

## ADMINISTRATIVE PANEL DECISION

Southern Glazer's Wine and Spirits, LLC v. 杨智超 (Zhi Chao Yang)  
Case No. D2022-4786

### 1. The Parties

The Complainant is Southern Glazer's Wine and Spirits, LLC, United States of America ("United States"), represented by Jackson Walker LLP, United States.

The Respondent is 杨智超 (Zhi Chao Yang), China.

### 2. The Domain Names and Registrars

The disputed domain names <sggproof.com>, <sgporof.com>, <sgprioof.com>, <sgprofo.com>, <sgproof.com>, <sgproofs.com>, <sgpropf.com>, <sgpro0f.com>, <sgprpof.com>, <sgrproof.com>, and <ssgproof.com> are registered with Cloud Yuqu LLC; and the disputed domain names <sgpproof.com>, <sgprproof.com>, and <sgpr0of.com> are registered with Chengdu West Dimension Digital Technology Co., Ltd. (the "Registrars").

### 3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on December 13, 2022. On December 14, 2022, the Center transmitted by email to the Registrars requests for registrar verification in connection with the disputed domain names. On December 15, 2022, the Registrars transmitted by email to the Center their verification responses disclosing registrant and contact information for the disputed domain names which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on December 15, 2022, providing the registrant and contact information disclosed by the Registrars, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint in English on December 15, 2022.

On December 15, 2022, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On December 15, 2022, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

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.

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent in English and Chinese of the Complaint, and the proceeding commenced on December 27, 2022. In accordance with the Rules, paragraph 5, the due date for Response was January 16, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 19, 2023.

The Center appointed Sebastian M.W. Hughes as the sole panelist in this matter on February 3, 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**

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

The Complainant is a company headquartered in the state of Florida in the United States and a distributor in the United States and Canada, since 2016, of alcoholic beverages under the word and device trade mark SG PROOF (the “Trade Mark”).

The Complainant is the owner of numerous registrations in the United States for the Trade Mark, including registration No. 6,169,439, with a registration date of October 6, 2020, and a claimed date of first use in commerce of April 30, 2018.

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

The Respondent is apparently an individual with an address in China.

##### **C. The Disputed Domain Names**

With the exception of the disputed domain name <sgpproof.com>, which was registered on August 26, 2022, each of the disputed domain names was registered on the same date, October 6, 2022.

##### **D. The Websites at the Disputed Domain Names**

The disputed domain names all resolve to similar English language websites (the “Websites”) containing sponsored links relating to the Complainant’s various trade marks, including the Trade Mark.

#### **5. Parties’ Contentions**

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

The Complainant contends that the disputed domain names are confusingly similar to the Trade Mark, the Respondent has no rights or legitimate interests in respect of the disputed domain names, and the disputed domain names were registered and are being used in bad faith.

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

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

## **6. Discussion and Findings**

### **6.1 Preliminary Issue: Language of the Proceeding**

The language of the Registration Agreements for the disputed domain names is Chinese.

Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

Paragraph 11(a) of the Rules allows the Panel to determine the language of the proceeding having regard to all the circumstances. In particular, it is established practice to take paragraphs 10(b) and (c) of the Rules into consideration for the purpose of determining the language of the proceeding, in order to ensure fairness to the parties and the maintenance of an inexpensive and expeditious avenue for resolving domain name disputes. Language requirements should not lead to undue burden being placed on the parties and undue delay to the proceeding (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

The Complainant has requested that the language of the proceeding be English, for the following reasons:

- (i) the disputed domain names are English language domain names;
- (ii) the Websites are English language websites;
- (iii) the Complainant is located in the United States and has no knowledge of Chinese; and
- (iv) proceeding in Chinese would result in undue burden on the Complainant and cause undue delay, because the Complainant would have to hire a translator.

The Respondent did not make any submissions regarding the language of the proceeding, and did not file any response.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both Parties, taking into account all relevant circumstances of the case, including matters such as the Parties' ability to understand and use the proposed language, time, and costs.

In light in particular of the content of the Websites, the Panel finds there is sufficient evidence that the Respondent is conversant in English.

The Panel is also mindful of the need to ensure the proceeding is conducted in a timely and cost effective manner.

In all the circumstances, the Panel therefore finds it is not foreseeable that the Respondent would be prejudiced, should English be adopted as the language of the proceeding.

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

### **6.2 Substantive Elements of the Policy**

The Complainant must prove each of the three elements in paragraph 4(a) of the Policy in order to prevail.

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

The Panel finds that the Complainant has rights in the Trade Mark acquired through use and registration.

Each of the disputed domain names consists of a common, obvious, or intentional misspelling of the Trade Mark (see [WIPO Overview 3.0](#), section 1.9).

The Panel therefore finds that the disputed domain names are confusingly similar to the Trade Mark.

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

Paragraph 4(c) of the Policy provides a list of non-exhaustive circumstances any of which is sufficient to demonstrate that a respondent has rights or legitimate interests in the disputed domain name:

- (i) before any notice to the respondent of the dispute, the respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the respondent (as an individual, business, or other organisation) has been commonly known by the disputed domain name even if the respondent has acquired no trade mark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark or service mark at issue.

The Complainant has not authorised, licensed, or permitted the Respondent to register or use the disputed domain names or to use the Trade Mark. The Panel finds on the record that there is therefore a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain names, and the burden is thus on the Respondent to produce evidence to rebut this presumption.

The Respondent has failed to show that he has acquired any trade mark rights in respect of the disputed domain names or that the disputed domain names have been used in connection with a *bona fide* offering of goods or services. To the contrary, each of the disputed domain names has been resolved to the Websites, containing sponsored links relating to the Complainant's trade marks.

There has been no evidence adduced to show that the Respondent has been commonly known by the disputed domain names.

There has been no evidence adduced to show that the Respondent is making a legitimate noncommercial or fair use of the disputed domain names.

In all the circumstances, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain names.

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

In light in particular of the Complainant's prior Trade Mark and the manner of use of the disputed domain names highlighted in section 6.2B above, the Panel finds that the requisite element of bad faith has been made out, under paragraph 4(b)(iv) of the Policy.

Further, according to the Complainant's evidence, the Respondent has a long history of registering the domain name incorporating third party trademarks. There are at least 10 UDRP decisions in which Respondent has been found to have registered domain names in bad faith.

For all the foregoing reasons, the Panel concludes that the disputed domain names have been 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 disputed domain names <sggproof.com>, <sgporof.com>, <sgprioof.com>, <sgprofo.com>, <sgprooff.com>, <sgproofs.com>, <sgpropf.com>, <sgpro0f.com>, <sgprpof.com>, <sgrpoof.com>, <ssgproof.com>, <sgpproof.com>, <sgprroof.com>, and <sgpr0of.com> be transferred to the Complainant.

*/Sebastian M.W. Hughes/*

**Sebastian M.W. Hughes**

Sole Panelist

Dated: February 17, 2023