

ADMINISTRATIVE PANEL DECISION

KnowledgeCotton Apparel A/S v. yang shulan
Case No. D2023-1081

1. The Parties

The Complainant is KnowledgeCotton Apparel A/S, Denmark, represented by Budde Schou A/S, Denmark.

The Respondent is yang shulan, China.

2. The Domain Name and Registrar

The disputed domain name <knowledgecottonapparelshop.com> is registered with Gname.com Pte. Ltd. (the "Registrar").

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on March 10, 2023. On March 10, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 14, 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 March 17, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. On the same day, the Center transmitted another email communication to the Parties in English and Chinese regarding the language of the proceeding. The Complainant filed an amendment to the Complaint in English on March 20, 2023 including a 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 amendment to 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 in Chinese and English of the Complaint, and the proceedings commenced on March 22, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 11, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 12, 2023.

The Center appointed Deanna Wong Wai Man as the sole panelist in this matter on April 26, 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 incorporated in Denmark, active in the fashion industry, which specializes in producing and commercializing organic clothing.

The Complainant provides evidence that it owns an international portfolio of trademark registrations for KNOWLEDGECOTTON APPAREL in a number of jurisdictions around the world, including in China, where the Respondent is located. Examples of such registrations include International Trademark Registration number 938452 for KNOWLEDGECOTTON APPAREL registered on August 31, 2007 and designating, *inter alia*, China; and European Union trademark registration number 005846506 for KNOWLEDGE COTTON APPAREL, registered on May 15, 2008.

The relevant registered trademarks adduced by the Complainant were successfully registered prior to the date of registration of the disputed domain name by the Respondent, which is October 26, 2022. The Complainant submits evidence that the disputed domain name directs Internet users to an active website, which is operated as an e-commerce website purportedly selling and offering products branded as KNOWLEDGECOTTON APPAREL branded products.

5. Parties' Contentions

A. Complainant

The Complainant essentially contends that the disputed domain name is confusingly similar to its trademarks for KNOWLEDGECOTTON APPAREL, that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the disputed domain name was registered, and is being used in bad faith.

The Complainant particularly claims that its trademarks are reputable and well-regarded among the consumers in the fashion industry, and provides printouts of its official website and of marketing materials. Moreover, the Complainant provides evidence that the disputed domain name is linked to an active website, operating as an e-commerce website. In this context, the Complainant essentially claims that the Respondent has no legitimate interests other than to free-ride on the reputation of the Complainant's trademarks. Furthermore, the Complainant argues that the Respondent uses its distinctive owl logo on the website associated with the disputed domain name, which the Complainant argues clearly proves that the only purpose of the Respondent's use of the disputed domain name is conducted in bad faith and with the sole purpose of free-riding on the Complainant's trademark. The Complainant also contends that the Respondent's purpose is to attract and direct Internet users to the Respondent's webpage, causing consumer confusion, and thereby achieving unlawful commercial gain.

The Complainant requests the cancellation of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

6.1. Preliminary Issue: Language of the Proceeding

Pursuant to paragraph 11(a) of the Rules, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

According to the Registrar's verification response, the language of the Registration Agreement for the disputed domain name is Chinese. Nevertheless, the Complainant filed its Complaint and its amendment to its Complaint in English, and requests that English be the language of the proceeding. The Panel notes that the Respondent did not comment on the language of the proceeding and did not submit any arguments on the merits of this proceeding.

In considering this request, the Panel has carefully reviewed all elements of this case, and deems the following elements particularly relevant: the Complainant's request that the language of the proceeding be English; the lack of comment on the language of the proceeding and the lack of response on the merits of this proceeding by the Respondent (the Panel notes that the Respondent was invited by the Center in Chinese and in English and in a timely manner to present his/her comments and response in either Chinese or English, but chose not to do so); the fact that the disputed domain name is written in Latin letters and not in Chinese characters, contains the English word "shop" and the fact that the website linked to the disputed domain name is exclusively in English and not in Chinese; and, finally, the fact that Chinese as the language of the proceeding could lead to unwarranted delays and additional costs for the Complainant. In view of all these elements, the Panel grants the Complainant's request, and decides that the language of this proceeding shall be English.

6.2. Discussion and Findings on the Merits

The Policy requires the Complainant to prove three elements:

- (a) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (b) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (c) the disputed domain name has been registered and is being used in bad faith.

Based on the evidence and arguments submitted, the Panel's findings are as follows:

A. Identical or Confusingly Similar

The Panel finds that the Complainant has provided sufficient evidence that it has valid rights in the mark KNOWLEDGECOTTON APPAREL, based on its use and registration of the same as trademark in various jurisdictions.

Further, as to confusing similarity of the disputed domain name with the Complainant's KNOWLEDGECOTTON APPAREL marks, the Panel finds that the disputed domain name consists of the combination of two elements, namely the Complainant's KNOWLEDGECOTTON APPAREL trademark followed by the term "shop". According to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7, "in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing" (see also *Wal-Mart Stores, Inc. v. Richard MacLeod d/b/a For Sale*, WIPO Case No. [D2000-0662](#)). The Panel concludes that, in this case, the disputed domain name contains the entirety of the Complainant's trademark for KNOWLEDGECOTTON APPAREL, which remains easily recognizable, and the

disputed domain name is therefore confusingly similar to the Complainant's KNOWLEDGECOTTON APPAREL marks. The Panel also considers that the generic Top-Level Domain ("gTLD"), which is ".com" in this case, is viewed as a standard registration requirement, and may as such be disregarded by the Panel (see [WIPO Overview 3.0](#), section 1.11.1).

Accordingly, based on the above elements, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademarks. The Panel decides that the Complainant has satisfied the requirements of the first element under the Policy.

B. Rights or Legitimate Interests

On the basis of the evidence and arguments submitted, the Panel accepts that the Complainant makes out a *prima facie* case that the Respondent is not, and has never been, an authorized reseller, service provider, licensee or distributor of the Complainant, is not a good faith provider of goods or services under the disputed domain name and is not making legitimate noncommercial use or fair use of the disputed domain name. The Panel also notes that the Respondent is not commonly known by the disputed domain name. As such, the Panel finds that the burden of production regarding this element shifts to the Respondent (see [WIPO Overview 3.0](#), section 2.1). However, no evidence or arguments have been submitted by the Respondent in reply.

Further, reviewing the facts and the evidence submitted in this proceeding, the Panel notes that the disputed domain name directs to a website which shows a clear intent on the part of the Respondent to obtain unlawful commercial gain from misleading Internet users. The Respondent did this by using the Complainant's KNOWLEDGECOTTON APPAREL trademark in the disputed domain name with the goal to purportedly offer KNOWLEDGECOTTON APPAREL branded products to unsuspecting Internet users. The Respondent also prominently displays the Complainant's owl logo on such website, thereby misleading consumers into believing that the Respondent has been licensed by, or otherwise is affiliated with the Complainant or its KNOWLEDGECOTTON APPAREL trademarks. Moreover, the website does not accurately and prominently disclose the lack of relationship between the Respondent and the Complainant, and instead, the Respondent presents itself there as "KnowledgeCotton Apparel Shop", and displays a misleading copyright notice on such website. It is clear to the Panel from the foregoing elements that the Respondent is not acting as a good faith provider of goods or services under the disputed domain name (see *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#)) and that there are also no other circumstances indicating or conferring any rights or legitimate interests in the disputed domain name on the Respondent. Moreover, the Panel also finds that the nature of the disputed domain name carries a risk of implied affiliation with the Complainant as it effectively impersonates the Complainant (see [WIPO Overview 3.0](#), section 2.5.1).

On the basis of the foregoing elements, the Panel considers that none of the circumstances of rights or legitimate interests envisaged by paragraph 4(c) of the Policy apply, and that the Complainant has satisfied the requirements of the second element under the Policy.

C. Registered and Used in Bad Faith

Given the intensive use and longstanding registration of the Complainant's registered trademarks, which precede the registration date of the disputed domain name by over a decade, and the use of the disputed domain name to purportedly offer KNOWLEDGECOTTON APPAREL branded products, the Panel finds that the subsequent registration of the disputed domain name clearly and consciously targeted the Complainant's prior registered trademarks for KNOWLEDGECOTTON APPAREL. Therefore, the Respondent knew of the existence of the Complainant's trademarks at the time of registering the disputed domain name. The Panel also considers the disputed domain name to be so closely linked and so obviously connected to the Complainant and its trademarks that the Respondent's registration of this disputed domain name points toward the Respondent's bad faith. In the Panel's view, these elements clearly indicate bad faith on the part of the Respondent, and the Panel therefore finds that it has been demonstrated that the Respondent registered the disputed domain name in bad faith.

As to use of the disputed domain name in bad faith, the Complainant provides evidence that the disputed domain name directs to an active website operated as an e-commerce website purportedly selling KNOWLEDGECOTTON APPAREL branded products. Such website also clearly displays the Complainant's trademark KNOWLEDGECOTTON APPAREL and its owl logo in the website banner at the home page and elsewhere on the home page and throughout the rest of the website, without the authorization of the Complainant. The Panel concludes from these facts that the Respondent has intentionally attracted Internet users for commercial gain to the website associated with the disputed domain name, by creating consumer confusion between the website associated with the disputed domain name and the Complainant's trademarks, which is direct evidence of the Respondent's bad faith under paragraph 4(b)(iv) of the Policy. The Panel therefore finds that it has been demonstrated that the Respondent has used, and is using the disputed domain name in bad faith.

Finally, the Respondent has failed to provide any response or evidence to establish its good faith or absence of bad faith. The Panel therefore finds that the Complainant has satisfied the requirements of the third requirement under 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 <knowledgecottonapparelshop.com> be cancelled.

/Deanna Wong Wai Man/

Deanna Wong Wai Man

Sole Panelist

Date: May 10, 2023