

## **ADMINISTRATIVE PANEL DECISION**

Dan Salvato LLC v. Jason King, Shenzhen Yunnuotaifeng Tech Co., Ltd.  
Case No. D2024-2416

### **1. The Parties**

The Complainant is Dan Salvato LLC, United States of America, represented by Morrison Cooper LLP, United States of America (“United States”).

The Respondent is Jason King, Shenzhen Yunnuotaifeng Tech Co., Ltd., China.

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

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

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 12, 2024. On June 13, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 13, 2024, 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 (Unknown / Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 17, 2024, 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 June 19, 2024.

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 June 21, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 11, 2024. The Respondent sent multiple informal emails throughout the proceeding.

The Center appointed Adam Taylor as the sole panelist in this matter on July 25, 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**

Since 2017, the Complainant has distributed a video game under the mark DOKI DOKI LITERATURE CLUB!. The game achieved over three million downloads within four months of release and it has now amassed some 200,000 reviews on the Steam computer game platform.

The Complainant has also promoted the game under the acronym DDLC, including via websites at “www.ddlc.moe” and “www.ddlc.plus”, and the game has become widely known by this shorthand version.

The Complainant offers a range of merchandise associated with its game including “plush” (i.e., soft/stuffed) toys.

The Complainant owns United States trade mark No. 6,909,281 for DOKI DOKI LITERATURE CLUB!, registered on November 29, 2022, in class 25, as well as a pending United States trade mark application No. 98589292 for DDLC, filed on June 6, 2024, in classes 9, 25 and 28.

The disputed domain name was registered on April 25, 2023.

As of June 4, 2024, the disputed domain name resolved to a website branded with a close copy of the Complainant’s logo plus images of characters from the Complainant’s game. The site was headed “Ddlc Plush – Official Doki Doki Literature Club Stuffed Animal Store” and it purported to offer “plushies” merchandise for sale relating to the Complainant’s game.

#### **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.

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

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

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

Under the Policy, the Complainant is required to prove on the balance of probabilities that:

- the disputed domain name is identical or confusingly similar to a trade mark in which the Complainant has rights;
- the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- the disputed domain name has been registered and is being used in bad faith.

##### **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 of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Panel finds the Complainant has established unregistered trade mark or service mark rights in the mark DDLC for the purposes of the Policy, arising from its promotion of the game by reference to that mark. [WIPO Overview 3.0](#), section 1.3. The fact that the Respondent is shown to have been targeting the Complainant's mark (based on the manner in which the related website is used) supports the finding that the Complainant's mark has achieved significance as a source identifier.

The entirety of the mark is reproduced 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.

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

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.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognised that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult 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 (although the burden of proof always remains on the complainant). 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 available 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 such as those enumerated in the Policy or otherwise.

As to paragraph 4(c)(i) of the Policy, it is unclear whether the Respondent is actually reselling the Complainant's own goods. If so, the consensus view of UDRP panels is that to establish a bona fide offering of goods or services in such circumstances, a respondent must comply with certain conditions (the "Oki Data requirements"). [WIPO Overview 3.0](#), section 2.8.

In this case, the Panel considers that the Respondent has failed to comply with the Oki Data requirement to accurately and prominently disclose the Respondent's relationship with the trade mark holder. On the contrary, as explained in section 6C below, the Respondent has set out to impersonate the Complainant.

If the Respondent is selling counterfeit/imitation products, then its behaviour is plainly even more egregious.

Nor is there any evidence that paragraphs 4(c)(ii) or (iii) of the Policy are relevant in the circumstances of this case.

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.

Given the evidence of use of the disputed domain name, which includes the Complainant's distinctive mark, for a website impersonating the Complainant, including by claiming to be an "official" stuffed animal store for the Complainant's products and by misuse of the Complainant's logo and imagery, the Panel readily concludes that the Respondent has intentionally created a likelihood of confusion with the Complainant's trade mark in accordance with paragraph 4(b)(iv) of the Policy.

The Panel finds that the Complainant has established the third element of the Policy.

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

*/Adam Taylor/*

**Adam Taylor**

Sole Panelist

Date: August 8, 2024