

## ADMINISTRATIVE PANEL DECISION

Igloo Products Corp. v. 帅 王  
Case No. D2022-3863

### 1. The Parties

The Complainant is Igloo Products Corp., United States of America (“United States”), represented by Middleton Reutlinger, United States.

The Respondent is 帅 王, China.

### 2. The Domain Name and Registrar

The disputed domain name <cheapigloo.com> (the “Disputed Domain Name”) is registered with Name.com, Inc. (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 14, 2022. On October 14, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On October 17, 2022, the Registrar transmitted by email to the Center its verification response confirming that the 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 the Respondent of the Complaint, and the proceedings commenced on October 20, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 9, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 10, 2022.

The Center appointed Flip Jan Claude Petillion as the sole panelist in this matter on November 16, 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, Igloo Products Corp., manufactures, sells and distributes coolers, ice chests and related products.

The Complainant is the owner of numerous trademarks consisting of or including the sign IGLOO, such as the following:

- IGLOO, word mark registered with the United States Patent and Trademark Office (“USPTO”) on July 18, 1961 under registration number 0718413, in connection with “Insulated Water Coolers” in class 21;
- IGLOO, word mark registered with the China National Intellectual Property Administration (“CNIPA”) on September 28, 2009, under number 5681316 in class 21, covering, *i.a.*, portable coolers.

The Disputed Domain Name was registered on June 22, 2022. According to evidence provided by the Complainant, the Disputed Domain Name resolved to a website which appeared to offer products identical or at least similar to the products manufactured and sold by the Complainant. The Disputed Domain Name currently resolves to an inactive web page.

#### **5. Parties’ Contentions**

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

The Complainant considers the Disputed Domain Name to be confusingly similar to trademarks in which it claims to have rights. The Complainant further claims that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name. According to the Complainant, the Respondent has never been an authorized dealer or licensee of the Complainant, is not making a *bona fide* offering of goods, does not own any trademark for or incorporating the term “Igloo”, has never been commonly known by the trademark or name “Igloo” and is not making a legitimate, noncommercial, or fair use of the Disputed Domain Name. Finally, the Complainant claims that the Disputed Domain Name was registered and is being used in bad faith. The Complainant contends that the Respondent was undoubtedly aware of the Complainant’s IGLOO mark and used the Disputed Domain Name in an attempt to attract Internet users to his website for commercial gain by creating confusion with the Complainant and its well-known trademark.

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

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

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

Paragraph 15(a) of the Rules provides that the Panel is to decide the Complaint on the basis of the statements and documents submitted in accordance with the Policy, the Rules, and any rules and principles of law that it deems applicable.

The onus is on the Complainant to make out its case and it is apparent, both from the terms of the Policy and the decisions of past UDRP panels, that the Complainant must show that all three elements set out in paragraph 4(a) of the Policy have been established before any order can be made to transfer the Disputed Domain Name. The standard of proof is the balance of probabilities.

Thus, for the Complainant to succeed it must prove, within the meaning of paragraph 4(a) of the Policy, that:

(i) the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and

- (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.

The Panel will therefore deal with each of these requirements.

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

To prove this element, the Complainant must first establish that there is a trademark or service mark in which it has rights. The Complainant has clearly established that there are trademarks in which it has rights. The Complainant's IGLOO trademarks have been registered and used in numerous countries in connection to the Complainant's cooler business and related goods.

The Disputed Domain Name incorporates the Complainant's IGLOO trademark in its entirety, adding the term "cheap". Where the relevant trademark is recognizable within the Disputed Domain Name, the addition of other terms would not prevent a finding of confusing similarity under the first element (see section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). The Panel finds that the addition of the term mentioned above does not prevent the Complainant's IGLOO trademark from being recognizable within the Disputed Domain Name.

Additionally, it is well established that the generic Top-Level Domain ("gTLD"), here ".com", may be disregarded when considering whether the Disputed Domain Name is confusingly similar to a trademark in which the Complainant has rights.

In light of the above, the Panel considers the Disputed Domain Name to be confusingly similar to the Complainant's IGLOO trademark.

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

Under paragraph 4(a)(ii) of the Policy, the Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name.

As established by previous UDRP panels, it is sufficient for the Complainant to make a *prima facie* showing that the Respondent has no rights or legitimate interests in the Disputed Domain Name in order to place the burden of production on the Respondent to come forward with relevant evidence demonstrating its rights or legitimate interests in the Disputed Domain Name (see section 2.1 of the [WIPO Overview 3.0](#)).

The Panel observes that the Respondent does not appear to be commonly known by the Disputed Domain Name and that the Respondent does not seem to have acquired trademark or service mark rights (there being no Response or evidence of any such rights). According to the information provided by the Registrar, the Respondent is named "帅 王". There are no indications that a connection between the Complainant and the Respondent exists or existed.

Where a domain name consists of a trademark plus an additional term, UDRP panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner (see section 2.5.1 of the [WIPO Overview 3.0](#)). The Disputed Domain Name incorporates the Complainant's IGLOO trademark in its entirety and adds the term "cheap". The Panel finds that this term can be considered as a misspelling of the word "cheap" and that there is a risk that Internet users will not notice the subtle misspelling. In the present case, the Panel therefore finds that the composition of the Disputed Domain Name carries a risk of implied affiliation with the Complainant as it may mistakenly be seen as effectively impersonating or suggesting some connection to the Complainant.

Beyond looking at the domain name and the nature of any additional terms appended to it, UDRP panels assess whether the overall facts and circumstances of the case, such as the content of the website linked to the disputed domain name and the absence of a response, support a fair use or not (see sections 2.5.2 and 2.5.3 of the [WIPO Overview 3.0](#)).

The Complainant provides evidence showing that the Disputed Domain Name used to resolve to a website purporting to sell products identical or at least similar to the Complainant's products at discounted prices. The Panel observes that the Complainant's mark was mentioned numerous times on this website, including on the products depicted. The website linked to the Disputed Domain Name even included product pictures copying the stylized version of the Complainant's mark as used on the Complainant's official products. Moreover, the website did not accurately and prominently disclose the Respondent's relationship with the Complainant. The Panel finds that the above elements are clear indications of illegal activity using the Disputed Domain Name. UDRP panels have categorically held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods, phishing, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent (see section 2.13.1 of the [WIPO Overview 3.0](#)).

The Respondent had the opportunity to demonstrate rights or legitimate interests but did not do so. In the absence of a Response from the Respondent, the *prima facie* case established by the Complainant has not been rebutted.

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

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

The Complainant must prove, on the balance of probabilities, both that the Disputed Domain Name was registered in bad faith and that it is being used in bad faith (see section 4.2 of the [WIPO Overview 3.0](#) and, for example, *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#) and *Control Techniques Limited v. Lektronix Ltd*, WIPO Case No. [D2006-1052](#)).

Paragraph 4(b) of the Policy provides a non-exhaustive list of factors, any one of which may demonstrate bad faith. Among these factors demonstrating bad faith registration and use is the use of a domain name to intentionally attempt to attract, for commercial gain, Internet users to a 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 website or location or of a product or service on the website or location.

In the present case, the Panel finds it inconceivable that the Respondent was unaware of the Complainant and its rights in the IGLOO mark when he registered the Disputed Domain Name, considering that:

- the Complainant's IGLOO mark predates the registration of the Disputed Domain Name by more than 60 years in the United States, and by more than 10 years in China where the Respondent is located;
- the Disputed Domain Name includes the Complainant's word mark in its entirety;
- the website linked to the Disputed Domain Name mentioned the Complainant's word mark and even used the stylized version of the Complainant's mark displayed in the exact same way as on the Complainant's official website and products;
- the discounted products offered on the website which was linked to the Disputed Domain Name are identical or at least highly similar to the Complainant's products.

As a result, the Respondent must have had knowledge of the Complainant's rights at the time of registering the Disputed Domain Name. The Panel finds that the Respondent's awareness of the Complainant's trademark rights at the time of registration suggests bad faith (see *Red Bull GmbH v. Credit du Léman SA, Jean-Denis Deletraz*, WIPO Case No. [D2011-2209](#)).

Given that the use of a domain name for *per se* illegitimate activity such as impersonation/passing off can never confer rights or legitimate interests on a respondent, such behavior is manifestly considered evidence of bad faith (see section 3.1.4 of the [WIPO Overview 3.0](#)).

The Respondent used the Disputed Domain Name to resolve to a website which appeared to offer products identical or at least similar to the Complainant's products at discounted prices. As mentioned above, this website mentioned the Complainant's trademark, including on the products offered for sale. In the Panel's view, this indicates that the Respondent has intentionally attempted to attract Internet users to his website for commercial gain by creating a likelihood of confusion with the Complainant's trademark.

By failing to respond to the Complaint, the Respondent did not take any initiative to contest the foregoing. Pursuant to paragraph 14(b) of the Rules, the Panel may draw such inferences therefrom as it considers appropriate.

Therefore, the Panel finds that, on the balance of probabilities, it is shown that the Disputed Domain Name was registered and is being used in bad faith. In light of the above, the Complainant also succeeds on the third and last 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 <cheaopigloo.com> be transferred to the Complainant.

*/Flip Jan Claude Petillion/*

**Flip Jan Claude Petillion**

Sole Panelist

Date: November 30, 2022