

## **ADMINISTRATIVE PANEL DECISION**

Svendsen Sport A/S v. Guo Qinlin  
Case No. D2024-2752

### **1. The Parties**

The Complainant is Svendsen Sport A/S, Denmark, represented by Neal & McDevitt, United States of America.

The Respondent is Guo Qinlin, China.

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

The disputed domain name <fishingsavagegear.com> is registered with Name.com, Inc. (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on July 5, 2024. On July 8, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 9, 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 (Redacted For Privacy, Domain Protection Services, Inc.) and contact information in the Complaint.

The Center sent an email communication to the Complainant on July 11, 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 July 12, 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 July 17, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 4, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 13, 2024.

The Center appointed Anna Carabelli as the sole panelist in this matter on August 16, 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 manufactures and sells fishing tackle and related products, including lures, rods, jig heads and hooks, under the brand SAVAGE GEAR, for which the Complainant's has held a trademark registration in the United States of America since 2016 (trademark registration No. 4948386 registered on May 3, 2016, in classes 18, 22, 25 and 28).

The Complainant's products are actively promoted and marketed through the Complainant's website at the domain name <savagegear.com>.

The disputed domain name was registered on December 8, 2022. The evidence in the Complaint shows that the disputed domain name resolves to an active website that imitates the Complainant's official website, purporting to offer SAVAGE GEAR trademarked products and prominently featuring the Complainant's SAVAGE GEAR trademark and tagline "It's a Savage World".

#### **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 Complainant has established rights in the SAVAGE GEAR trademark by virtue of long-standing trademark registrations and use (directly or through licensees or affiliates) in various countries;
- The Complainant's SAVAGE GEAR trademark is distinctive and well known;
- The disputed domain name is confusingly similar to a trademark in which the Complainant has rights, since it consists of the Complainant's SAVAGE GEAR mark with the addition of the word "fishing", which does nothing to distinguish the disputed domain name from the Complainant's mark;
- The Respondent has no rights or legitimate interests in the disputed domain name since: (i) the Respondent is not commonly known by the disputed domain name, (ii) the Complainant has not authorized or somehow given consent to the Respondent to register and use the disputed domain name, and (iii) the Respondent's use of the disputed domain name is neither a bona fide offering of goods or services nor a legitimate noncommercial or fair use. Indeed, the Respondent has used the disputed domain name to set up a website that imitates the Complainant's official website's content, in the attempt to deceive potential purchasers without disclosing the lack of any relation with the Complainant. Such imitation extends to the Complainant's mark and other materials, including overall layout and design elements;
- The disputed domain name was registered and is being used in bad faith. The Respondent registered the disputed domain name having in mind the Complainant and its SAVAGE GEAR trademark, with the clear intention to attract for commercial gain Internet users by creating a likelihood of confusion with the Complainant and its SAVAGE GEAR trademark.

Based on the above the Complainant requests the disputed domain name be transferred to the Complainant.

## **B. Respondent**

The Respondent did not reply to the Complainant's contentions

## **6. Discussion and Findings**

Paragraph 15(a) of the Rules instructs the panel to decide the complaint based on the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

Under paragraph 4(a) of the Policy, the complainant must prove each of the following:

- (i) the disputed domain name is 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 name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

Paragraph 4(b) of the Policy sets out four illustrative circumstances, which for the purposes of paragraph 4(a)(iii) of the Policy, shall be evidence of registration and use of a domain name in bad faith.

Paragraph 4(c) of the Policy sets out three illustrative circumstances any one of which, if proved by the respondent, shall be evidence of the respondent's rights to or legitimate interests in a disputed domain name for the purpose of paragraph 4(a)(ii) of the Policy above.

### **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.

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 the entirety of the Complainant's registered trademark SAVAGE GEAR is reproduced and 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. The addition of the generic Top-Level Domain, such as ".com", is viewed as a standard registration requirement and as such is typically disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

Although the addition of other terms, here the word "fishing", 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 recognized 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.

Moreover, given the composition of the disputed domain name, wholly incorporating the Complainant’s trademark with the addition of the term “fishing” (which is clearly connected to the Complainant’s business), and the absence of any relationship between the Respondent and the Complainant, the Respondent’s use of the disputed domain name carries a risk of implied affiliation with the Complainant, and can constitute neither a bona fide use nor a legitimate noncommercial or fair use of the disputed domain name. [WIPO Overview 3.0](#), section 2.5.1.

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, in the Panel’s view it is difficult to believe that the Respondent did not have in mind the Complainant’s mark when registering the disputed domain name. The fact that the Respondent has used the disputed domain name following registration, to resolve to a website which prominently features the Complainant’s SAVAGE GEAR trademark, allegedly offers SAVAGE GEAR branded products and imitates the Complainant’s official website, establishes both the Respondent’s actual knowledge of the Complainant’s rights as at the date of registration of the disputed domain name and the Respondent’s intention to take unfair advantage of those rights. Indeed, the Respondent has used the disputed domain name to capitalize on the goodwill of the Complainant’s SAVAGE GEAR trademark, and has intentionally attempted to attract, for commercial gain, Internet users to its websites by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the Respondent’s website.

The above conduct constitutes bad faith registration and use of the disputed domain name under 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 <fishingsavagegear.com> be transferred to the Complainant.

*/Anna Carabelli/*

**Anna Carabelli**

Sole Panelist

Date: August 30, 2024