

## **ADMINISTRATIVE PANEL DECISION**

Karsten Manufacturing Corporation v. ZhangJindi  
Case No. D2024-4121

### **1. The Parties**

The Complainant is Karsten Manufacturing Corporation, United States of America (“US”), represented by Elster & McGrady LLC, US.

The Respondent is ZhangJindi, China.

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

The disputed domain name <pinggolfonsale.com> is registered with Realtime Register B.V. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 7, 2024. On October 8, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 9, 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 October 11, 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 October 11, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 31, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 1, 2024.

The Center appointed Knud Wallberg as the sole panelist in this matter on November 7, 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 golf clubs, golf equipment and related goods. The Complainant adopted and commenced use of the PING mark for golf clubs, golf equipment, and related goods in 1959.

The Complainant has a number of trademark registrations for the PING mark including, US Trademark Registration No. 704552, registered on September 20, 1960, and covering “golf clubs”, Chinese Trademark Registration No. 896867, registered on November 14, 1996, and covering inter alia, “Umbrella; golf travel bags; ...”, as well as Chinese Trademark Registration No. 1075822, registered on August 14, 1997, and covering “golf clubs; golf balls; golf tees; golf club grips”.

The Respondent appears to be an individual with an address in China.

The disputed domain name was registered on April 15, 2024, and resolves to a website purportedly selling the Complainant’s golf equipment with discounts. The website is presently inactive.

#### **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 Complainant’s PING mark because it consists of the Complainant’s mark in its entirety in combination with the industry related term “golf” and the industry related phrase “on sale”.

The Complainant also contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant has not granted the Respondent any license, permission, or authorization by which it could own or use any domain name registration that is confusingly similar to the Complainant’s mark just as the Respondent lacks rights or legitimate interests in the disputed domain name since the Respondent is not making a bona fide offering of goods or services or legitimate noncommercial or fair use of the disputed domain name.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. There is thus no conceivable reason for the Respondent to have registered the disputed domain name other than to trade off the reputation and goodwill of the Complainant’s mark and to disrupt the Complainant’s business by directing Internet users to the disputed domain name website, which, according to the Complainant, sells apparent counterfeit goods and services competitive with Complainant’s goods and services.

##### **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 entirety of the mark is reproduced 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.

Although the addition of other terms here, “golf” and “on sale”, 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 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.

The Panel notes that the Respondent has thus not addressed the Complainant’s allegations that the products offered on the website at the disputed domain name “appear to be counterfeit goods”. Even if the products were not counterfeits, the Panel finds that the composition of the disputed domain name along with its use (displaying in a prominent manner the PING trademark) carry a high risk of implied affiliation. Furthermore, the “About Us” section on the website seems to be using information from another company’s website, which affirms the Panel’s finding that the Respondent lacks rights or legitimate interests in the disputed domain name.

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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

In the present case the disputed domain name has been used for a website, which clearly gave Internet users the impression that the website offered products that purported to be genuine products manufactured

by the Complainant. Since this is not the case the Panel finds that there can be no doubt that the disputed domain name has been used in bad faith to intentionally attempt “to attract, for commercial gain, Internet users to the Respondent’s website or other online location, 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 fact that the website appears to be inactive at present does not alter this finding.

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 <pinggolfonsale.com> be transferred to the Complainant.

*/Knud Wallberg/*

**Knud Wallberg**

Sole Panelist

Date: November 21, 2024