

## ADMINISTRATIVE PANEL DECISION

Williams-Sonoma, Inc. v. 瞿国凤 (Qu Guo Feng)  
Case No. D2024-2767

### 1. The Parties

The Complainant is Williams-Sonoma, Inc., United States of America (“United States” or “US”), represented by Hanson Bridgett LLP, United States.

The Respondent is 瞿国凤 (Qu Guo Feng), China.

### 2. The Domain Name and Registrar

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

### 3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on July 1, 2024. On July 9, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 11, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 12, 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 in English on the same day.

On July 12, 2024, the Center informed the Parties in Chinese and English, that the language of the Registration Agreement for the disputed domain name is Chinese. On the same day, the Complainant requested English to be the language of the proceeding. The Respondent did not submit any comment on the Complainant’s submission.

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 in Chinese and English of the Complaint, and the proceedings commenced on July 18, 2024. In accordance with the

Rules, paragraph 5, the due date for Response was August 7, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 8, 2024.

The Center appointed Karen Fong as the sole panelist in this matter on August 12, 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 a company based in the United States and is a manufacturer and retailer of premiere upscale and luxury home-goods selling internationally through its retail stores, catalogs, and online. The Complainant's brands include among others, WILLIAMS SONOMA and POTTERY BARN. The POTTERY BARN brand was launched in 1949 and offers in-house designed and/or exclusive products for the home e.g. furniture, rugs, bedding and accessories. There are over 200 Pottery Barn retail stores in the United States and other countries.

The Complainant is the owner of the POTTERY BARN trade mark in many jurisdictions including the following:

- United States Trade Mark Registration No. 6130848 for POTTERY BARN registered on August 18, 2020;
- United States Trade Mark Registration No. 6389622 for POTTERY BARN registered on June 15, 2021;

(individually and collectively referred to as the "Trade Mark").

The Complainant's e-commerce sales are done through the following websites which incorporate the Trade Mark namely "www.potterybarn.com", "www.potterybarnteen.com" and "www.potterybarnkids.com". The website "www.potterybarn.com" has been used as the Complainant's primary official Internet presence since 1995.

The Respondent who appears to be based in China registered the disputed domain name on March 18, 2024. The disputed domain name resolves to a website (the "Website") which impersonates the Complainant by featuring the Trade Mark but offers for sale homeware such as furniture, curtains, lighting and cookware items not produced or offered by the Complainant. Evidence was submitted to show that some of these third party items are also offered for sale on Amazon.com. The "About Us" page on the Website contains the history of the Complainant's POTTERY BARN brand and many of the webpages represent the Website as being the Complainant's genuine POTTERY BARN website including the Complainant's San Francisco address as a point of contact.

The Respondent has been a party to prior UDRP proceedings brought by other brand owners resulting in the disputed domain names in those cases being transferred to the complainants. These include *Fiere Int'l di Bologna SpA v. Qu Guo Feng*, WIPO Case No. [D2024-0253](#), and *L'Oreal v. Qu Guo Feng*, WIPO Case No. [D2024-0936](#).

#### **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 confusingly similar to the Trade Mark, that the Respondent has no rights or legitimate interests with respect to the disputed domain name, and that the disputed domain name was registered and is being used in bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **6.1 Preliminary Issue: Language of the Proceeding**

The language of the Registration Agreement for the disputed domain name 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 for the following main reasons:

- English is the Complainant's language as well as the language of the Website which lists prices for goods in US dollars, demonstrating the Respondent's ability to communicate in English;
- The Complainant is based in the United States and the Respondent's infringement of the Trade Mark is directed at the United States;
- The disputed domain name is composed of English words together with the letters "ca";
- The Complainant is unable to communicate in Chinese;
- The Respondent has been a party to other UDRP proceedings which were conducted in English.

The Respondent has not challenged the Complainant's language request and in fact has failed to file a response in either English or Chinese despite being duly notified by the Center in both English and Chinese of the language of the proceeding and of the commencement of the proceeding.

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 of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

Having considered all the matters above, 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 the entirety of the Trade Mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the Trade Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of the other term here, "ca" after the Trade Mark in the disputed domain name 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 Trade Marks 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.

## **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 such as those enumerated in the Policy or otherwise.

Moreover, the nature of the disputed domain name is inherently misleading as it effectively impersonates or suggests 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 he/she registered the disputed domain name given the Trade Mark was registered prior to registration of the disputed domain name. Through use and advertising, the Trade Mark is known throughout the world. Search results using the key words “pottery barn” on Internet search engines direct Internet users to the Complainant and its business, which indicates that an exclusive connection between the Trade Mark and the Complainant has been established. Further, the Website displays the Trade Mark. It is therefore implausible that the Respondent was unaware of the Complainant when he/she registered the disputed domain name.

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 disputed domain name without any explanation is also a significant factor to consider (as stated in [WIPO Overview 3.0](#), section 3.2.1). The disputed domain name falls into the category stated above and the Panel finds that registration is in bad faith. The addition of the term "ca" after the Trade Mark further reflects that the Respondent had the Complainant in mind when registering the disputed domain name given the fact that the Complainant is based in California, that the Website titles "POTTERY BARN CALIFORNIA", and that "ca" could be the abbreviation of California.

The disputed domain name is also being used in bad faith. The Website prominently displays the Trade Mark, without any disclaimer disclosing (the lack of) relationship between the Parties. The content of the Website especially the "About Us" page which purports to be the Complainant is calculated to give the impression it has been authorized by or connected to the Complainant when this is not the case. The Website has been set up to deliberately mislead Internet users into believing that it is connected to, authorised by or affiliated with the Complainant. 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 Website is, and the products sold on it are those of or authorised or endorsed by the Complainant.

It is highly likely that Internet users when typing the disputed domain name into their browser or finding it through a search engine would have been looking for a site operated by the Complainant rather than the Respondent. The disputed domain name is likely to confuse Internet users trying to find the Complainant's official website. Such confusion will inevitably result due to the fact that the disputed domain name comprises the Trade Mark in its entirety. The Panel therefore finds that the disputed domain name has been registered and is being used 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 <potterybarnca.com> be transferred to the Complainant.

*/Karen Fong/*

**Karen Fong**

Sole Panelist

Date: September 2, 2024