

## **ADMINISTRATIVE PANEL DECISION**

### **Occidental Manufacturing, Inc. v. Ddfsfd Scd**

### **Case No. D2022-4113**

#### **1. The Parties**

The Complainant is Occidental Manufacturing, Inc., United States of America (“United States”), represented by Accent Law Group, Inc., United States.

The Respondent is Ddfsfd Scd, Hong Kong, China.

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

The disputed domain names <occidentaltbag.store> and <occidentalsale.com> (the “Domain Names”) are registered with Name.com, Inc. (the “Registrar”).

#### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 1, 2022. On November 2, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. On November 2, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Names which differed from the named Respondent (Whois Agent, Domain Protection Services, Inc., United States) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 3, 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 November 3, 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 November 4, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 24, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 25, 2022.

The Center appointed Jonas Gulliksson as the sole panelist in this matter on December 6, 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 the proprietor of United States trademark registration for OCCIDENTAL LEATHER, Reg. No. 3,150,797, registered on October 3, 2006, in connection with the manufacturing, advertising, marketing, and sale of tool carrying systems including tool belts, bags, vests, and suspenders.

The Domain Names were registered on August 15, 2022. The Domain Names resolve to websites allegedly offering the Complainant's trademarked-goods for sale at discounted prices.

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

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

The Complainant asserts, substantially, the following:

The Domain Names are identical or confusingly similar to the Complainant's OCCIDENTAL LEATHER mark.

The Respondent has no rights or legitimate interest in respect of the Domain Names. The Respondent's actions are not a *bona fide* offering of goods or services. Each of the Domain Names resolves to a blatant impersonation of the Complainant's own "www.occidentalleather.com" website, presumably to trick Internet users into placing orders and entering their credit card and other personal information as part of a phishing attempt or perhaps for the sale of counterfeit merchandise. It is also highly suspect that the prices offered at the Respondent's websites are significantly discounted compared to those charged by the Complainant for its legitimate products and that the Respondent has hidden its identity through a Whois privacy shield. Further, there is no evidence that the Respondent is commonly known by the Domain Names. The Complainant has never granted the Respondent any license, authorization, or other right to use its trademark in any manner. Further, the Respondent cannot claim that it is making a legitimate noncommercial or fair use of the Domain Names without intent for commercial gain.

The Domain Names were registered and are being used in bad faith. The Respondent was put on actual notice of the Complainant's rights in the well-known OCCIDENTAL LEATHER mark through the Complainant's extensive use of the mark which long predates the creation date of the Domain Names. Further, given the reputation of the Complainant's mark and the fact that the Respondent's websites specifically display the Complainant's OCCIDENTAL LEATHER mark and its related graphic logo, it is inconceivable that the Respondent was not aware of the existence of the Complainant's mark. The Respondent registered the Domain Names incorporating the Complainant's mark and is using them for websites that seek to pass off as the Complainant, displaying the Complainant's mark and logo and offering what is likely counterfeit, unauthorized, or nonexistent versions of the Complainant's goods. Further, the Respondent is hiding behind a public Whois privacy shield and its contact information only becomes known if the Registrar discloses such information.

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

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

## 6. Discussion and Findings

The burden for the Complainant under paragraph 4(a) of the Policy is to prove:

- (i) that the Domain Names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) that the Respondent has no rights or legitimate interests in respect of the Domain Names; and
- (iii) that the Domain Names have been registered and are being used in bad faith.

### A. Identical or Confusingly Similar

The Complainant has established that it holds trademark rights in relation to OCCIDENTAL LEATHER.

The Domain Names both incorporate the term “occidental”, which is the dominant feature of the Complainant’s OCCIDENTAL LEATHER mark. The addition of “bag” and “sale”, respectively, in the Domain Names does not prevent a finding of confusing similarity between the Complainant’s trademark and the Domain Names. Further, it is well established that Top-Level Domains (“TLDs”), including “.store” and “.com”, typically are disregarded in the assessment of confusing similarity (see section 1.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”)).

Considering what has been stated above, the Panel finds that the Domain Names are confusingly similar to a trademark in which the Complainant has rights.

### B. Rights or Legitimate Interests and Registered and Used in Bad Faith

As mentioned above, the Domain Names incorporates the dominant feature of the Complainant’s OCCIDENTAL LEATHER mark. The Complainant has never granted the Respondent any license, authorization, or other right to use its OCCIDENTAL LEATHER mark in any manner.

The websites to which the Domain Names resolve (the “Domain Name Websites”), which show that the Respondent has tried to copy the Complainant’s logo and content from the Complainant’s website “www.occidentalleather.com” and thus reflect the Respondent’s awareness of and intent to target the Complainant, clearly indicates that the Respondent intentionally has tried to attract, for commercial gain, Internet users to the Domain Name websites by creating a likelihood of confusion with the Complainant’s OCCIDENTAL LEATHER mark as to the source, sponsorship, affiliation, or endorsement of the Domain Name websites and the products supposedly offered on such websites. Under such circumstances, the Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Names, particularly as such websites contain no disclaiming information concerning their relationship, or lack thereof, to the Complainant. Such use of the Domain Names shows, along with the similarity between the Domain Names and the Complainant’s OCCIDENTAL LEATHER mark, that that the Domain Names were registered and are 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 Domain Names, <occidentalbag.store> and <occidentalsale.com>, be transferred to the Complainant.

*/Jonas Gulliksson/*

**Jonas Gulliksson**

Sole Panelist

Date: December 20, 2022