

## **ADMINISTRATIVE PANEL DECISION**

Alamour Fashion House Pty Ltd v. Shou Yutong  
Case No. D2024-4017

### **1. The Parties**

The Complainant is Alamour Fashion House Pty Ltd, Australia, represented by Alder IP Pty Ltd., Australia.

The Respondent is Shou Yutong, China.

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

The disputed domain name <alamourthelabels.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 October 1, 2024. On October 1, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 1, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing additional contact details. The Center sent an email communication to the Complainant on October 4, 2024, providing the additional contact information disclosed by the Registrar. The Complainant filed an amendment to the Complaint on October 8, 2024.

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 October 9, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 29, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 30, 2024.

The Center appointed Erica Aoki as the sole panelist in this matter on November 8, 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 incorporated in Australia engaging in the business of selling clothing, particularly evening wear and wedding wear. The Complainant's business started in 2016 and has continuously sold clothing and fashion products.

The Complainant has operated since July 1, 2016, has used the business name "Alamour The Label" since September 27, 2016.

Complainant owns ALAMOUR trademarks, registered since September 12, 2017, and asserts unregistered rights since June 25, 2017.



Being primarily an online retail business, the Complainant delivers clothing products to customers worldwide, including but not limited to the United States of America, New Zealand, and Australia, via its websites and social media sales. For this reason, the Complainant registered trademarks worldwide, including in Class 25 for clothing items.

Also, Complainant conducts its business under the domain <alamourthelabel.com>. The Complainant's business focuses on evening wear and wedding wear for women, and has garnered a substantive reputation worldwide in trademarks.

The Complainant did not specify the specific date of the registration of the disputed domain name. However, Complainant claims that the webpage hosted under the disputed domain name on Wayback Machine shows that the Offending Webpage was only captured since June 22, 2024 and resolves to a webpage that is an online clothing shop and that alleges to sell the same products as those on the Complainant's website. Per the Whois records, the disputed domain name was created on June 22, 2024.

#### 5. Parties' Contentions

##### A. Complainant

The Complainant contends that they have satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

The Complainant contends that their notoriety is evidenced on the Internet. Complainant's business focuses on evening wear and wedding wear for women and has garnered a substantive reputation worldwide in their trademarks. Complainant's Facebook page has more than 140,000 followers

The Complainant contends that the disputed domain name is confusingly similar. The disputed domain name is substantially identical or deceptively similar to the Complainant's trademarks.

The disputed domain name encompasses the entire word element of the Complainant's trademark ALAMOUR. When used in the clothing sense, "labels" simply means a "brand name". Such meaning of "labels" can be found in the Merriam-Webster dictionary entry. The "s" added onto label is the only element of the disputed domain name that differentiates from the Complainant's <alamourthelabel.com> domain name.

The only distinctive element which consumers can relate to as a badge of owner of the domain name would be "ALAMOUR". "ALAMOUR", being the only verbal element in the Complainant's registered trademarks,

would be how the consumers would recognize and pronounce the trademarks. Therefore, to the consumers, the trademarks are substantially identical or deceptively similar to the disputed domain name. The mere addition of “s” is a deliberate attempt to mislead customers that the disputed domain name is the Complainant’s legitimate website.

## **B. Respondent**

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

## **6. Discussion and Findings**

The Complainant is required to establish the requirements specified under paragraph 4(a) of the Policy:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in respect of which the Complainant has rights;
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that 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 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 disputed domain name incorporates the Complainant’s trademarks in their entirety and thus is confusingly similar to the Complainant’s trademarks.

The disputed domain name includes the additional elements “the” and “labels” to the Complainant’s trademarks.

Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.7 and 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 Complainants have established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainants' 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 disputed domain name currently resolves to a website that is an online clothing shop that alleges selling the same products as those on the Complainant's website. The disputed domain name resolves to a website that contains several instances of unauthorized use of the Complainant's trademarks and may be perceived as an affiliate website for the Complainant's customers in the United States. There is no disclaimer present on the website to which the disputed domain name resolves and considering that the disputed domain name is a single-letter variation of the Complainant's legitimate domain name, <alamourthelabel.com>, it is clear that the Respondent sought to impersonate the Complainant via the disputed domain name and its content.

There is no evidence on record that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the Complainants' trademark.

The Panel finds the second element of the Policy has been established.

### **C. Registered and Used in Bad Faith**

The Complainant's trademark is replicated in entirety at the top of the webpage hosted on the disputed domain name. The use of the Complainant's trademark will deceive visitors to the website that they are dealing with the Complainant.

There is no legitimate justification for the Respondent to use the Complainant's trademarks on the website to which the disputed domain name resolves. As the trademark being used includes the Complainant's logo, the unauthorized use of the trademark is a deliberate attempt to mislead customers of the Complainant.

This is clear evidence of bad faith on the part of the Respondent. Furthermore, the Respondent has copied the contents of the Complainant's website onto the website at the disputed domain name. The name of products, descriptions, and photographs are all copied from Complainant's website without any alteration or disclaimer. The effect of such copying is that Internet users looking for specific items offered by the Complainant will be able to locate the same item from the Respondent and they will not realize that they are not purchasing with the Complainant.

This is impersonation of the Complainant and unequivocal evidence of bad faith on activities conducted under the disputed domain name.

The Respondent has used a deceptively similar disputed domain name as that of the Complainant's website and offering the same the exact women's clothing products under the same name is an attempt to defraud Internet users for a commercial benefit.

By conducting business in the same business field using an identical name under the disputed domain name, the effect is that Respondent's appropriates the goodwill of the Complainant to attract and deceive customers intending to purchase from the Complainant to buy from the Respondent instead.

This is indicative of bad faith use of Complainant's trademark by the Respondent.

The Respondent acts with an attempt to mislead customers into believing they are interacting with the Complainant at the disputed domain name.

The disputed domain name has in the Panel's view been chosen because of its similarity with a name and trademarks in which the Complainants have rights. This was most likely done in the hope and expectation

that Internet users searching for the Complainants' services and products would instead come across the disputed domain name.

The use of the disputed domain name indicates that the Respondent intentionally attempted to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainants' mark. [WIPO Overview 3.0](#), section 3.4.

The Panel finds 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 <alamourthelabels.com> be transferred to the Complainant.

*/Erica Aoki/*

**Erica Aoki**

Sole Panelist

Date: November 22, 2024