

## **ADMINISTRATIVE PANEL DECISION**

Wide Wing Financing, LLC v. Yong heng furniture city, Yong heng furniture city

Case No. D2023-3795

### **1. The Parties**

The Complainant is Wide Wing Financing, LLC, United States of America (“United States”), represented by Neal & McDevitt, United States.

The Respondent is Yong heng furniture city, Yong heng furniture city, Cambodia.

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

The disputed domain names <sigsvip.com> and <sig88.com> are registered with Alibaba.com Singapore E-Commerce Private Limited (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 12, 2023 relating only to the disputed domain name <sigsvip.com> (the “First Disputed Domain Name”). On September 12, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the First Disputed Domain Name . On September 13, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the First Disputed Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on September 18, 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 September 19, 2023 (the “First Amended Complaint”).

The Center verified that the First 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 October 5, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 25, 2023. The Respondent did not submit any response.

Accordingly, the Center notified the Respondent's default on October 26, 2023.

On October 26, 2023, the Complainant filed a Second Amended Complaint (the "Second Amended Complaint") requesting the addition of the disputed domain name <sig88.com> (the "Second Disputed Domain Name").

The Center appointed Wilson Pinheiro Jabur as the sole panelist in this matter on November 1, 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.

On November 10, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Second Disputed Domain Name. On November 13, 2023, the Registrar transmitted by email to the Center its verification response disclosing the registrant and contact information for the Second Disputed Domain Name.

On November 15, 2023, the Panel issued the Administrative Procedural Order No. 1, inviting the Complainant to provide any further arguments regarding the Second Disputed Domain Name by November 20, 2023, as well as the Respondent to comment on the Second Amended Complaint.

The Complainant submitted a Supplemental Filing on November 20, 2023. The Respondent did not submit any comment or response.

#### **4. Factual Background**

The Complainant is part of the Susquehanna International Group of Companies and operates in the financial market, trading financial products and asset classes, with a focus on derivatives, handling substantial transactions on exchanges around the world every day.

The Complainant's corporate website is available at "ww.sig.com" and the Complainant has been using the SIG name and trademark for over twenty years in connection with financial services, including without limitation, trading and investment services directed to securities and other financial instruments and products, and financial market news and commentary.

The Complainant is the owner of the following, amongst others, trademarks (Annex 3 to the Complaint):

- United States trademark registration No. 2,642,038, for SIG SUSQUEHANNA & device, filed on April 17, 2001 and registered on October 29, 2002, subsequently renewed, claiming first use in commerce in May 2001, in class 36;
- United States trademark registration No. 2,891,728, for SIG-STAR & device, filed on January 29, 2003 and registered on October 5, 2004, subsequently renewed, in class 36; and
- United States trademark registration No. 3,090,696, for SIG FACTS & device, filed on December 5, 2003 and registered on May 9, 2006, subsequently renewed, in class 36.

The disputed domain names were registered on March 25, 2023, and presently do not resolve to active webpages. The disputed domain names have resolved in the past to webpages which appear to have been used in connection with fraudulent schemes and which reproduced the Complainant's SIG SUSQUEHANNA & device trademark.

The Complainant sent a cease-and-desist letter on June 13, 2023, to the email addresses provided by the Registrar (Annexes 1, 2, 3 to the Second Amended Complaint), having the Registrar responded on June 16, 2023 stating that "we have notified the owner of the website and asked them to clean up the fraud Information as soon as possible."

## 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 names.

Notably, the Complainant contends that the Respondent registered the disputed domain names targeting the Complainant and having used the disputed domain names in connection with fraudulent websites that displayed the Complainant's registered SIG SUSQUEHANNA (and design) mark in the top-left corner of the header for each webpage, in connection with content that advertised "[t]he most complete trading cryptocurrency platform" from an entity identified as "SIG," "SIG Holdings" or "SIG Global" (Annexes 15 and 16 to the Second Amended Complaint).

The Complainant further contends that the Respondent was not authorized by the Complainant or connected with the Complainant in any way.

Under the Complainant's view, the disputed domain names are confusingly similar to the Complainant's trademarks, being such similarity further heightened by the reproductions of the Complainant's SIG SUSQUEHANNA (and design) mark in the websites that used to be available at the disputed domain names.

Also, according to the Complainant, the Respondent has no rights or legitimate interests in the disputed domain names given the Respondent's use of the disputed domain names to impersonate the Complainant and purport to offer services under the imprimatur of the Complainant – also having used the Complainant's logo to suggest legitimacy – what cannot characterize a *bona fide* offering of goods or services.

Moreover, the Complainant contends that the Respondent has used the disputed domain names in connection with fraudulent schemes in an attempt to confuse website visitors into providing personal data or financial information, or to engage in a scam or otherwise fraudulent activity, purportedly providing the Respondent cryptocurrency purchasing and trading. In addition to that, the Complainant asserts that the "Terms of Service" link in the footer of the websites available through the disputed domain names displayed a pop-up window with a "SIG Global user agreement" which indicated that the Respondent collected and held funds from website users, who would "need to pay the corresponding withdrawal fees to the SIG Global platform" before being able to withdraw funds (Annex 16 to the Second Amended Complaint).

### B. Respondent

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

## 6. Discussion and Findings

Paragraph 4(a) of the Policy sets forth the following three requirements which have to be met for this Panel to order the transfer of the disputed domain names to the Complainant:

- (i) the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

The Complainant must prove in this administrative proceeding that each of the aforesaid three elements is present in order to obtain the transfer of the disputed domain names.

## A. Addition of a Domain Name

The Complainant has requested the addition of the Second Disputed Domain Name <sig88.com> to the Complaint after the Complaint had been notified to the Respondent.

In the present case, and following the issuance of the Panel Order, the Panel believes that the subsequent addition of the Second Disputed Domain Name <sig88.com> is admissible, as (1) the Respondent of the added disputed domain name is the same individual as the Respondent of the First Disputed Domain Name <sigsvip.com> and (2) the added disputed domain name was registered on the same day, the websites associated with the disputed domain names are identical, both disputed domain names were registered using the services of the Registrar and both websites target the Complainant and its marks.

In light of the above, the Panel believes it to be fair and practical, and not prejudicial to the Respondent for the Second Disputed Domain Name <sig88.com> to be considered as part of this proceeding.

## B. 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 a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds that the relevant part of the Complainant's mark is recognizable within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other terms ("svip" and "88") may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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

## C. 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 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 disputed domain names such as those enumerated in the Policy or otherwise.

Panels have held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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

#### **D. 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.

As seen above, the use made of the disputed domain names in connection with fraudulent websites impersonating the Complainant clearly characterize the Respondent's bad faith registration and use of the disputed domain names. Panels have held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain names constitutes bad faith under the Policy.

In addition to that, Panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the record, the Panel finds the present non-use of the disputed domain names does not prevent a finding of bad faith in the circumstances of this proceeding. While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put. [WIPO Overview 3.0](#), section 3.3. Having reviewed the record, the Panel notes the reputation of the Complainant's trademark, and finds that in the circumstances of this case the passive holding of the disputed domain names does not prevent a finding of bad faith under the Policy.

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 names, <sigsvip.com> and <sig88.com>, be transferred to the Complainant.

*/Wilson Pinheiro Jabur/*

**Wilson Pinheiro Jabur**

Sole Panelist

Date: November 25, 2023