

ADMINISTRATIVE PANEL DECISION

IW Apparel, LLC, Workwear Outfitters, LLC, and Imagewear Apparel, LLC v.
Jenna Staggs
Case No. D2023-3746

1. The Parties

The Complainant is IW Apparel, LLC, Workwear Outfitters, LLC, and Imagewear Apparel, LLC, United States of America (“U.S.”), individually and collectively referred to as the “Complainant”, represented by Holland & Knight LLC, U.S.

The Respondent is Jenna Staggs, China.

2. The Domain Name and Registrar

The disputed domain name <workauthority.shop> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 7, 2023. On September 8, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. Also on September 8, 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 together with the amendment to the Complaint/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 September 13, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 3, 2023. The Respondent did not submit any response. The Center sent the Notification of Respondent Default on October 5, 2023.

The Center appointed Knud Wallberg as the sole panelist in this matter on October 11, 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

Since at least as early as 2006, the Complainant, or their predecessors-in-interest, have operated a retail business under the WORK AUTHORITY service mark. The Complainant's WORK AUTHORITY-branded retail business specializes in providing a variety of products to the public, including footwear, clothing, and personal protective equipment. These products are available in the Complainant's WORK AUTHORITY-branded Canadian physical retail store, through the Complainant's WORK AUTHORITY-branded mail order catalog services, and through the Complainant's WORK AUTHORITY-branded electronic, online sale services.

The Complainant holds a trademark registration of the WORK AUTHORITY trademark, Canadian Trademark No. TMA789436 for services in class 35, registered on February 2, 2011, and also claims to hold common law trademark rights in the <workauthority.ca> domain name.

The Complainants' online marketplace is located at "www.workauthority.ca".

The disputed domain name was registered on June 29, 2023. At the time the Complaint was filed, it was used for a website, which purported to offer a wide variety of products under the WORK AUTHORITY trademark, and which contained a purchasing mechanism.

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 disputed domain name.

Notably, the Complainant contends that the disputed domain name is identical or confusingly similar to the WORK AUTHORITY trademark, in which the Complainant holds rights.

The Complainant further contends that the Respondent lacks any legitimate rights in the WORK AUTHORITY trademark. The Respondent is not related to, affiliated with, endorsed by, or otherwise associated with the Complainant nor has the Respondent sought from the Complainant, and the Complainant has not granted to the Respondent, any authorization, license, or permission to use the WORK AUTHORITY mark.

The Complainant finally contends that the Respondent has registered and used the disputed domain name in bad faith. The disputed domain name is, thus, used actively for a copycat webpage that purports to offer a wide variety of products as a way to suggest a connection with, or endorsement by the Complainant, if not to simply impersonate the Complainant and deceive visitors into believing that it is the Complainant's own retail store. This unauthorized and inappropriate use of the Complainant's trademark is underlined by the fact that the website contains a purchasing mechanism.

B. Respondent

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

6. Discussion and Findings

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 trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7.

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

The Panel finds the mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Therefore, 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 disputed domain name. 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 disputed domain name.

In addition, the Panel notes that the disputed domain name has been used for a copycat website that purports to offer a wide variety of products together with a purchasing mechanism, which indicates a likely attempt to commit fraud against the Complainant and to confuse unsuspecting Internet users. Such use cannot give rise to rights or legitimate interests for the Respondent in the disputed domain name.

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.

The Panel considers that the record of this case reflects that the Respondent has used the disputed domain name in an attempt to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on the Respondent's website or location. Paragraph 4(b)(iv) of the Policy, and [WIPO Overview 3.0](#), section 3.1.4.

Considering the Respondent's use of the disputed domain name to impersonate the Complainant and to potentially commit fraud against the Complainant, the Respondent's registration and use of the disputed domain name is considered in bad faith.

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 disputed domain name, <workauthority.shop> be transferred to the Complainant.

Knud Wallberg

Knud Wallberg

Sole Panelist

Date: October 30, 2023