

## **ADMINISTRATIVE PANEL DECISION**

Alamour Fashion House Pty Ltd v. Xai Liu  
Case No. D2023-1582

### **1. The Parties**

The Complainant is Alamour Fashion House Pty Ltd, Australia, represented by Alder IP Pty Ltd, Australia.

The Respondent is Xai Liu, China.

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

The disputed domain name <alamourlabelus.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 April 12, 2023. On April 12, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 20, 2023, 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 April 21, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 11, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 12, 2023.

The Center appointed Andrea Mondini as the sole panelist in this matter on May 25, 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 Australia engaging in the business of selling clothing, particularly evening wear and wedding wear. The Complainant's business started in 2016 and delivers clothing products to customers worldwide, including without limitation the United States of America ("United States").

The Complainant owns numerous trademarks registrations for ALAMOUR (figurative), *inter alia*, the Australian trademark registration no. 1874840, registered on September 21, 2017; and the United States trademark registration no. 5619772, registered on December 4, 2018.

The Complainant conducts its business under the domain name <alamourthelabel.com>.

The disputed domain name was registered on August 4, 2022.

The disputed domain name resolves to a website offering clothing products under the Complainant's trademark, using images from the Complainant's original website and displaying the Complainant's original email address.

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

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

The Complainant contends as follows:

The disputed domain name is confusingly similar to the ALAMOUR trademark in which the Complainant has rights, because it incorporates this trademark in its entirety, and the addition of the words "label" (which in the context of clothing means "brand name") and "us" (which in the disputed domain name is to be perceived as the abbreviation of "United States") is not sufficient to avoid confusing similarity.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent has not been authorized by the Complainant to use this trademark.

The disputed domain name was registered and is being used in bad faith to divert traffic and businesses from the Complainant to the Respondent for the purposes of the Respondent's own commercial gain, because it resolves to an online store focusing on women's evening wear and wedding wear, and depicting the Complainant's trademark and logo, copying the contents of the Complainant's original website and featuring the Complainant's email address, "[...]@alamourthelabel.com", as the contact point for enquiry instead of any email of the Respondent. In doing so, the Respondent is creating an impression that the Respondent is related to the Complainant.

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

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

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

According to paragraph 4(a) of the Policy, in order to succeed, a complainant must establish each of the following elements:

- (i) the disputed domain name is identical or confusingly similar to the trademark or service mark in which the complainant has rights;

- (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 Panel is satisfied that the Complainant owns trademark registrations for its ALAMOUR (figurative) trademark.

The Panel notes that the disputed domain name incorporates the ALAMOUR trademark in its entirety. The addition of the terms “label” and “us” does not prevent a finding of confusing similarity under the Policy, paragraph 4(a)(i). See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.8.

The addition of the generic Top-Level Domain “.com” in the disputed domain name is a standard registration requirement and as such is disregarded under the confusing similarity test under the Policy, paragraph 4(a)(i). See [WIPO Overview 3.0](#), section 1.11.1.

For these reasons, the Panel concludes that the disputed domain name is confusingly similar to the Complainant’s mark ALAMOUR.

The first element of paragraph 4(a) of the Policy has been met.

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

The Complainant states it has not authorized the Respondent to use the trademark ALAMOUR. The Panel does not see any contrary evidence from the record.

Furthermore, the nature of the disputed domain name, incorporating the Complainant’s trademark in its entirety followed by the terms “label” and “us” (which may be perceived by Internet users as referring to the distribution of the Complainant’s branded products in the United States), along with its use for a website reproducing the Complainant’s logo and content copied from the Complainant’s original website and featuring without any permission the Complainant’s email address, cannot be considered fair use, as it falsely suggests an affiliation with the Complainant that does not exist.

In the view of the Panel, the Complainant has succeeded in raising a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. For its part, the Respondent failed to provide any explanations as to any rights or legitimate interests. Therefore, the Panel finds that the Respondent does not have any rights or legitimate interests in the disputed domain name.

The second element of paragraph 4(a) of the Policy has been met.

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

In the view of the Panel, noting that the Complainant’s trademark predates the registration of the disputed domain name and the fact that the website posted under the disputed domain name features the Complainant’s trademark, logo, and email address, it is inconceivable that the Respondent could have registered the disputed domain name without knowledge of the Complainant’s trademark. In the circumstances of this case, this is evidence of registration in bad faith.

The Complainant has shown that the disputed domain name resolves to an online store focusing on women’s evening wear and wedding wear, and depicting the Complainant’s trademark and logo, copying the contents of the Complainant’s original website and even displaying the Complainant’s email address without the Complainant’s authorization. The Panel thus finds that by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by

creating a likelihood of confusion as to the source, sponsorship, or affiliation of its website in the sense of paragraph 4(b)(iv) of the Policy.

The Panel thus finds that the disputed domain name was registered and is being used in bad faith.

The third element of paragraph 4(a) of the Policy has been met.

## **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 <alamourlabelus.com> be transferred to the Complainant.

*/Andrea Mondini/*

**Andrea Mondini**

Sole Panelist

Date: June 7, 2023