

ADMINISTRATIVE PANEL DECISION

SCIMGBW, INC. v. da you

Case No. D2024-2915

1. The Parties

The Complainant is SCIMGBW, INC., United States of America (“United States”), represented by The Seigel Law Firm LLC, United States.

The Respondent is da you, China.

2. The Domain Name and Registrar

The disputed domain name <mitchellgold-bobwilliams.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 16, 2024. On July 17, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 18, 2024, 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 sent an email communication to the Complainant on July 19, 2024, providing the additional registrant and contact information disclosed by the Registrar.

The Center verified that the 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 19, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 8, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 12, 2024.

The Center appointed Halvor Manshaus as the sole panelist in this matter on August 14, 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 United States-based company that owns a United States trademark comprising of MITCHELL GOLD + BOB WILLIAMS, registration number 3219509 for furniture. The trademark was registered on March 20, 2007, and assigned to the Complainant on November 13, 2023.

The disputed domain name was registered on June 13, 2024. The disputed domain name hosts a website displaying the Complainant's trademark and advertisement of furniture.

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 virtually identical to the Complainant's trademark, and that the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant argues that the Respondent has not used or demonstrated any preparation to use the disputed domain name in connection with a bona fide offering of goods or services. The Complainant further asserts that the disputed domain name was registered and is being used in bad faith as it hosts a website that advertises furniture for sale under the Complainant's trademark. As such, the Respondent has registered and uses the disputed domain name to intentionally attempt to attract Internet users to the Respondent's website for commercial gain by creating a likelihood of confusion with the Complainant's trademark.

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.

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 mark is recognizable within the disputed domain name. The substitution of the "+" symbol with a hyphen does not change the overall appearance or pronunciation, rendering the disputed domain name nearly identical to the Complainant's trademark both visually and phonetically. 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 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. The Panel finds the Respondent appears to be impersonating the Complainant. Such use is not bona fide use. [WIPO Overview 3.0](#), section 2.8.

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 uses the disputed domain name to host a website which displays the Complainant’s trademark and advertisement of furniture. As such, the Panel finds that the Respondent uses, and likely registered, the disputed domain name to attract Internet users for commercial gain by creating a likelihood of confusion with the Complainant’s trademark. Such use not only undermines the Complainant’s rights but could also mislead Internet users into believing that the disputed domain name is affiliated with or endorsed by the Complainant.

The Panel therefore concludes 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 <mitchellgold-bobwilliams.com> be transferred to the Complainant.

/Halvor Manshaus/

Halvor Manshaus

Sole Panelist

Date: August 28, 2024