

ADMINISTRATIVE PANEL DECISION

Winnebago Industries, Inc. v. dysolo Moli, GNNS
Case No. D2023-1741

1. The Parties

The Complainant is Winnebago Industries, Inc., United States of America (“United States”), represented by Faegre Drinker Biddle & Reath LLP, United States.

The Respondent is dysolo Moli, GNNS of Singapore.

2. The Domain Name and Registrar

The disputed domain name <winnebagogiftshop.net> (“the Domain Name”) is registered with Mat Bao Corporation (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 19, 2023. On April 20, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 21, 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 (Domain Admin, Whoisprotection.cc) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 24, 2023, 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 April 28, 2023.

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 May 1, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 21, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 24, 2023.

The Center appointed Dawn Osborne as the sole panelist in this matter on June 16, 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 manufacturer of outdoor lifestyle products focused on leisure travel, including recreational vehicles. The Complainant owns the trade mark WINNEBAGO registered, *inter alia*, as trade mark no. 1908349 in the United States for motor homes since August 1, 1995 with first use recorded as 1959.

The Domain Name registered in 2022 has been used for a site selling parts for vehicles that are not manufactured or approved by the Complainant or made for use in the Complainant's vehicles, but which is using the Complainant's mark in its masthead. A false email address and real world address have been used on the Complainant's site.

5. Parties' Contentions

A. Complainant

The Complainant owns the trade mark WINNEBAGO registered, *inter alia*, in the United States for motor homes in 1995 with first use recorded as 1959.

The Domain Name registered in 2022 is confusingly similar to the Complainant's trade mark containing it in its entirety and merely adding the generic term "gift shop" which does not prevent said confusing similarity between the Domain Name and the Complainant's mark.

The Respondent is not commonly known by the Domain Name and is not authorised by the Complainant. The web site connected with the Domain Name sells vehicle parts that are not approved or manufactured by the Complainant or even intended for the Complainant's vehicles using the Complainant's trade mark in its masthead. Since Internet users will be duped into believing the Respondent's site and products are offered or approved by the Complainant this is not legitimate. It is registration and use in opportunistic bad faith designed to confuse Internet users for commercial gain.

A false email address and real world address have been used on the Complainant's site.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Domain Name consists of the Complainant's WINNEBAGO mark (which is registered, *inter alia*, in the United States for motor homes since 1995 with first use recorded as 1959), the term "gift shop" and the generic Top-Level Domain ("gTLD") ".com".

Previous panels have found confusing similarity when a respondent merely adds a term and a gTLD to a Complainant's mark. Accordingly, the Panel holds that the addition of the term "gift shop" and the gTLD ".com" to the Complainant's trade mark in the Domain Name does not prevent confusing similarity between the Domain Name and the Complainant's mark.

Accordingly, the Panel holds that the Domain Name is confusingly similar to the Complainant's registered mark.

As such the Panel holds that paragraph 4(a)(i) of the Policy has been satisfied.

B. Rights or Legitimate Interests

The Complainant has not authorised the use of its mark. There is no evidence or reason other than the web site complained of to suggest the Respondent is, in fact, commonly known by the Domain Name. The use of the web site is commercial so is not legitimate noncommercial or fair use.

The web site attached to the Domain Name offers parts for vehicles which are not manufactured or approved by the Complainant or intended for use in the Complainant's vehicles, but uses the Complainant's mark in its masthead. The Panel finds this use is confusing. As such it cannot amount to the *bona fide* offering of goods and services.

The Respondent has not answered this Complaint or rebutted the *prima facie* case evidenced by the Complainant as set out herein.

As such the Panel finds that the Respondent does not have rights or legitimate interests in the Domain Name and that the Complainant has satisfied the second limb of the Policy.

C. Registered and Used in Bad Faith

In the opinion of the Panel the use made of the Domain Name in relation to the Respondent's site is confusing and disruptive in that visitors to the site might reasonably believe it is connected to or approved by the Complainant, as it offers parts for vehicles which have no connection with the Complainant or its products using the Complainant's mark in its masthead.

Accordingly, the Panel holds that the Respondent has intentionally attempted to attract for commercial gain Internet users to its web site by creating a likelihood of confusion with the Complainant's trade mark as to the source, sponsorship, affiliation or endorsement of the web site and products offered on it likely to disrupt the business of the Complainant.

The Panel also notes that a false email address and real world address has been used on the Respondent's web site which independently suggests bad faith.

As such, the Panel believes that the Complainant has made out its case that the Domain Name was registered and used in bad faith and has satisfied the third limb of the Policy under paragraphs 4(b)(iii) and (iv).

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, <winnebagogiftshop.net>, be transferred to the Complainant.

/Dawn Osborne/

Dawn Osborne

Sole Panelist

Date: June 30, 2023