ARBITRATION
AND
MEDIATION CENTER

WIPO
WORLD
INTELLECTUAL PROPERTY
ORGANIZATION

ADMINISTRATIVE PANEL DECISION
Imagewear Apparel, LLC v. 夏海峰 (Xia HaiFeng)
Case No. D2026-3680

1. The Parties

The Complainant is Imagewear Apparel, LLC, United States of America ("United States"), represented by Holland & Knight LLP, United States.

The Respondent is 夏海峰 (Xia HaiFeng), China.

2. The Domain Name and Registrar

The disputed domain name <redkapusa.com> is registered with Guizhou Zhongyu Zhike Network Technology Co., Ltd. (the "Registrar").

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on August 17, 2026. On August 18, 2026, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 19, 2026, 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 (Registrant Not Identified) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 22, 2026, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed amended Complaints in English on August 24 and 31, 2026, respectively.

On August 22, 2026, the Center informed the Parties in Chinese and English, that the language of the Registration Agreement for the disputed domain name is Chinese. On August 24, 2026, 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 Complaints 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 September 2, 2026. In accordance with the Rules, paragraph 5, the due date for Response was September 22, 2026. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on September 25, 2026.

The Center appointed James Wang as the sole panelist in this matter on October 7, 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 Complainant is a Delaware limited liability company located in the United States.

The Complainant claims to have been marketing and selling clothing and footwear under the RED KAP trademark since at least 1971.

The Complainant is the registrant of trademarks consisting of or containing RED KAP in different jurisdictions, including but not limited to:

- China trademark registration No. 17949875 for RED KAP 1923, registered on November 7, 2016;
- United States trademark registration No. 1758476 for RED KAP, registered on March 16, 1993; and
- Canada trademark registration No. TMA218468 for RED KAP, registered on January 21, 1977.

The Complainant operates an official website at the domain name <redkap.com>, which was registered on October 28, 1995.

The disputed domain name was registered on January 29, 2026 and at the time of filing of the Complaint, resolved to a website in English reproducing elements of the home page from the Complainant's own website and purportedly offering RED KAP branded 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 that the disputed domain name is identical or confusingly similar to the trademark in which the Complainant has rights. The Respondent has no rights or legitimate interests in respect of the disputed domain name. The disputed domain name was registered and is being used in bad faith.

The Complainant requests that the disputed domain name be transferred to the Complainant.

B. Respondent

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

6. Discussion and Findings

6.1 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.

The Respondent did not make any 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 Select UDRP Questions ("WIPO Overview 3.1"), section 4.5.1.

Considering the Center has already sent Chinese-English dual language case-related communications to the Parties, including the notification of the commencement of the proceeding with instructions regarding the language of the proceeding, and thereby given the Respondent an opportunity to comment on or to oppose the Complainant's request and arguments, and considering the Respondent's default and lack of reaction after having been given a fair chance to comment or oppose, together with the fact that the disputed domain name resolved to a website in English, the Panel finds it would not be unfair to proceed in English as requested by the Complainant.

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 Elements

According to paragraph 4(a) of the Policy, the Complainant must prove that:

(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

The Complainant has provided evidence that it is the owner of trademarks consisting of or containing RED KAP in different jurisdictions.

The applicable Top-Level Domain ("TLD") in a domain name is viewed as a standard registration requirement and as such is typically disregarded under the first element confusing similarity test. Therefore, the TLD ".com" shall be disregarded under the confusing similarity test in this case. See WIPO Overview 3.1, section 1.11.1.

The disputed domain name incorporates the entirety of the Complainant's RED KAP trademark. As the RED KAP trademark is recognizable within the disputed domain name, the disputed domain name is confusingly similar to the Complainant's trademark. The addition of the term "usa" does not prevent a finding of

confusing similarity. See WIPO Overview 3.1, sections 1.7 and 1.8.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. See WIPO Overview 3.1, section 2.1.

According to the Complaint, the Respondent is not related to, affiliated with, endorsed by, or otherwise associated with the Complainant. The Respondent has not sought authorization, permission, or a license from the Complainant to use the RED KAP mark, nor has the Complainant granted any such authorization, permission, or license to the Respondent. There is no evidence that the Respondent has been commonly known by the disputed domain name or is making a legitimate noncommercial or fair use of the disputed domain name. Further, panels have held that the use of a domain name for illegitimate activity here, claimed, copycat site, passing off can never confer rights or legitimate interests on a respondent. WIPO Overview 3.1, section 2.13.1.

The Panel finds that the Complainant has made a prima facie case that the Respondent lacks rights or legitimate interests, and the Respondent has failed to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

Given the long history of the Complainant's RED KAP trademark, which has also been registered by the Complainant in China where the Respondent is located, and the fact that the disputed domain name incorporates both the Complainant's RED KAP trademark in its entirety, along with the term "usa" referring to the country where the Complainant is located, it is inconceivable that the Respondent registered the disputed domain name without knowledge of the Complainant's RED KAP trademark at the time of registration. The Panel finds that the disputed domain name was registered in bad faith.

The Panel notes that the disputed domain name resolved to a website reproducing elements of the home page from the Complainant's own website and purportedly offering RED KAP branded products. This indicates the Respondent's intent to profit in some fashion from or otherwise exploit the Complainant's trademark. Such conduct constitutes bad faith under paragraph 4(b)(iv) of the Policy.

The Panel further notes that, at the time of the Panel's drafting of this Decision, the disputed domain name is no longer active. However, panels have found that the non-use of a domain name would not by itself prevent a finding of the Respondent's bad faith under the doctrine of passive holding. See WIPO Overview 3.1, section 3.3.

Considering the above, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith.

The Panel therefore 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 <redkapusa.com> be transferred to the Complainant.

/James Wang/
James Wang
Sole Panelist
Date: October 21, 2026