

## **ADMINISTRATIVE PANEL DECISION**

Cache-Cache v. xiuzhen zhang  
Case No. D2022-2727

### **1. The Parties**

The Complainant is Cache-Cache, France, represented by Inlex IP Expertise, France.

The Respondent is xiuzhen zhang, China.

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

The disputed domain name <cachecache.shop> is registered with Dynadot, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 26, 2022. On July 26, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 27, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on July 28, 2022 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 July 29, 2022.

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 August 2, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 22, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 24, 2022.

The Center appointed William F. Hamilton as the sole panelist in this matter on September 5, 2022. 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 French company with its principal offices in Saint-Malo, France. The Complainant manufactures and sells women's clothing. The Complainant owns the word trademark CACHE-CACHE (the "Mark").

The Complainant owns registrations for the Mark worldwide including Benelux Registration No. 401206, dated May 11, 1984.

The Complainant owns the domain name <cache-cache.com> which resolves to the Complainant's website featuring its fashionable clothing.

The disputed domain name was registered on June 29, 2022. The disputed domain name resolves to a website which has the look and feel of the Complainant's website and purports to sell women's fashionable clothing. The Respondent's website contains photographs of Complainant's high fashion products and reproduces the Complainant's Mark.

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

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

The Complainant asserts that the disputed domain name is virtually identical to the Mark because the disputed domain name is composed of the Complainant's Mark, albeit omitting the middle hyphen, and the generic Top-Level Domain ("gTLD") ".shop."

The Complainant asserts that the Complainant never authorized the Respondent to use the disputed domain name, that the Respondent is not generally known by the disputed domain name, and that the Respondent has never engaged in any *bona fide* commercial activity in connection with the disputed domain name.

The Complainant further asserts that the Respondent registered and used the disputed domain name in bad faith as part of a scheme either to sell knockoff products to unsuspecting Internet shoppers or to obtain the shopper's confidential credit card and other personally identifying information.

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

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

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

Under paragraph 4(a) of the Policy, to succeed the Complainant must satisfy the Panel 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 was registered and is being used in bad faith.

##### **A. Identical or Confusingly Similar**

The Panel finds that the disputed domain name is confusingly similar to the Complainant's Mark. The Complainant's Mark is identical to the Complainant's Mark, with the trivial exception of excluding the middle hyphen in the Mark.

A domain name which wholly incorporates a complainant's registered mark is sufficient to establish confusingly similarity for the purposes of the Policy especially in this case where the disputed domain name is identical to Complainant's Mark. See also *Cache-Cache v. Wei Zhang*, WIPO Case No. [D2022-2277](#) (transferring <cachecache-es.xyz>), and WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7; *Nomura International Plc / Nomura Holdings, Inc. contre Global Domain Privacy / Nicolas Decarli*, WIPO Case No. [D2016-1535](#) (transferring <nomura-bank.com>). See [WIPO Overview 3.0](#), section 1.8 ("where the relevant trademark is recognizable with the disputed domain name, the additions of other terms (whether descriptive, geographic, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element"); *British American Tobacco (Brands) Limited v. Contact Privacy Inc. Customer 0163501448 / James Onuoha Doe, Bat Corps*, WIPO Case No. [D2022-1353](#) (transferring <careers-bat.com>).

The gTLD of the disputed domain name, in this case ".shop", may be disregarded for the purposes of assessment under the first element, as it is viewed as a standard registration requirement. See [WIPO Overview 3.0](#), section 1.11.1. *Monster Energy Company, a Delaware Corporation v. J.H.M. den Ouden*, WIPO Case No. [D2016-1759](#) (transferring <monsterenergy.world>).

The Complainant has met its burden under paragraph 4(a)(i) of the Policy.

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

The facts and circumstances presented to the Panel demonstrate that the Respondent does not have any rights or legitimate interests in the disputed domain name.

The Complainant has specifically disavowed providing the Respondent with permission to use the disputed domain name or the Mark. The Respondent is not affiliated with the Complainant in any way and does not have any business relationship with the Complainant. There is no evidence that the Respondent has conducted any *bona fide* business under the disputed domain name or is commonly known by the disputed domain name.

The Complainant has thus established a *prima facie* case in its favor, which shifts the burden of production on this point to the Respondent. The Respondent, however, has failed to come forth with any evidence showing any rights or legitimate interests in the disputed domain name. *Compagnie de Saint Gobain v. Com-Union Corp.*, WIPO Case No. [D2000-0020](#).

Furthermore, the disputed domain name carries a high risk of implied affiliation with the Complainant. See [WIPO Overview 3.0](#), section 2.5.1. The disputed domain name is identical to the Complainant's Mark and the association of the TDL ".shop" with the Complainant's Mark clearly suggests that the disputed domain name will resolve to a website sponsored by the Complainant.

The Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

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

The Panel finds the disputed domain name was registered and is being used in bad faith.

Under paragraph 4(b) of the Policy, bad faith may be established by any one of the following scenarios:

(i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name 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 its website 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 website or location or of a product or service on the respondent's website or location.

On the evidence presented, it is obvious that the disputed domain name was registered and used in bad faith as part of a scheme to fool unsuspecting Internet shoppers. The disputed domain name resolves to a website which is an obvious copy of the Complainant's website. The Respondent's website reproduces the Complainant's Mark as well as the pictures and products of the Complainant's clothing items leading an Internet visitor to falsely believe that the Respondent's website is an outlet website for the Complainant or, at the very least, a website affiliated with the Complainant.

Even disregarding the foregoing analysis, it is difficult to conceive of any use that the Respondent might make of the disputed domain name without the Complainant's consent that would not involve bad faith. *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#); *Verner Panton Design v. Fontana di Luce Corp*, WIPO Case No. [D2012-1909](#) ("where the reputation of a complainant in a given mark is significant and the mark bears strong similarities to the disputed domain name, the likelihood of confusion is such that bad faith may be inferred"); *DPDgroup International Services GmbH & Co. KG v. Wise One, Wilson TECH*, WIPO Case No. [D2021-0109](#); *Monster Energy Company v. PrivacyDotLink Customer 116709 / Ferdinand Nikolaus Kronschnabl*, WIPO Case No. [D2016-1335](#).

## 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 <cachecache.shop> be transferred to the Complainant.

*/William F. Hamilton/*

**William F. Hamilton**

Sole Panelist

Date: September 15, 2022