

## **ADMINISTRATIVE PANEL DECISION**

Tristate Trinovation IP S.A. v. xiuying liu  
Case No. D2023-1570

### **1. The Parties**

The Complainant is Tristate Trinovation IP S.A., Switzerland, represented by Bugnion S.p.A., Italy.

The Respondent is xiuying liu, China.

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

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

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 11, 2023. On April 11, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On April 11, 2023, 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 April 13, 2023 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 amendment to the Complaint on April 14, 2023.

The Center verified that the Complaint together with the amendment to 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 the Respondent of the Complaint, and the proceedings commenced on May 1, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 21, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 26, 2023.

The Center appointed Mariia Koval as the sole panelist in this matter on June 12, 2023. 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 part of Tristate Holdings which is one of the world's largest manufacturers of high-quality apparel. With export garments reaching over USD 300 million per annum, the Holdings produces a full spectrum of fashion clothing ranging from formal and career wear, including suits, coats, jackets, skirts, pants, to casual and athletic clothing for both men and women. It owns and operates 10 factories located in Mainland China, Philippines, Thailand and Viet Nam. In 2015 the Tristate Holdings acquired C.P. COMPANY brand, which over the last decades has become known worldwide for its revolutionary garment dyeing technology, innovative fabrics, and reinterpretation of military, work and sportswear.

The Complainant is the owner of numerous C.P. COMPANY trademark (the "C.P. COMPANY Trademark") registrations around the world, among which are:

- International Registration No. 440765, registered on October 18, 1978, in respect of goods in classes 3, 18, and 25;
- European Union Trade Mark Registration No. 003785731, registered on September 2, 2005, in respect of goods in classes 3, 9, 14, 18, and 25;
- European Union Trade Mark Registration No. 003785706, registered on September 2, 2005, in respect of goods in classes 3, 9, 14, 18, and 25.

The Complainant operates a lot of domain names, among which are domain name <cpcompany.com>, <cpcompany.cn> and many others reflecting the Complainant's C.P. COMPANY Trademark under different generic Top-Level domains ("gTLDs") and country code Top-Level domains ("ccTLDs") such as: .it, .at, .be, .ch, .cn, .com.cn, .es, .com.es, .de, .dk, .com, .fr, .gr, .in, .jp, .us, .net, .org, .biz, .mobi, .info, .tel, .asia, .eu, ru, kz etc. The Complainant is also active on social media platforms such as Facebook and Instagram.

The Disputed Domain Name was registered on June 29, 2022. At the date of the filing the Complaint and at the date of this Decision, the Disputed Domain Name resolves to an active website where, among other different range of products, original clothing articles under the C.P. COMPANY Trademark are offering for sale at below-market prices.

#### 5. Parties' Contentions

##### A. Complainant

The Complainant contends that that the Disputed Domain Name is identical to the Complainant's C.P. COMPANY Trademark in view of it completely reproduces the Complainant's Trademark. The gTLD ".shop", with meaning of the word as "a place where you can buy goods and services", is nevertheless descriptive in relation to the fashion field and to the activities performed under the C.P. COMPANY Trademark.

The Complainant asserts that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name. The Complainant has never authorized any person to register the Disputed Domain Name, nor to commercialize garments under the C.P. COMPANY Trademark through the relative website. In fact, the website under the Disputed Domain Name offers for sale original clothing articles under the C.P. COMPANY Trademark at below-market prices, without the authorization of the Complainant and makes unauthorized use of the Complainant's C.P. COMPANY Trademark.

The Complainant further submits that the Respondent is not making a *bona fide* offering of services but rather is using the Disputed Domain Name to deceive unknowing users through its association with the use of a copycat website. In fact, consumers are likely to be misled and/or confused by the use of the Disputed Domain Name, as the associated website bears a similar look-and feel to that of the Complainant's website, as such giving the impression that the website is affiliated with the Complainant; the Respondent has

adopted the Complainant's C.P. COMPANY Trademark, copyright images and offers what appear to be original C.P. COMPANY apparel at below-market prices.

The Complainant further assert that the Disputed Domain Name has not been used in connection with any legitimate noncommercial or fair use, without the intent of commercial gain, in terms of Policy paragraph 4 (c) (iii), as the website associated with the Disputed Domain Name resolves to an online shop. Given the repute of C.P. COMPANY Trademark and the confusing similarity of the Disputed Domain Name to the Complainant's Trademark, the Complainant asserts that there is no conceivable use to which the Disputed Domain Name could be put now, or in the future, that would confer any legitimate interest upon the Respondent.

The Complainant also claims that the Respondent registered and is using the Disputed Domain Name in bad faith. It is apparent that the aim of the Respondent is to create a likelihood of confusion by suggesting to consumers that the Disputed Domain Name is related to the Complainant and/or the Complainant's company or concern membership/association with the Complainant. The website under the Disputed Domain Name contains the Complainant's C.P. COMPANY Trademark and copyright-abusive content: the Complainant's C.P. COMPANY Trademark is clearly displayed on the website; images, showing that the goods offered for sale on the website under the Disputed Domain Name, are original C.P. COMPANY garments. Also, the Respondent's bad faith goes beyond the unauthorized reproduction, by offering for sale the clothing items at a below-market level, at times for more than 80% less than the purported regular price, thereby inflicting economic harm targeted at the Complainant's C.P. COMPANY Trademark.

## **B. Respondent**

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

## **6. Discussion and Findings**

Under paragraph 4(a) of the Policy, a complainant to succeed must satisfy the panel that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which 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 Complainant has properly asserted its rights in the C.P. COMPANY Trademark due to the long use and registrations worldwide.

The Disputed Domain Name reproduces the Complainant's registered C.P. COMPANY Trademark in its entirety with the addition of the gTLD ".shop". According to section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), in cases where a domain name incorporates the entirety of a trademark, the domain name will normally be considered identical or confusingly similar to that mark for purposes of UDRP standing.

It is also well established that the gTLD, in this case ".shop", does not affect the Disputed Domain Name for the purpose of determining whether it is identical or confusingly similar to the Complainant's trademark because the gTLD is viewed as a standard registration requirement.

In light of the above, the Panel finds that the Disputed Domain Name is confusing similar to the Complainant's C.P. COMPANY Trademark and that the Complainant has established the first condition of paragraph 4(a) of the Policy.

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

The Complainant alleges that the Respondent has no rights or legitimate interests in the Disputed Domain Name pursuant to paragraph 4(a)(ii) of the Policy. The Complainant has never authorized in any way or licensed the Respondent to use its C.P. COMPANY Trademark.

The Panel concludes that the Respondent lacks rights or legitimate interests in respect of the Disputed Domain Name.

The Panel finds that the Complainant has made a *prima facie* case. The Respondent registered the Disputed Domain Name more than forty years after the C.P. COMPANY Trademark had been registered. There is no evidence that the Respondent owns any C.P. COMPANY Trademark, nor that it is commonly known by the Disputed Domain Name. The Respondent is not affiliated with the Complainant in any way. The Complainant has not authorized, licensed, or permitted the Respondent in any way to register or use the Disputed Domain Name, incorporating the Complainant's C.P. COMPANY Trademark. Therefore, the Respondent has failed to come forward with any evidence to rebut such *prima facie* case.

Furthermore, the Panel concludes that in view of the reputation of the C.P. COMPANY Trademark it is highly unlikely that anybody could legitimately adopt the Disputed Domain Name for commercial use other than for an intent to create confusion with the Complainant.

The Panel is of opinion that the Respondent is not making a legitimate noncommercial or fair use of the Disputed Domain Name. At the date of this Decision and on the date of the filing of the Complaint, the Disputed Domain Name resolves to active website - online shop with a name "Cheap C.P. Company Store", where the products under the C.P. COMPANY Trademark are offered for sale for significantly discounted prices. Moreover, the website under the Disputed Domain Name contains the Complainant's C.P. COMPANY Trademark at the top. Furthermore, the website contains many of the Complainant's official product images without the Complainant's authorization. Such use of the Disputed Domain Name obviously strengthens the false impression of an affiliation with the Complainant.

According to the [WIPO Overview 3.0](#), section 2.8.1, UDRP panels have recognized that resellers, distributors, or service providers using a domain name containing the complainant's trademark to undertake sales or repairs related to the complainant's goods or services may be making a *bona fide* offering of goods and services and thus have a legitimate interest in such domain name. Outlined in the "Oki Data test", the following cumulative requirements will be applied in the specific conditions of a UDRP case:

- (i) the respondent must actually be offering the goods or services at issue;
- (ii) the respondent must use the site to sell only the trademarked goods or services;
- (iii) the site must accurately and prominently disclose the registrant's relationship with the trademark holder; and
- (iv) the respondent must not try to "corner the market" in domain names that reflect the trademark.

As is seen from the circumstances of this case, the website under the Disputed Domain Name does not disclose the relationship between the Complainant and the Respondent. On the contrary, it creates a false impression that the website is the Complainant's official website or related to the Complainant. Thus, the Respondent does not satisfy the conditions of the Oki Data test.

The Panel concludes that such use of the Disputed Domain Name cannot in any case be considered as a *bona fide* offering of goods or services, nor a legitimate noncommercial or fair use of the Disputed Domain Name, without intent for commercial gain, to misleadingly divert the Complainant's consumers. The circumstances of the case also evidences that the Respondent was well aware of the C.P. COMPANY Trademark at the time of registration of the Disputed Domain Name and has done so for the sole purpose to create an impression that the Disputed Domain Name is connected with the Complainant's C.P. COMPANY Trademark.

In light of the above, the Panel finds that the Respondent has no rights or legitimate interests in the Disputed Domain Name. Therefore, the Panel finds that the second element of the Policy has been met by the Complainant.

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

Paragraph 4(b) of the Policy indicates some circumstances, 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:

- (i) circumstances indicating that [respondent has] registered or you have 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 your documented out-of-pocket costs directly related to the domain name; or
- (ii) [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 [respondent has] engaged in a pattern of such conduct; or
- (iii) [respondent has] registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, [respondent has] intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on [respondent's] website or location.

The Panel comes to the conclusion that the Disputed Domain Name was registered and is being used in bad faith in view of the following.

The Disputed Domain Name was registered long after the Complainant registered its C.P. COMPANY Trademark. The Disputed Domain Name is almost identical to the Complainant's C.P. COMPANY Trademark. The website under the Disputed Domain Name, containing the images of the Complainant's original products, creates a strong likelihood of confusion with the Complainant's C.P. COMPANY Trademark as to the source, sponsorship, affiliation, or endorsement of the Disputed Domain Name. The Internet users might have well been under the impression that it is the website created and operated by a certified service provider of the Complainant, which is not true. Moreover, such use of the Disputed Domain Name indicates that the Respondent was very well aware of the Complainant's products and C.P. COMPANY Trademark when it registered the Disputed Domain Name.

The Respondent obviously chose to register the Disputed Domain Name, which is almost identical to the Complainant's C.P. COMPANY Trademark, for the purpose of attracting, for commercial gain, the Internet users to its competing websites by creating a likelihood of confusion with the Complainant's Trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website and of the products sold on it. The Panel also is of opinion that the Respondent may also have registered the Disputed Domain Name in order to prevent the Complainant from reflecting the C.P. COMPANY Trademark in corresponding domain name.

Finally, the Respondent, not participating in the proceeding, has failed to indicate any facts and/or evidence, which would show the good faith registration or use of the Disputed Domain Name.

In view of the foregoing, the Panel finds that the paragraph 4(a)(iii) of the Policy has been satisfied by the Complainant and accordingly, the Disputed Domain Name has been registered and is being used in bad faith.

## **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, <cpcompany.shop>, be transferred to the Complainant.

/Mariia Koval/

**Mariia Koval**

Sole Panelist

Date: June 26, 2023