

## ADMINISTRATIVE PANEL DECISION

White Stuff Limited v. 丽娟 雷  
Case No. D2022-3976

### 1. The Parties

The Complainant is White Stuff Limited, United Kingdom, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is 丽娟 雷, China.

### 2. The Domain Name and Registrar

The disputed domain name <white-stuff.com> 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 24, 2022. On October 24, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 25, 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 27, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 16, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 17, 2022.

The Center appointed Torsten Bettinger as the sole panelist in this matter on November 22, 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 British fashion and lifestyle brand that sells women's, men's and kids' clothing, accessories, and homeware in over 130 shops in the United Kingdom and internationally.

The Complainant provided evidence of the following trademark registrations:

Trademark	Jurisdiction	Registration Number	Registration Date	International Class(es)
White STUFF <sup>®</sup>	China	16944242	July 14, 2016	35
WHITE STUFF	International	1106154	November 7, 2011	3, 9, 14, 18, 25, 28, 35, and 41
WHITE STUFF	Japan	5393336	February 25, 2011	3, 4, 8, 9, 14, 16, 18, 20, 21, 24, 25, 27, 28, 35, and 41
WHITE STUFF	European Union	008672982	March 28, 2011	3, 9, 14, 18, 25, 28, and 41
WHITE STUFF	Unites States of America	4119982	April 3, 2012	3, 9, 14, 18, 25, 28, and 41

The Complainant owns and operates the domain names <whitestuff.com> and <witestuff.de>.

The Respondent registered the disputed domain name on June 22, 2022. The disputed domain name previously resolved to a website which was imitating the Complainant by displaying the Complainant's trademark and logo, and using the similar layout, coloring scheme, and pictures found at the Complainant's own website, and possibly offering for sale counterfeits. At the time of filing of the Complaint and this decision, the disputed domain name does not resolve to an active webpage.

#### 5. Parties' Contentions

##### A. Complainant

The Complainant contends that its WHITE STUFF trademark is known internationally and that it marketed and sold its goods and services using this trademark since 1985, which is well before the Respondent's registration of the disputed domain Name.

With regard to the requirement of identity or confusing similarity between the trademark and the disputed domain name pursuant to paragraph 4(a)(i) of the Policy, the Complainant asserts that the disputed domain name is confusingly similar to its registered trademark WHITE STUFF and argues that:

- the Second-Level Domain of the disputed domain name consists solely of the Complainant's WHITE STUFF trademark, resulting in a domain name that is identical to the Complainant's WHITE STUFF trademark;
- the addition of a hyphen does nothing to distinguish the disputed domain name from the Complainant's trademark;
- it is standard practice when comparing a disputed domain name to a complainant's trademark, to not take the extension into account as the applicable Top-Level Domain in a domain name is viewed as a standard registration requirement;
- prior to the Complainant's partners requesting a takedown of the disputed domain name's website, the Respondent was using the disputed domain name to resolve to an impersonation site offering counterfeits, which suggests that the Respondent intended the disputed domain name to be confusingly similar to the Complainant's trademark as a means of furthering consumer confusion;
- although the content is usually disregarded under the first element of the UDRP, Panels have taken

note of the content of the website associated with a domain name to confirm confusing similarity where it appears *prima facie* that the respondent seeks to target a trademark through the disputed domain name.

With regard to the Respondent having no rights or legitimate interests in the disputed domain name, the Complainant submits that:

- the Respondent is not sponsored by or affiliated with the Complainant in any way;
- the Complainant has not given the Respondent permission to use the Complainant's trademarks in any manner, including in domain names;
- the Respondent is not commonly known by the disputed domain name, which evidences a lack of rights or legitimate interests;
- the Complainant has not licensed, authorized, or permitted the Respondent to register domain names incorporating the Complainant's trademark;
- the disputed domain name was redirecting Internet users to a website that copied and attempted to duplicate the Complainant's official website by copying the general layout, coloring scheme, and pictures found at the Complainant's own website at its domain name <whitestuff.com>;
- the disputed domain name's website had purposely been designed to serve as an exact replica of the Complainant's website, all as a means of deceiving Internet users into believing that the disputed domain name and its website are associated with the Complainant;
- the Respondent's attempted to pass off the disputed domain name as being affiliated with the Complainant;
- the Respondent was displaying the Complainant's official WHITE STUFF logo at the disputed domain name's website which is a direct effort to take advantage of the fame and goodwill that the Complainant has built in its brand;
- the Respondent was not using the disputed domain name for a *bona fide* offering, or for a legitimate noncommercial or fair use, but in connection with a commercial website offering counterfeited versions of the Complainant's products.

Finally, with regard to the disputed domain name having been registered and being used in bad faith, the Complainant argues that:

- its WHITE STUFF trademark is known internationally, with trademark registrations across numerous countries;
- the Respondent has used the disputed domain name's website to impersonate the Complainant, displaying the Complainant's protected WHITE STUFF logo and offering counterfeits for sale;
- in light of these facts, it is not possible to conceive of a plausible situation in which the Respondent would have been unaware of the Complainant's brands at the time the disputed domain name was registered;
- where a domain name is so obviously connected with such a well-known name and products, its very use by someone with no connection with the products suggests opportunistic bad faith;
- the Respondent created a likelihood of confusion with the Complainant and its trademarks by prominently displaying the Complainant's well-known WHITE STUFF logo and copying the look and feel of the Complainant's official website, with the Respondent then attempting to profit from such confusion by offering counterfeit products for sale;
- the Respondent is using the fame of the Complainant's trademarks to improperly increase traffic to the website listed at the disputed domain name for the Respondent's own commercial gain;
- the Respondent's use of the disputed domain name constitutes a disruption of the Complainant's business and qualifies as bad faith registration and use under the Policy.

## **B. Respondent**

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

## 6. Discussion and Findings

Paragraph 4(a) of the Policy states that the Complainant must prove each of the three following elements:

- (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.

### A. Identical or Confusingly Similar

The Complainant has demonstrated that it owns and has exclusive rights to the trademark registration for the mark WHITE STUFF prior to the registration of the disputed domain name on June 22, 2022.

It is well established that the test of identity or confusing similarity under the Policy is confined to a comparison of the disputed domain name and the trademark alone, independent of the products for which the trademark is used or other marketing and use factors usually considered in trademark infringement cases (see sections 1.1.2 and 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#))).

In this case, the disputed domain name contains the Complainant’s mark in its entirety and only differs from the Complainant’s WHITE STUFF mark by the addition of a hyphen which does not prevent a finding of confusing similarity between the disputed domain name and the Complainant’s trademark.

Furthermore, it is well accepted under the UDRP case law that the specific generic Top-Level Domain (“gTLD”) designation such as “.com”, “.net”, “.org” is not to be taken into account when assessing the issue of identity and confusing similarity, except in certain cases where the applicable Top-Level suffix may itself form part of the relevant trademark (see [WIPO Overview 3.0](#), section 1.11).

For the foregoing reasons, the Panel concludes that the disputed domain name is confusingly similar to the Complainant’s WHITE STUFF trademark, and that the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

### B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy a respondent may establish its rights or legitimate interests in the domain name, among other circumstances, by showing any of the following elements:

- “(i) before any notice to you [the Respondent] of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) you [the Respondent] (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or
- (iii) you [the Respondent] are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.”

The Complainant stated that the Respondent is neither affiliated with, nor authorized by the Complainant to register and use the WHITE STUFF mark, and is not commonly known by the disputed domain name.

The Complainant provided evidence that the disputed domain name was redirecting Internet users to a website that copied and duplicated the Complainant's official website by copying the general layout, coloring scheme, and pictures found at the Complainant's own website, at its domain name <whitestuff.com>.

The Panel finds that the Complainant's submissions in the present proceeding are sufficient to establish a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name.

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 disputed domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. See section 2.1 of the [WIPO Overview 3.0](#).

The Respondent chose not to contest the Complainant's allegations and has failed to come forward with any evidence to refute the Complainant's *prima facie* showing that the Respondent lacks rights or legitimate interests. The Panel therefore accepts the Complainant's submissions, that the Respondent was imitating the Complainant by displaying the Complainant's logo and duplicating the Complainant's official website by copying the general layout, coloring scheme, and pictures found at the Complainant's own website at its domain name <whitestuff.com> and was possibly offering counterfeits, and concludes that the Respondent was not making a *bona fide* offering of goods and services or a legitimate noncommercial or fair use of the domain name.

On this basis and in light of the fact that the disputed domain name, except for the addition of a hyphen, contains the Complainant's trademark in its entirety, the Panel finds that the Respondent lacks rights and legitimate interests in the disputed domain name and that, accordingly, the Complainant has satisfied the requirements of paragraph 4(a)(ii) of the Policy.

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

Paragraph 4(b) of the Policy provides four, non-exclusive, circumstances 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 the Respondent has registered or has acquired the disputed domain name primarily for the purpose of selling, renting or otherwise transferring the disputed domain name registration to the Complainant who is the owner of the trademark or service mark or to a competitor of the Complainant, for valuable consideration in excess of documented out-of-pocket costs directly related to the disputed domain name; or
- (ii) the Respondent has registered the disputed 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 disputed domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the disputed 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 the Respondent's website or location.

The Complainant holds a trademark registration for the WHITE STUFF trademark in various countries that predates the registration of the disputed domain name.

Given that the Complainant's trademark is widely known and that the disputed domain name contains the Complainant's trademark WHITE STUFF in its entirety, it is difficult to conceive that the Respondent

coincidentally registered the disputed domain name without knowledge of the Complainant's rights in the WHITE STUFF mark. The fact that the Respondent was imitating the Complainant by displaying the Complainant's logo and trademark on the website to which the disputed domain name resolved, confirms this conclusion. As the Respondent has not submitted a response, or offered any other explanation as to why the disputed domain name was chosen, and no legitimate reason is apparent, the Panel is satisfied that the Respondent registered the disputed domain name in bad faith.

To prove the bad faith use of the disputed domain name, the Complainant provided evidence that the Respondent's website copied and attempted to duplicate the Complainant's official website by copying the general layout, coloring scheme and pictures found at the Complainant's own website, and asserted that the Respondent was offering counterfeits because the products were offered at a fraction of the cost of the Complainant's products. The Respondent has not refuted the Complainant's allegations.

The Panel therefore concludes, that the disputed domain name had purposely been designed to deceiving Internet users into believing that the disputed domain name is associated with the Complainant with the intent to sell possibly counterfeits of the Complainant's products.

The Panel is therefore satisfied that the disputed domain name was used to divert Internet users to the Respondent's website for commercial gain, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website pursuant to paragraph 4(b)(iv) of the Policy.

The Panel therefore finds that the Respondent has registered and used the disputed domain name 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 <white-stuff.com> be transferred to the Complainant.

*/Torsten Bettinger/*

**Torsten Bettinger**

Sole Panelist

Date: December 6, 2022