response was April 20, 2026. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on April 24, 2026.

The Center appointed Scott R. Austin as the sole panelist in this matter on April 29, 2026. 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 following facts appear from the Complaint and its attached Annexes, which have not been contested by Respondent, and provide sufficient evidence to support:

Organized as a North Carolina limited liability company and headquartered in Raleigh, North Carolina, Complainant provides real estate development services under the trademarks SWEETWATER and SWEETWATER TOWN CENTER (the “SWEETWATER Marks”) including the development of a mixed use complex in Apex, North Carolina. Construction on the Sweetwater Town Center began in 2019, with the development consisting of 230 apartments and 66,000 square feet of retail space. Complainant shows that 100% of available retail space was pre-leased prior to the completion of construction of the complex and Complainant continues to operate this complex through its real estate services identified under the SWEETWATER Marks.

Complainant claims unregistered, common-law trademark rights in the United States marketplace in the SWEETWATER Marks by virtue of its continuous and exclusive use of the marks in commerce since at least 2017, including substantial advertising, media and industry recognition and incorporating the SWEETWATER Mark into its official domain name <sweetwaterapex.com>. As shown in web page printouts submitted as evidence of use in the annexes to its Complaint, the official domain name is used to access Complainant’s official SWEETWATER Marks website (“Official Website”) to promote and offer its real estate services to its customers under the SWEETWATER Marks and has provided extensive promotion of Complainant’s real estate development services including media coverage of groundbreaking ceremonies, on site development signs and published media recognition using the marks for approximately the past nine years.

Complainant has also submitted evidence of the following pending applications for United States trademark registration with the United States Patent and Trademark Office (“USPTO”) of its SWEETWATER Marks (the “Pending Applications”) for consideration by the Panel as evidence of its efforts to obtain statutory rights in the SWEETWATER Marks:

United States Application Ser. No. 99594324, SWEETWATER TOWN CENTER (word), filed January 14, 2026, for “real estate services, namely, sales, development leasing, and management of retail, office, and commercial space” in International Class 36 and claiming a first use date at least as early as December 2017; and

United States Application Ser. No. 99594322, SWEETWATER (word plus design), filed January 14, 2026, for “real estate services, namely, sales, development leasing, and management of retail, office, and commercial space” in International Class 36 and claiming a first use date at least as early as December 2017.

The Whois record shows the disputed domain name was registered on April 5, 2024, and Complainant shows that as of the date of the filing of its Complaint, the disputed domain name resolved to a website (“Respondent’s Site”) headed “Sweetwater Town Center”, advertising Complainant’s property and which Complainant asserts is designed with content to mimic Complainant’s Official Website, including a banner stating “Welcome to Sweetwater Town Center” and no disclaimer indicating that the website is not an authentic website affiliated with or endorsed by Complainant. Complainant characterizes Respondent’s Site as a misleading lead generator website to funnel people looking for Complainant to Respondent’s Site, as the disputed domain name also contained links to Respondent’s personal website. Respondent is a known competitor of Complainant offering real estate services in the real estate development complex managed by Complainant in direct competition with Complainant’s services as promoted on Complainant’s Official Website.

On January 17, 2026, and again on January 28, 2026, based on Respondent's Site to which the disputed domain name resolved, Complainant sent cease-and-desist letters to Respondent, demanding Respondent stop using the disputed domain name. On February 23, 2026, Respondent replied suggesting the disputed domain name could serve as a basis for refusal of registration of the SWEETWATER Marks in the Pending Applications and offering to sell the disputed domain name to Complainant for USD 75,000 and free advertising placement of her business on Complainant's SWEETWATER development "lawn sign".

Complainant also shows that on or about the date of the filing of its Complaint, Respondent had registered "sweetwatertowncenter" handles for Respondent's active social media sites on Instagram and TikTok. The Panel's independent investigation of the disputed domain name found that as of the date visited, May 16, 2026, the website appeared to be no longer active but the social media sites were active, and Internet Archive captures of Complainant's Official Website in 2017 confirmed clear use of the SWEETWATER Marks online for Complainant's real estate services. Numerous cases support a panel's power to undertake such limited factual research, and the Panel has, in its discretion, examined Respondent's Site and social media sites, the Internet Archive to confirm Complainant's unregistered trademark use claim, as well as the USPTO database for the current status of Complainant's United States trademark application data.<sup>1</sup>

## 5. Parties' Contentions

### A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name: that the disputed domain name is identical or confusingly similar to Complainant's SWEETWATER Marks; that Respondent has no rights or legitimate interests in respect of the disputed domain name; and that the disputed domain name was registered and is being used in bad faith. Notably, Complainant claims Respondent was aware of Complainant and its SWEETWATER Marks because Respondent has acquired real property from Complainant managed through Complainant's services identified by its SWEETWATER Marks, that Respondent has used the disputed domain name to redirect users to Respondent's similarly configured website and social media sites, and has offered to sell the disputed domain name to Complainant for an amount far in excess of out-of-pocket costs Respondent would have paid to acquire and maintain it.

### B. Respondent

Respondent did not reply to Complainant's contentions.

## 6. Discussion and Findings

There are no exceptional circumstances within paragraph 5(e) of the Rules to prevent this Panel from determining the present dispute based upon the Complaint, notwithstanding the failure of any person to lodge a substantive formal Response in compliance with the Rules. Under paragraph 14 of the Rules, where a party does not comply with any provision of the Rules, the Panel shall "draw such inferences therefrom as it considers appropriate".

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<sup>1</sup> "Noting in particular the general powers of a panel articulated inter alia in paragraphs 10 and 12 of the UDRP Rules, it has been accepted that a panel may undertake limited factual research into matters of public record if it would consider such information useful to assessing the case merits and reaching a decision, in particular to affirm or corroborate a party's contention. This may include visiting the website linked to the disputed domain name in order to obtain more information about the respondent or its use of the domain name, consulting historical resources such as the Internet Archive [...] in order to obtain an indication of how a domain name may have been used in the relevant past, [...] or accessing trademark registration databases." WIPO Overview of WIPO Panel Views on Select UDRP Questions ("[WIPO Overview 3.1](#)"), section 4.8. See e.g., *Humble Bundle, Inc. v. Domain Admin, Whois Privacy Corp.*, WIPO Case No. [D2016-0914](#); and *Creative NetVentures, Inc. v. Webheads*, WIPO Case No. [D2000-1655](#).

Where no substantive Response is filed, however, Complainant must still make out its case in all respects under paragraph 4(a) of the Policy. To succeed, Complainant must demonstrate that the requirements for each of the elements listed in paragraph 4(a) of the Policy have been satisfied.

The Panel will address its findings on each of these elements in more detail below.

The standard of proof under the Policy is often expressed as the “balance of the probabilities” or “preponderance of the evidence” standard. Under this standard, an asserting party needs to establish that it is more likely than not that the claimed fact is true. See [WIPO Overview 3.1](#), section 4.2.

#### **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 Complainant’s trademark and the disputed domain name. [WIPO Overview 3.1](#), section 1.7.

Complainant has continuously and exclusively owned and operated its Official Website using the domain name <sweetwaterapex.com>, where since 2017 Complainant has and continues to promote and offer its real estate services under the SWEETWATER Mark. The Panel has independently verified the historical captures of the Official Website on Internet Web Archives and is satisfied that it has been active since at least 2017.<sup>2</sup>

Complainant claims unregistered trademark rights and contends that as of the filing of the Complaint, unregistered rights in the SWEETWATER Mark were established through acquired distinctiveness through use and advertising evidence as well as reference to the Pending Applications filed on January 14, 2026.

A consensus of prior UDRP panels has determined the relevant evidence to demonstrate acquired distinctiveness (also referred to as secondary meaning) to find a complainant has established trademark rights at common law includes a range of factors such as (i) the duration and nature of use of the mark (which may include social media presence and engagement), (ii) the amount of sales under the mark and during which time period, (iii) the nature and extent of advertising using the mark – including evidence of expenditures over a relevant time period, (iv) the degree of actual public (e.g., consumer, industry such as trade and professional associations, media) recognition, and (v) consumer surveys. [WIPO Overview 3.1](#), section 1.3. In addition, as the Panel’s consideration of Respondent’s bad faith use of its website in evaluating the second and third elements below, the fact that a respondent is shown to have been targeting a complainant’s mark (e.g., based on the manner in which the related website is used) may also support a complainant’s assertion that its mark has achieved significance as a source identifier. *Id.*

First, as for the pending word mark application submitted, the Panel observes: 1) pending trademark applications would not by themselves establish trademark rights within the meaning of UDRP paragraph 4(a)(i). See [WIPO Overview 3.1](#), sections 1.1.4; 2) according to the respective USPTO file history, each of the Pending Applications is currently subject to a non-final office action which includes a Section 2(d) refusal for likelihood of confusion with conflicting cited registrations which Complainant will have to overcome to proceed to registration. Based on the foregoing uncertainties unaccounted for in the record the Panel finds the Pending Applications should be given no consideration in assessing unregistered rights in the SWEETWATER Marks.

The Panel notes however that this is not determinative, as Complainant has furnished un rebutted evidence, including media recognition and recognition by other industry professional associations and consumers in its industry, to show that SWEETWATER has acquired sufficient relevant secondary meaning in connection with Complainant’s products to confer trademark rights on Complainant within the meaning of the Policy.

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<sup>2</sup> <https://web.archive.org/web/20170606144855/http://sweetwaterapex.com/>

Based on the evidence of widespread and accelerated recognition of the SWEETWATER Mark through exclusive and continuous use since 2017, substantial investment in advertising and promotion noted in section 4 above, as well as media, industry and third party recognition in relevant trade media and recognition by consumers relevant to its industry set forth in evidence submitted, the Panel finds unregistered trademark rights in the SWEETWATER Mark have been established as of the filing of the Complaint sufficient to satisfy the first element of the Policy. Prior UDRP panels have found unregistered rights based on these factors. [WIPO Overview 3.1](#), section 1.3. See also *Imperial College v. Christophe Dessimoz*, WIPO Case No. [D2004-0322](#).

With Complainant's rights in the SWEETWATER Marks established, the remaining question under the first element of the Policy is whether the disputed domain name is identical or confusingly similar to Complainant's SWEETWATER Marks. Complainant contends that the disputed domain name is clearly confusingly similar to Complainant's SWEETWATER Marks.

Prior UDRP panels have held that the incorporation of the entirety of a trademark in a domain name is sufficient to establish identity or confusing similarity for purposes of the Policy. See [WIPO Overview 3.1](#), sections 1.7 and 1.8 ("Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element"); see also *Carrefour SA v. yuri eros*, *ניו"מ ביתן בע"מ*, WIPO Case No. [D2022-1277](#).

Except for the generic Top-Level Domain ("gTLD") ".com", Complainant's SWEETWATER TOWN CENTER Mark is incorporated in its entirety in the disputed domain name. The addition of the gTLD ".com" is irrelevant in determining whether the disputed domain name is confusingly similar. [WIPO Overview 3.1](#), section 1.11. See also, *Philip Morris Products S.A. v. Stanislav Severin*, WIPO Case No. [D2020-1546](#).

This Panel finds confusing similarity between the disputed domain name and Complainant's SWEETWATER Marks, which remain fully recognizable as incorporated in their entirety into the disputed domain name. [WIPO Overview 3.1](#), section 1.7.

Accordingly, the Panel finds that Complainant has satisfied paragraph 4(a)(i) of the Policy.

## **B. Rights or Legitimate Interests**

Under the second element of the Policy, a complainant is first required to make out a prima facie case that the respondent lacks rights or legitimate interests in the disputed domain name. If a complainant makes that showing, the burden of production on this element shifts to the respondent to come forward with relevant evidence of such rights or legitimate interests in the domain name. If the respondent fails to come forward with such evidence, a complainant is generally deemed to have satisfied the second element. [WIPO Overview 3.1](#), section 2.1. See also, *Malayan Banking Berhad v. Beauty, Success & Truth International*, WIPO Case No. [D2008-1393](#).

Based on the record, the Panel finds Complainant has established, prima facie, that Respondent lacks rights or legitimate interests in the disputed domain name. First, Complainant asserts that it has never assigned, sold, or transferred any rights in any of its SWEETWATER Marks to Respondent. Second, Complainant asserts it has not granted Respondent permission to use or register its SWEETWATER Marks as a domain name or otherwise in any manner. Complainant also contends that Respondent is not commonly known by the disputed domain name because Respondent, "Alli Pepperling", clearly bears no resemblance to the terms "sweetwater town center", the SWEETWATER Marks, or the disputed domain name. The Panel finds that Respondent is not commonly known by the disputed domain name for purposes of the Policy.

Complainant contends that Respondent has not used the disputed domain name in connection with a bona fide offering of goods and services because it is used without Complainant's authorization to resolve to a webpage advertising Complainant's property, with a similar look and feel as Complainant's Official Website, that also redirects users to Respondent's personal website relating to Respondent's realty group and its competing real estate services. Prior UDRP panels have held that such use "does not amount to a legitimate noncommercial or fair use", as it necessarily involves some degree of deception or intent to mislead, and does not constitute use in connection with any bona fide offering of goods or services. See, e.g., *JJA v. Super Privacy Service LTD c/o Dynadot /Milen Radumilo*, WIPO Case No. [D2021-2124](#).

The Panel finds Respondent is not using the disputed domain name in connection with a bona fide offering of goods or services, so as to confer rights or legitimate interests in it in accordance with paragraph 4(c)(i) of the Policy and that the composition of the disputed domain name being identical to Complainant's SWEETWATER TOWN CENTER mark fosters an implied affiliation with Complainant. [WIPO Overview 3.1](#), section 2.5.1.

These facts establish Complainant's prima facie showing. Respondent has not provided any basis on which that showing may be overcome. Complainant has successfully met its burden under paragraph 4(a)(ii) of the Policy.

### **C. Registered and Used in Bad Faith**

Finally, Complainant must prove, by a preponderance of the evidence, that the disputed domain name has been registered and used in bad faith under paragraph 4(a)(iii) of the Policy. See, e.g., *Hallmark Licensing, LLC v. EWebMall, Inc.*, WIPO Case No. [D2015-2202](#).

Paragraph 4(b) of the Policy sets out a non-exhaustive list of circumstances that point to bad faith conduct on the part of a respondent. The panel may, however, consider the totality of the circumstances when analyzing bad faith under Policy, paragraph 4(a)(iii) and may make a finding of bad faith that is not limited to the enumerated factors in Policy, paragraph 4(b). See *Do the Hustle, LLC v. Tropic Web*, WIPO Case No. [D2000-0624](#).

First, Complainant contends, and this Panel has found in Section 6A above from the record submitted and its own independent investigation as permitted under the Policy, that the SWEETWATER Mark is recognized. Based on the uncontested record, considering that the SWEETWATER Marks have achieved secondary meaning sufficient to establish common law trademark rights within the meaning of the Policy, and advertised in the United States, where Respondent, a recognized competitor of Complainant is purportedly located, as well as the fact that Complainant's earliest trademark use at common law predates the disputed domain name by almost seven years, and the disputed domain name incorporates the SWEETWATER and SWEETWATER TOWN CENTER Marks in their entirety, the Panel finds Respondent has no credible argument that she was unaware of the SWEETWATER Marks. See, e.g., *Alstom v. Domain Investments LLC*, WIPO Case No. [D2008-0287](#); see also *Accor S.A. v. Kristen Hoerl*, WIPO Case No. [D2007-1722](#).

Complainant contends Respondent undoubtedly had actual knowledge of Complainant's rights in its SWEETWATER Marks prior to registering the disputed domain name. In addition, Complainant contends Respondent was aware of Complainant's marks and domains at the time <sweetwatertowncenter.com> was registered because Respondent and Complainant had previously interacted with each other in real estate transactions for the purchase by Respondent of property at Complainant's real estate development complex. Moreover, the content on the website at the disputed domain name, and the fact that the disputed domain name included links that redirected to Respondent's personal website that competes directly with Complainant's own Official Website reinforces the conclusion that Respondent was aware of Complainant and its SWEETWATER Marks prior to registering and using the disputed domain name.

Prior UDRP panels have also found that where, as here, it would be implausible to believe that Respondent selected and was using the disputed domain name for any other purpose than to trade on Complainant's trademark rights and reputation, it establishes a fact pattern that repeatedly has been held to constitute bad faith registration. See *Houghton Mifflin Co. v. Weathermen, Inc.*, WIPO Case No. [D2001-0211](#); see also *Philip Morris Incorporated v. Alex Tsypkin*, WIPO Case No. [D2002-0946](#). The Panel finds, therefore, that Respondent had actual knowledge of the SWEETWATER Marks and that Respondent targeted Complainant's SWEETWATER Marks in registering the disputed domain name in bad faith. See *Tudor Games, Inc. v. Domain Host master, Customer ID No. 09382953107339 dba Whois Privacy Services Pty Ltd / Domain Administrator, Vertical Axis Inc.*, WIPO Case No. [D2014-1754](#).

Having reviewed the record, which shows the disputed domain name contained links to Respondent's real estate services website directly in competition with Complainant's preexisting Official Website, Respondent had actual knowledge of Complainant and its marks, Respondent created a website which imitated the look and feel of Complainant's website to advertise Complainant's property, and Respondent demanded a payment likely in excess of Respondent's out-of-pocket-costs unless Complainant allowed her space to advertise her services, the Panel finds that such use of the disputed domain name supports a finding of bad faith registration and use under the circumstances of this proceeding. [WIPO Overview 3.1](#), section 3.1.4.

The Panel finds Complainant's arguments and evidence persuasive and has received no arguments or evidence from Respondent to the contrary. Considering all the circumstances, the Panel concludes that Respondent has registered and used the disputed domain name in bad faith and finds Complainant has satisfied paragraph 4(a)(iii) 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 <sweetwatertowncenter.com> be transferred to Complainant.

*/Scott R. Austin/*

**Scott R. Austin**

Sole Panelist

Date: May 15, 2026