

## ADMINISTRATIVE PANEL DECISION

Hydrojug, Inc. v. 魏建东 (WEI JIAN DONG)  
Case No. D2024-3537

### 1. The Parties

The Complainant is Hydrojug, Inc., United States of America (“United States”), represented by Project CIP, c/o Preston P. Frischknecht, United States.

The Respondent is 魏建东 (WEI JIAN DONG), China.

### 2. The Domain Name and Registrar

The disputed domain name <thehydrojugus.com> is registered with Jiangsu Bangning Science & technology Co. Ltd. (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 1, 2024. On September 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 3, 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.

On September 3, 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 September 9, 2024, 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 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 September 12, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 2, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 7, 2024.

The Center appointed Karen Fong as the sole panelist in this matter on October 11, 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, a company based in the United States, markets and sells a range of water bottles and accessories under the brand HYDROJUG.

The Complainant has various trade mark registrations for HYDROJUG around the world including the following:

- United States Trade Mark Registration No. 5870021 for HYDROJUG, registered on September 24, 2019.
- China Trade Mark Registration No. 37929851 for HYDROJUG, registered on January 28, 2020.
- China Trade Mark Registration No. 56818340 for HYDROJUG, registered on January 7, 2022.

(the "Trade Mark").

The Complainant's website which incorporates the Trade Mark is at "www.thehydrojug.com".

The Respondent appears to be based in China. The disputed domain name was registered on July 31, 2024. The disputed domain name resolved to a website (the "Website") which mimics the Complainant's own website by using copyright images and content belonging to the Complainant, prominently displaying the Complainant's logo in the banner and heading of the home page, and offering for sale products that bear the Trade Mark at discounted prices which purport to be the Complainant's products without any disclaimer clarifying the (lack of) relationship between the Parties.

The Respondent has been the respondent of other UDRP proceedings against the Complainant which have resulted in those domain names being ordered to be transferred - *Hydrojug, Inc. v. 魏建东 (Wei Jian Dong)*, WIPO Case No. [D2024-3385](#); and *Hydrojug, Inc. v. 魏建东 (JianDong Wei)*, WIPO Case No. [D2024-3386](#).

#### **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. The Complainant requests transfer of the disputed domain name.

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

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

## **6. Discussion and Findings**

### **A. 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 a number of reasons including the fact that the Website was 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.

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.

### **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 identity or 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 terms "the" and "us" 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 Trade Mark for the purposes of the Policy. [WIPO Overview 3.0](#), sections 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 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.

Panels have held that the use of a domain name for illegal activity (here, claimed 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.

Here, the disputed domain name is confusingly similar to the Complainant's Trade Mark and official domain name <thehydrojug.com>, and the Website displayed the Complainant's logo, copyright images taken from the Complainant's website, and apparently offered for sale the Complainant's products bearing the Trade Mark at discounted prices, which falls squarely into paragraph 4(b)(iv) of the Policy. Panels have held that the use of a domain name for illegal activity (here, claimed impersonation/passing off, or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Further, the Panel also notes that the Respondent has already been the respondent of other UDRP cases concerning the Complainant which have resulted in the domain names being ordered to be transferred. See *Hydrojug, Inc. v. 魏建东 (Wei Jian Dong)*, supra, and *Hydrojug, Inc. v. 魏建东 (JianDong Wei)*, supra. This is an indication that the Respondent is a serial cybersquatter and is engaged in a pattern of bad faith conduct targeting the Complainant which is an example of bad faith contained in paragraph 4(b)(ii) of the Policy ([WIPO Overview 3.0](#), section 3.1.2).

The Panel therefore also concludes that the disputed domain name was registered and is being used in bad faith under paragraph 4(b)(iv) of 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 name <thehydrojugus.com> be transferred to the Complainant.

/Karen Fong/

**Karen Fong**

Sole Panelist

Date: October 23, 2024