

## **ADMINISTRATIVE PANEL DECISION**

Kuiu, LLC v. sfg  
Case No. D2023-4276

### **1. The Parties**

The Complainant is Kuiu, LLC, United States of America, represented by Dorsey & Whitney, LLP, United States of America.

The Respondent is sfg, Afghanistan.

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

The disputed domain name <kuiusale.vip> is registered with Sav.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 13, 2023. On October 13, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 16, 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 (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 18, 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 amended Complaint on October 20, 2023.

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 October 31, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 20, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 21, 2023.

The Center appointed Daniel Peña as the sole panelist in this matter on November 27, 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 company formed in 2011 to manufacture and market hunting gear, apparel, and related accessories.

The Complainant owns the following trademark registrations for KUIU which have been used since 2011:

- United States trademark registration, registered on January 28, 2014 under No. 4475223; and
- International trademark registration, which covers China and Russia Federation, registered on July 9, 2013 under No. 1170374.

The disputed domain name was registered on September 23, 2023, and resolved to a website purporting to be selling goods bearing the Complainant's trademark.

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

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

The disputed domain name is confusingly similar to the Complainant's KUIU trademark

The disputed domain name consists of the Complainant's KUIU trademark, followed by the descriptive term "sale," a term intended to confuse consumers into believing they are accessing the online shopping website affiliated with the Complainant.

The Complainant's use of the KUIU trademarks predates Respondent's registration of the disputed domain name by at least twelve years.

The Respondent is not a licensee of the Complainant, nor has the Complainant otherwise authorized Respondent to register the disputed domain name.

The Respondent's use of the disputed domain name displays the Complainant's KUIU trademarks in connection with the online sale of hunting apparel and related accessories.

The Respondent's use of the disputed domain name offering the same type of goods to those of the Complainant, including goods bearing the Complainant's copyrighted designs, is attempting to confuse consumers into believing the website is an offshoot or affiliated website.

The Respondent is not making a legitimate noncommercial or fair use of the disputed domain name without intent to commercially gain by misleadingly diverting consumers.

The Respondent has registered and is using the Disputed Domain Name in bad faith.

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

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

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

To succeed, the complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (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. Considering these requirements, the Panel rules as follows.

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

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights. The Complainant has provided evidence of its rights in the trademarks KUIU on the basis of its multiple trademark registrations including its International trademark registrations as well as in the United States of America. A trademark registration provides a clear indication that the rights in the trademark belong to the Complainant. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.2.1.

It has also been established by prior UDRP panels that incorporating a trademark in its entirety into a domain name can be sufficient to establish that the domain name is confusingly similar to a trademark. Such findings were reflected, for example, within [WIPO Overview 3.0](#), section 1.7. The Respondent's incorporation of the Complainant's KUIU trademark in its entirety in the disputed domain name is evidence that the disputed domain name is confusingly similar to the Complainant's mark. Mere addition of the term "sale" does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's KUIU mark because the Complainant's KUIU mark remains clearly recognizable in the disputed domain name. As noted in [WIPO Overview 3.0](#), section 1.8, "[w]here 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."

Furthermore, the addition of the generic Top-Level Domain "gTLD" ".vip" is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the trademark in which the Complainant has rights, meaning that the Complainant has satisfied the requirement under paragraph 4(a)(i) of the Policy.

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

In accordance with paragraph 4(a)(ii) of the Policy, the Complainant must prove that the Respondent has no rights or legitimate interests in the disputed domain name. The Panel observes that there is no relationship, disclosed to the Panel or otherwise apparent from the record, between the Respondent and the Complainant.

The Panel also finds that there is no indication that the Respondent is commonly known by the disputed domain name because the Respondent's name is "sfg" which has no connection with the KUIU trademark. The Complainant claims that the Respondent has no connection or affiliation with the Complainant and has not received any license or consent, express or implied, to use the Complainant's trademarks in a domain name or in any other manner. Furthermore, the disputed domain name directs to a commercial website that allegedly offers goods bearing the Complainant's copyrighted designs, exacerbating the Internet user confusion as to the website's affiliation to the Complainant. Such use for deliberately attracting Internet users to its website in the mistaken belief that it is a website of the Complainant, or otherwise linked to or authorized by the Complainant supports a finding that the Respondent lacks rights to or legitimate interests in the disputed domain name.

The Respondent did not submit a Response or attempt to demonstrate any rights or legitimate interests in the disputed domain name, and the Panel draws adverse inferences from this failure, where appropriate, in accordance with the Rules, paragraph 14(b).

The Panel finds the Respondent has no rights or legitimate interests in respect of the disputed domain name and that paragraph 4(a)(ii) of the Policy is satisfied. The Panel concludes that the Respondent deliberately chose to include the Complainant's KUIU trademark in the disputed domain name, in order to achieve commercial gain by misleading third parties, and that such use cannot be considered as a legitimate

noncommercial or fair use. The Panel further finds that the disputed domain name carries a risk of implied affiliation with the Complainant. The addition of the term “sale”, meaning selling at discounted price in English, misleads the consumers about the relationship with fair and commercial activities of the Complainant which does not support a finding of any rights or legitimate interests. See [WIPO Overview 3.0](#), section 2.5.1.

Given the above, the Panel finds that the Complainant has made out an un rebutted *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name and finds that the Complainant has satisfied the requirement under paragraph 4(a)(ii) of the Policy.

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

Paragraph 4(b) of the Policy states that any of the following circumstances, in particular but without limitation, shall be considered evidence of the registration and use of a disputed domain name in bad faith: (i) circumstances indicating that the respondent registered or acquired the domain name primarily for the purpose of selling, renting or otherwise transferring the domain name registration to the complainant (the owner of the trademark or service mark) or to a competitor of that complainant, for valuable consideration in excess of documented out-of-pocket costs directly related to the domain name; (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; (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 online 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 its website or location.

In this case, the Complainant submits that at the date of registration of the disputed domain name the Respondent knew or should have known of the Complainant’s mark KUIU considering the global renown of the Complainant’s prior mark and the website content targeting the Complainant’s logos and products. The Panel takes note of the construction of the disputed domain name, which combines the KUIU mark with the term “sale” that is a term used in commerce, as well as the fact that the disputed domain name directs to a website that contains the Complainant’s logo, copyrighted material and allegedly offers the Complainant’s counterfeited goods (without the Respondent providing any explanation as to the origin of the goods offered on its website).

The Panel is satisfied that by directing the disputed domain name to a commercial website with the Complainant’s logo and content as well as offering apparently counterfeit goods (in some cases goods with an 80% discount), the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of its website or of the products on its website. See [WIPO Overview 3.0](#), section 3.1.4. Under paragraph 4(b)(iv) of the Policy, this circumstance shall be evidence of the registration and use of a domain name in bad faith.

Having considered the Complainant’s submissions and in the absence of a Response, the Panel finds that the disputed domain name was registered and used by the Respondent in bad faith within 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 <kuiusale.vip> be transferred to the Complainant

*/Daniel Peña/*

**Daniel Peña**

Sole Panelist

Date: December 11, 2023