

ADMINISTRATIVE PANEL DECISION

DNVB, Inc. d/b/a Thursday Boot Company v. Client Care, Web Commerce Communications Limited; Holm Fanny; Uwe Friedman; Iris Wallin; Kristin Muench; Wang Zhi Wen; Eric Roth; Liu Fen; Elizabeth Lawrence Brunnenstr; Feierabend Robert; Domain Administrator, Fundacion Privacy Services LTD; ACKERMAN Lea; VOGT Silke; Qiu Xiaofeng; and 徐孝忠 (xu xiao zhong)
Case No. D2023-3742

1. The Parties

The Complainant is DNVB, Inc. d/b/a Thursday Boot Company, United States of America (“United States”), represented by Barks PLLC, United States.

The Respondents are Client Care, Web Commerce Communications Limited, Malaysia (“Alias 1”); Holm Fanny, France (“Alias 2”); Uwe Friedman, Germany (“Alias 3”); Iris Wallin, France (“Alias 4”); Kristin Muench, Germany (“Alias 5”); Wang Zhi Wen, China (“Alias 6”); Eric Roth, Germany (“Alias 7”); Liu Fen, China (“Alias 8”); Elizabeth Lawrence Brunnenstr, Germany (“Alias 9”); Feierabend Robert, Germany (“Alias 10”); Domain Administrator, Fundacion Privacy Services LTD, Panama (“Alias 11”); ACKERMAN Lea, Germany (“Alias 12”); VOGT Silke, Germany (“Alias 13”); Qiu Xiaofeng, China (“Alias 14”); and 徐孝忠 (xu xiao zhong), China (“Alias 15”).

2. The Domain Names and Registrars

The disputed domain names <cizmethursdayboots.com>, <thursdaybootamsterdam.com>, <thursdayboot-canada.com>, <thursdayboothrvatska.com>, <thursdaybootjapan.com>, <thursdayboot-nederland.com>, <thursdaybootnederlands.com>, <thursdayboot-polska.com>, <thursdayboot-portugal.com>, <thursdayboot-sale.com>, <thursdaybootsargentina.com>, <thursdaybootsbrazil.com>, <thursdaybootsca.com>, <thursdaybootses.com>, <thursdaybootseurope.com>, <thursdaybootsfactoryoutlet.com>, <thursdaybootsfr.com>, <thursdaybootsgreek.com>, <thursdaybootsisrael.com>, <thursdaybootsit.com>, <thursdaybootsitaly.com>, <thursdaybootskengat.com>, <thursdaybootsmadrid.com>, <thursdaybootsmalaysla.com>, <thursdaybootsmelbourne.com>, <thursdaybootsmilano.com>, <thursdaybootsmx.com>, <thursdaybootsnewzealand.com>, <thursdaybootsno.com>, <thursdayboots-osterreich.com>, <thursdaybootsoutlets.com>, <thursdaybootsphilippine.com>, <thursdaybootspt.com>, <thursdaybootsrea.com>, <thursdayboots-ro.com>, <thursdaybootsaldi.com>, <thursdaybootsklep.com>, <thursdaybootssko.com>, <thursdaybootsstockholm.com>, <thursdaybootsstore.com>, <thursdaybootstilbud.com>, <thursdaybootstoronto.com>, <thursdaybootsturkey.com>, <thursdaybootsuae.com>,

<thursdaybootsusa.com>, <thursdaybootsverige.com>, <thursdaybootuae.com>, <thursdaysbootuk.com>, <thursdayshoescanada.com>, <thursday-boots-philippines.com>, <botasthursdayboots.com>, <thursdaybootsmexlco.com>, <thursdaybootsdeutschland.com>, <thursdaybootsco.com>, <thursdaybootsforsale.com>, <thursdaybootsclearance.com>, <thursdaybootsamsterdam.com>, <thursdaybootsspana.com>, <thursdaybootsdenmark.com>, <thursday-boots-uk.com>, <thursdaybootaustralla.com>, <thursday-boots-sale.com>, <thursdaybootsparis.com>, <thursdaybootsjapan.com>, and <thursdaybootsbudapest.com> are registered with Alibaba.com Singapore E-Commerce Private Limited (“Registrar A”).

The disputed domain names <captainbootsfactoryoutlet.com>, <thursdayboots-mx.me>, <thursdaybootscompany.com>, <thursdaybootconz.com>, and <thursdaybootsespaña.com> are registered with 1API GmbH (“Registrar B”).

The disputed domain name <thursdayboots.co> is registered with GoDaddy.com, LLC (“Registrar C”).

The disputed domain name <thursdaybootsspain.com> is registered with Gransy, s.r.o., d/b/a subreg.cz (“Registrar D”).

The disputed domain name <thursdaybootscanada.net> is registered with Key-Systems GmbH (“Registrar E”).

The disputed domain name <thursdaybootco.com> is registered with Media Elite Holdings Limited (“Registrar F”).

The disputed domain names <thursdaybootsosterreich.com> and <thursdaybootssslovenija.com> are registered with NETIM SARL (“Registrar G”).

The disputed domain name <thursdaybootsjp.com> is registered with Paknic (Private) Limited (“Registrar H”).

The disputed domain name <thursdaybootssg.com> is registered with Xin Net Technology Corp. (北京新网数码信息技术有限公司) (“Registrar I”).

(Registrars A, B, C, D, E, F, G, H, and I are hereinafter referred to individually and collectively as the “Registrar”.)

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on September 1, 2023. On September 8, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On September 8, 9, 10, 11, and 12, 2023, respectively, the Registrar transmitted by email to the Center its 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 Complainant filed the first amended Complaint in English on September 29, 2023.

The Center sent an email communication to the Complainant on October 17, 2023 with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting the Complainant to either file separate complaint(s) for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity. The Complainant filed the second amended Complaint in English on February 2, 2024.

On October 17, 2023, the Center informed the parties in Chinese and English, that the language of the registration agreement for the disputed domain name <thursdaybootssg.com> is Chinese. On October 20, 2023, the Complainant confirmed its request that English be the language of the proceeding. The Respondents did not submit any comment on the Complainant's submission.

The Center verified that the Complaint together with the amended Complaints 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 Respondents in English and Chinese of the Complaint, and the proceedings commenced on February 8, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 28, 2024. The Respondents did not submit any response. Accordingly, the Center notified the Respondents' default on February 29, 2024.

The Center appointed Karen Fong as the sole panelist in this matter on March 11, 2024. 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 an apparel brand founded in 2014 that designs and manufactures a range of products including footwear products. Its products, including bags, clothing, and other leather goods are sold all over the world. The Complainant's products are offered for sale under the trade mark THURSDAY BOOT CO., THURSDAY, and CAPTAIN BOOT.

The Complainant sells its footwear exclusively through its website located at the domain name <thursdayboots.com>. The website bears the "THURSDAY BOOT CO." brand in a stylized form (the "Logo") as well as its motto:

"Why 'Thursday'?"

On Thursday we work hard, but it's also the unofficial start of the weekend, and we design our products with that versatility in mind. Your life isn't one-dimensional. Your footwear shouldn't be either." (the "Motto")

The Complainant's trade mark registrations include the following:

- European Union ("EU") Trade Mark Registration No. 18255636, THURSDAY BOOT CO., registered on December 1, 2020;
- United Kingdom ("UK") Trade Mark Registration No. UK00918255634, THURSDAY, registered on December 1, 2020;
- United States Trade Mark Registration No. 6886835, THURSDAY BOOT CO., (stylized) (the "Logo") registered on November 1, 2022; and
- United States Trade Mark Registration No. 6895145, CAPTAIN BOOT, registered on November 8, 2022.

(individually and collectively, the "Trade Mark").

The 78 disputed domain names which are the subject of the proceeding resolve to websites which:

- (i) mimic the Complainant's own website by using its copyright material including images, the Logo, the Motto, and other texts found on the Complainant's website and offering for sale products that bear the Trade

Marks at discounted prices which purport to be the Complainant's products without any disclaimer clarifying the (lack of) relationship between the Parties ("Copycat Websites"); or

- (ii) are parking pages with pay-per-click ("PPC") links to third party websites or parked for sale; or
- (iii) are inactive.

(individually and collectively, the "Websites").

Some of the disputed domain names that are inactive previously resolved to Copycat Websites. Further details of the Websites are listed in the table below.

The Complainant has filed an "Expert report evidence" from a lawyer and software developer who provided the analysis of 73 out of the 78 disputed domain names, the WhoIs records and the source code of the Websites show commonalities between them as evidence that the Websites are under common control. The Expert's examination of structural elements and common traits of the Websites included performing side by side analysis using software to identify differences between webpages, analysing unique blocks of source codes, analysing shared characteristics as indicators of the likelihood that the Websites were designed by the same designer or replicated from the same source template. The 73 disputed domain names were organised into five groups. All these disputed domain names either previously resolved to Copycat Websites or still do. These five groups (the "Groups") have the following characteristics:

Group 1

The Websites were likely created using a single shared template. The webpages share the same unique blocks of "Forgot Password String" and "Handler Comment String", and some also contained a unique block - "Arrow SVG String". These are indicators that the same website template containing the same uniquely identifiable blocks of code and pages in the exact same locations have been used.

Group 2

The Websites were likely created using a single shared template. The webpages share the same unique identical block - the "Newsletter String". Some also contained a unique "North Face String" and some included the "Navbar Template String". The presence of the North Face String or Navbar Template String indicates that it was likely a placeholder that was never replaced by actual text.

Group 3

The Websites were likely created using a single shared template. The Websites contained the same unique blocks on the Contact page, Index page, Privacy page, and Shipping Info page - "Minicart String" and "ZCJS String". The webpages in this Group are missing the same several pages such as the About Us page, Payment Method page, or Return page. The absence of such pages which are usually present on such e-commerce websites are odd.

Group 4

The Websites were likely created by using a single shared template even though there are no blocks of code or content that were uniquely identifiable. However, the only differences between the two Websites are the product selections and that one is in English and the other, Spanish. The webpages have the same expected pages in the expected locations - About Us page, Contact page, Index page, and Shipping Info page. Both the About Us pages include reference to the brand "North Face".

Group 5

The Website was inaccessible at the time of the preparation of the report, but the code was available on the Wayback machine. It shared the characteristics of the Websites in Group 1, and it is highly likely that it was based on the same shared templates as the Websites in Group 1.

The details of the disputed domain names (the "Domain Names") and the Websites including the Groups they fall into are set out below:

No.	Domain Name	Creation Date	Registrant Alias No.	Registrar No.	Websites and Comments
1	<cizmethursdayboots.com>	2022/08/04	Alias 1	A	Copycat Website - Group 2
2	<thursdaybootamsterdam.com>	2022/06/30	Alias 1	A	Previously resolved to Copycat Website - Group 1
3	<thursdayboot-canada.com>	2022/04/08	Alias 1	A	Copycat Website - Group 1
4	<thursdayboothrvatska.com>	2022/08/04	Alias 1	A	Copycat Website - Group 2
5	<thursdaybootjapan.com> ,	2022/04/11	Alias 1	A	Copycat Website - Group 1
6	<thursdayboot-nederland.com>	2022/04/11	Alias 1	A	Copycat Website - Group 1
7	<thursdaybootnederlands.com>	2022/06/30	Alias 1	A	Previously resolved to Copycat Website - Group 1
8	<thursdayboot-polska.com>	2022/10/14	Alias 1	A	Copycat Website - Group 2
9	<thursdayboot-portugal.com> ,	2022/10/19	Alias 1	A	Previously resolved to Copycat Website - Group 1
10	<thursdayboot-sale.com>	2022/04/09	Alias 1	A	Copycat Website - Group 1
11	<thursdaybootsargentina.com>	2022/09/16	Alias 1	A	Previously resolved to Copycat Website - Group 1
12	<thursdaybootsbrazil.com>	2022/08/04	Alias 1	A	Copycat Website - Group 2
13	<thursdaybootsca.com>	2022/06/30	Alias 1	A	Copycat Website - Group 1
14	<thursdaybootses.com>	2022/06/30	Alias 1	A	Previously resolved to Copycat Website - Group 1
15	<thursdaybootseurope.com>	2021/11/01	Alias 1	A	Copycat Website - Group 2
16	<thursdaybootsfactoryoutlet.com>	2022/04/08	Alias 1	A	Copycat Website - Group 1
17	<thursdaybootsfr.com>	2022/06/30	Alias 1	A	Previously resolved to Copycat Website - Group 1
18	<thursdaybootsgreek.com>	2021/12/17	Alias 1	A	Copycat Website - Group 1
19	<thursdaybootsisrael.com>	2022/04/11	Alias 1	A	Copycat Website - Group 1
20	<thursdaybootsit.com>	2022/06/30	Alias 1	A	Previously resolved to Copycat Website - Group 1
21	<thursdaybootsitaly.com>	2021/12/29	Alias 1	A	Copycat Website - Group 2
22	<thursdaybootskengat.com>	2022/05/05	Alias 1	A	Copycat Website - Group 2

23	<thursdaybootsmadrid.com>	2022/02/08	Alias 1	A	Copycat Website - Group 2
24	<thursdaybootsmalaysla.com>	2022/01/11	Alias 1	A	Copycat Website - Group 1
25	<thursdaybootsmelbourne.com>	2022/06/30	Alias 1	A	Previously resolved to Copycat Website - Group 1
26	<thursdaybootsmilano.com>	2022/02/09	Alias 1	A	Copycat Website - Group 1
27	<thursdaybootsmx.com>	2022/06/30	Alias 1	A	Previously resolved to Copycat Website - Group 1
28	<thursdaybootsnewzealand.com>	2022/08/04	Alias 1	A	Copycat Website - Group 2
29	<thursdaybootsno.com>	2022/06/30	Alias 1	A	Previously resolved to Copycat Website - Group 1
30	<thursdayboots-osterreich.com>	2022/10/19	Alias 1	A	Previously resolved to Copycat Website - Group 1
31	<thursdaybootsoutlets.com>	2022/06/29	Alias 1	A	Copycat Website - Group 1
32	<thursdaybootsphilippine.com>	2022/08/04	Alias 1	A	Copycat Website - Group 2
33	<thursdaybootspt.com>	2022/06/30	Alias 1	A	Previously resolved to Copycat Website - Group 1
34	<thursdaybootsrea.com>	2021/12/04	Alias 1	A	Copycat Website - Group 1
35	<thursdayboots-ro.com>	2022/05/05	Alias 1	A	Copycat Website - Group 1
36	<thursdaybootssaldi.com>	2022/09/16	Alias 1	A	Previously resolved to Copycat Website - Group 1
37	<thursdaybootssklep.com>	2021/12/28	Alias 1	A	Resolves to website connected to Domain Name No. 8
38	<thursdaybootssko.com>	2022/05/05	Alias 1	A	Copycat Website - Group 2
39	<thursdaybootsstockholm.com>	2022/06/30	Alias 1	A	Previously resolved to Copycat Website - Group 1
40	<thursdaybootsstore.com>	2022/10/19	Alias 1	A	Copycat Website - Group 1
41	<thursdaybootstilbud.com>	2022/09/16	Alias 1	A	Previously resolved to Copycat Website - Group 1
42	<thursdaybootstoronto.com>	2022/10/19	Alias 1	A	Previously resolved to Copycat Website - Group 1
43	<thursdaybootsturkey.com>	2022/05/05	Alias 1	A	Copycat Website - Group 1
44	<thursdaybootsuae.com>	2022/04/11	Alias 1	A	Copycat Website - Group 1

45	<thursdaybootsusa.com>	2022/06/29	Alias 1	A	Copycat Website - Group 1
46	<thursdaybootsverige.com>	2022/08/04	Alias 1	A	Copycat Website - Group 2
47	<thursdaybootuae.com>	2022/11/17	Alias 1	A	Copycat Website - Group 1
48	<thursdaysbootuk.com>	2022/09/12	Alias 1	A	Copycat Website - Group 1
49	<thursdayshoescanada.com>	2022/07/04	Alias 1	A	Copycat Website - Group 2
50	<thursday-boots-philippines.com>	2021/10/11	Alias 1	A	Copycat Website - Group 5
51	<botasthursdayboots.com>	2021/11/01	Alias 1	A	Copycat Website - Group 2
52	<thursdaybootsmexlco.com>	2021/11/02	Alias 1	A	Copycat Website
53	<thursdaybootsdeutschiand.com>	2021/11/02	Alias 1	A	Copycat Website - Group 1
54	<thursdaybootsco.com>	2021/11/11	Alias 1	A	Copycat Website - Group 1
55	<thursdaybootsforsale.com>	2021/11/11	Alias 1	A	Copycat Website - Group 1
56	<thursdaybootsclearance.com>	2021/12/10	Alias 1	A	Copycat Website - Group 2
57	<thursdaybootsamsterdam.com>	2021/11/11	Alias 1	A	Copycat Website - Group 2
58	<thursdaybootsspana.com> ¹	2022/01/03	Alias 1	A	Copycat Website
59	<thursdaybootsdenmark.com>	2022/01/18	Alias 1	A	Copycat Website - Group 1
60	<thursday-boots-uk.com>	2022/01/22	Alias 1	A	Copycat Website - Group 3
61	<thursdaybootaustralla.com>	2022/03/11	Alias 1	A	Copycat Website - Group 1
62	<thursday-boots-sale.com>	2022/03/16	Alias 1	A	Copycat Website - Group 3
63	<thursdaybootsparis.com>	2022/05/16	Alias 1	A	Copycat Website - Group 2
64	<thursdaybootsjapan.com>	2021/11/16	Alias 2	A	Copycat Website - Group 1
65	<thursdaybootsbudapest.com>	2021/11/15	Alias 3	A	Copycat Website - Group 1
66	<captainbootsfactoryoutlet.com>	2021/11/10	Alias 4	B	Copycat Website - Group 1
67	<thursdayboots-mx.me>	2022/09/20	Alias 5	B	Previously resolved to Copycat Website and now a landing page - Group 4
68	<thursdaybootscompany.com>	2021/11/10	Alias 6	B	Copycat Website - Group 1
69	<thursdaybootconz.com>	2021/11/10	Alias 6	B	Copycat Website - Group 1

¹ The Panel notes that the Domain Name <thursdaybootsspana.com> appears to be available for registration due to expiry. The Center has informed the Complainant at different times in this regard prior to issuance of this Decision.

70	<thursdaybootsespaña.com>	2022/01/18	Alias 7	B	Copycat Website - Group 1
71	<thursdayboots.co>	2022/11/23	Alias 8	C	Redirects to Dan.com and offers domain name for sale
72	<thursdaybootsspain.com>	2022/09/02	Alias 9	D	Copycat Website - Group 3
73	<thursdaybootscanada.net>	2022/03/16	Alias 10	E	Previously resolved to Copycat Website - Group 4
74	<Thursdaybootco.com>	2021/01/25	Alias 11	F	Previously resolved to Copycat Website and at different times, to a parked page displaying Pay-Per-Click ("PPC") links.
75	<thursdaybootsosterreich.com>	2022/09/16	Alias 12	G	Previously resolved to Copycat Website - Group 1
76	<thursdaybootsslovenija.com>	2022/09/16	Alias 13	G	Previously resolved to Copycat Website -Group 1
77	<thursdaybootsjp.com>	2022/09/02	Alias 14	H	Previously resolved to Copycat Website - Group 3
78	<thursdaybootssg.com>	2022/09/16	Alias 15	I	Copycat Website - Group 1

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Names.

Notably, the Complainant contends that the Domain Names are identical and/or confusingly similar to the Trade Mark in which it has rights, that the Respondents have no rights or legitimate interests with respect to the Domain Names, and that the Domain Names were registered and are being used in bad faith. The Complainant requests transfer of the Domain Names.

B. Respondents

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

6. Discussion and Findings

6.1. Preliminary Issues

A. Consolidation: Multiple Respondents

The second amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are the same entity or mere alter egos of each other, or under common control. The Complainant requests the consolidation of the Complaint against the multiple Domain Name registrants pursuant to paragraph 10(e) of the Rules.

The Domain Name registrants did not comment on the Complainant's request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant's request, the Panel will consider whether (i) the Domain Names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2.

As regards common control, the Panel notes the following:

(1) All the Domain Names include the Trade Mark as part of the Domain Names;

(2) Domain Names 1- 63 are all registered in the name of Alias 1 and all resolve or previously resolved to Copycat Websites. The majority of them have characteristics of Websites within Group 1. Many of these Domain Names include within them a geographical name or abbreviation or misspelled geographical name e.g. to cite some examples, "canada" in Domain Name 3, "mx" (for Mexico) in Domain Name 27, "new zealand" in Domain Name 28, "osterreich" (for Austria) in Domain Name 30, and "malaysla" (for Malaysia) in Domain Name 24;

(3) Domain Names 64 to 78 are each registered to individual registrants except for Domain Names 68 and 69 which are both registered to Alias 6;

(4) Domain Names 64, 65, 66, 68, 69, 70, 75, 76, and 78 all resolve or previously resolved to Copycat Websites and all have the characteristics of Websites within Group 1;

(5) Domain Names 67 and 73 both previously resolved to the Copycat Websites and they both include within it a geographical name or abbreviation with "mx" in the case of Domain Name 67 and "canada" in the case of Domain Name 73. They both also have the characteristics of Websites within Group 4;

(6) Domain Names 72 resolves to a Copycat Website whilst Domain Name 77 previously did so. They both also contain within their respective domain names a geographical element, "spain" for Domain Name 72 and "jp" (for Japan) for Domain Name 77 and they both share the characteristics of Websites within Group 3;

(7) Domain Name 74 previously resolved to a Copycat Website and at different times of the proceeding, to a parked page displaying PPC links;

(8) In the case of the remaining Domain Name, Domain Name 71, this is the only one which redirects to Dan.com and offers the Domain Name for sale. The Complainant states in the second amended Complaint that it previously resolved to a Copycat Website but in one of the spreadsheets submitted as an exhibit, it is the only one with the description "resell, redirect". All the other Domain Names on the spreadsheet have the descriptions "counterfeit website" or "previously resolved to counterfeit website". No screenshots of this Domain Name were submitted and the Panel was unable to find any record on the Wayback machine showing that it used to resolve to a Copycat Website. The Complainant referred to it being part of the same entity that exercised control over domain names involving the trade marks in the UDRP case of *Thursday Boot Company v. Domain Admin, WHOISprotection.cc, Cynthia Wagner, Michelle Gordon, Rita Gilbert, Rudy Fry, Rose Turner, Alice Murray, Gary Dillon, Lisbeth Rose, Gilbert Frasier, Gladys Sipes, Chauncey Thomas, Mark Copeland, Embla Gottfrid, Web Commerce Communications Limited, Benjamin Bachmeier, Karen Clark, Marina Klein, Birgit Hartmann, Silke Austerlitz, Matthias Schwarz, Jan Meyer, and Enid Walsh*, WIPO Case No. 2021-4291. However, none of the named Respondents are Alias 8; and

(9) The Respondents failed to file responses.

The evidence submitted points to the fact that all the Domain Names except for Domain Name 71 are subject of common control by the Respondents. The above pattern evidences common conduct based on the registration and use of the Domain Names and that such conduct interferes with the Trade Mark. The Respondents had the opportunity but did not respond to the Complaint. As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

As for Domain Name 71, conflicting evidence has been filed by the Complainant. Whilst the Panel notes that the Domain Name contains the Trade Mark, the registrant failed to file a response and the Domain Name was registered within the same time span as the others, these factors are not themselves sufficient to demonstrate that this Domain Name is subject of common control by the Respondents especially as this is the only Domain Name of the five domain names that were not analysed by the Expert in its technical report, this Domain Name was registered with a different Registrar and is also the only one of the 78 Domain Names which does not appear to have ever been connected to a Copycat Website.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different Domain Name registrants (referred to below as “the Respondent”) in a single proceeding except for Domain Name 71, <thursdayboots.co>, registered in the name of Liu Fen which is excluded from this proceeding. The Complainant is free to file a separate complaint in relation to Domain Name 71.

B. Language of the Proceeding

The language of the Registration Agreement for Domain Name 78 registered with Registrar I 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.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English as the content of the Website connected to Domain Name 78 is completely in English as is the content of the majority of the other Websites which are under the common control of the Respondent. This is a clear indication that the Respondent is familiar and understands the English language.

The Respondent has not challenged the Complainant’s language request and in fact has failed to file a response in either English or Chinese.

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 (see [WIPO Overview 3.0](#), section 4.5.1).

Having considered all the matters above, including the fact that the language of the Registration Agreement of the other 76 Domain Names which are under the common control of the Respondent are in English, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

6.2 Substantive Issues

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant’s trade mark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds that either the entirety of the Trade Mark or the dominant elements of the Trade Mark is reproduced within the Domain Names. Accordingly, these Domain Names are confusingly similar to the Trade Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other terms here which includes geographical names, abbreviations of geographical names, misspellings of geographical names, descriptive terms, the letter “s” other random letters and words and hyphens may bear on assessment of the second and third elements, the Panel finds the addition of such terms do not prevent a finding of confusing similarity between the Domain Names and the Trade Mark for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.8.

With respect to Domain Name 66, the Panel finds that the fact that the Domain Name has been registered before the Trade Mark, CAPTAIN BOOT, was filed and registered does not by itself preclude the Complainant’s standing to file a UDRP case nor a finding of identity or confusingly similarity under the first element. This may bear on the assessment of the second and third elements. [WIPO Overview 3.0](#), sections 1.1.3.

Based on the available record, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the Domain Names. The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Domain Names such as those enumerated in the Policy or otherwise.

Moreover, the nature of many of the Domain Names (e.g., <thursdaybootsclearance.com> and <thursdaybootsoutlets.com>) is inherently misleading as they effectively impersonate or suggest sponsorship or endorsement by the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the Respondent must have been aware of the Trade Mark when it registered the Domain Names given the reputation of the Trade Mark. It is therefore implausible that the Respondent was unaware of the Complainant when it registered the Domain Names. In relation to the CAPTAIN BOOT trade mark which was filed on December 22, 2021 and registered on November 8, 2022 whilst Domain Name 66 <captainbootsfactoryoutlet.com> was registered on November 10, 2021, the Panel notes from research on the Wayback machine that for some years prior to the filing of Domain Name 66, the

Complainant's website offers for sale a range of "CAPTAIN" boots. It would have been helpful if the Complainant had provided details of its unregistered rights in relation to the CAPTAIN BOOTS trade mark but in view of the fact that the "CAPTAIN" boots mark is displayed in the Copycat Websites which Domain Name 66 resolved to, it is clear that the Respondent was aware of the Complainant when it registered Domain Name 66.

In the [WIPO Overview 3.0](#), section 3.2.2 states as follows:

"Noting the near instantaneous and global reach of the Internet and search engines, and particularly in circumstances where the complainant's mark is widely known (including in its sector) or highly specific and a respondent cannot credibly claim to have been unaware of the mark (particularly in the case of domainers), panels have been prepared to infer that the respondent knew, or have found that the respondent should have known, that its registration would be identical or confusingly similar to a complainant's mark. Further factors including the nature of the domain name, the chosen top-level domain, any use of the domain name, or any respondent pattern, may obviate a respondent's claim not to have been aware of the complainant's mark."

The fact that there is a clear absence of rights or legitimate interests coupled with the Respondent's choice of the 77 Domain Names without any explanation is also a significant factor to consider (as stated in [WIPO Overview 3.0](#), section 3.2.1). The Domain Names fall into the category stated above and the Panel finds that the registration is in bad faith.

The Domain Names are also being used in bad faith. The unauthorised use of the Complainant's copyright material including images from the Complainant's website, the Logo, the Motto, and other text and the purported offer for sale of products bearing the Trade Mark at discounted prices on the Copycat Websites is clear indication of use for illegal activity. Either the products sold are counterfeit or no products are being delivered after payment. Further, the large number of Domain Names involved and most of the Domain Names are registered with the Alias 1 which is a renown serial cybersquatter is an indication of a serial cybersquatting ring involved in illegal activity.

The content of some of the Websites is calculated to give the impression they have been authorised by or connected to the Complainant when this is not the case. These Websites were set up to deliberately mislead Internet users that they are connected to, authorised by, or affiliated with the Complainant. The Respondent employs the fame of the Trade Mark to mislead Internet users into visiting the Websites instead of the Complainant's. From the above, the Panel concludes that the Respondent has intentionally attempted to attract, for commercial gain, by misleading Internet users into believing that the Websites and the products purportedly offered for sale and sold on them are those of or authorised or endorsed by the Complainant.

It is highly likely that Internet users when typing the Domain Names into their browser or finding them through a search engine would have been looking for a site operated by the Complainant rather than the Respondent. The Domain Names are likely to confuse Internet users trying to find the Complainant's official website. Such confusion will inevitably result due to the fact that all the Domain Names comprise the Trade Mark in its entirety or the dominant element of the Trade Mark.

The Panel therefore also concludes that the Domain Names were registered and are being used in bad faith under paragraph 4(b)(iv) of the Policy.

The fact that some of the Domain Names may have been inactive or resolve to parking pages with PPP links do not prevent a finding of bad faith given that the distinctiveness and reputation of the Trade Mark, the composition of the Domain Names, the lack of a response from the Respondent, and the fact that the Domain Names are all under common control of a single person or entity which are using the other Domain Names for nefarious purposes.

Based on the available record, the Panel finds the third element of the Policy has been established.

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 <cizmethursdayboots.com>, <thursdaybootamsterdam.com>, <thursdayboot-canada.com>, <thursdayboothrvatska.com>, <thursdaybootjapan.com>, <thursdayboot-nederland.com>, <thursdaybootnederlands.com>, <thursdayboot-polska.com>, <thursdayboot-portugal.com>, <thursdayboot-sale.com>, <thursdaybootsargentina.com>, <thursdaybootsbrazil.com>, <thursdaybootsca.com>, <thursdaybootses.com>, <thursdaybootseurope.com>, <thursdaybootsfactoryoutlet.com>, <thursdaybootsfr.com>, <thursdaybootsgreece.com>, <thursdaybootsisrael.com>, <thursdaybootsit.com>, <thursdaybootsitaly.com>, <thursdaybootskengat.com>, <thursdaybootsmadrid.com>, <thursdaybootsmalaysla.com>, <thursdaybootsmelbourne.com>, <thursdaybootsmilano.com>, <thursdaybootsmx.com>, <thursdaybootsnewzealand.com>, <thursdaybootsno.com>, <thursdayboots-osterreich.com>, <thursdaybootsoutlets.com>, <thursdaybootsphilippine.com>, <thursdaybootspt.com>, <thursdaybootsrea.com>, <thursdayboots-ro.com>, <thursdaybootsssaldi.com>, <thursdaybootssklep.com>, <thursdaybootssko.com>, <thursdaybootsstockholm.com>, <thursdaybootsstore.com>, <thursdaybootstilbud.com>, <thursdaybootstoronto.com>, <thursdaybootsturkey.com>, <thursdaybootsuae.com>, <thursdaybootsusa.com>, <thursdaybootsverige.com>, <thursdaybootuae.com>, <thursdaysbootuk.com>, <thursdayshoescanada.com>, <thursday-boots-philippines.com>, <botasthursdayboots.com>, <thursdaybootsmexlco.com>, <thursdaybootsdeutschland.com>, <thursdaybootsco.com>, <thursdaybootsforsale.com>, <thursdaybootsclearance.com>, <thursdaybootsamsterdam.com>, <thursdaybootsspana.com>, <thursdaybootsdenmark.com>, <thursday-boots-uk.com>, <thursdaybootaustralla.com>, <thursday-boots-sale.com>, <thursdaybootsparis.com>, <thursdaybootsjapan.com>, <thursdaybootsbudapest.com>, <captainbootsfactoryoutlet.com>, <thursdayboots-mx.me>, <thursdaybootscompany.com>, <thursdaybootconz.com>, <thursdaybootsespaña.com>, <thursdaybootsspain.com>, <thursdaybootscanada.net>, <thursdaybootco.com>, <thursdaybootsosterreich.com>, <thursdaybootssslovenija.com>, <thursdaybootsjip.com>, and <thursdaybootssg.com> be transferred to the Complainant.

The Domain Name <thursdayboots.co> is denied without prejudice.

/Karen Fong/

Karen Fong

Sole Panelist

Date: April 10, 2024