

## Decision for dispute CAC-UDRP-104800

Case number	CAC-UDRP-104800
Time of filing	2022-08-24 11:38:04
Domain names	reissus.com , reiss-shop.com, fashionreiss.com , usreiss.store

### Case administrator

Name	Iveta Špiclová (Case admin)
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### Complainant

Organization	Reiss (Holdings) Limited
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### Complainant representative

Organization	Coöperatieve Vereniging SNB-REACT U.A.
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### Respondent

Name	Dnhdfht Bbdw
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#### OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain names.

#### IDENTIFICATION OF RIGHTS

The Complainant is the owner of the following trademark registrations in several countries, including but not limited to:

Mark: REISS

Registration number: 1152751 – International registration designating among others China.

Entered on register: 04-01-2013

Registered in class 3, 14, 18, 25 and 35

Mark: REISS

Registration number: 000669812 - European Union Intellectual Property Office ("EUIPO").

Entered on register: 27-04-1999

Registered in class 25

Mark: REISS

Registration number: 004362431 - EUIPO.

Entered on register: 05-03-2008  
Registered in class 3, 14, 18, 25 and 35

Mark: REISS  
Registration number: 3066904 - United States Patent and Trademark Office ("USPTO").  
Entered on register: 7-3-2006  
Registered in class 25

Mark: REISS  
Registration number: G1152751 – Trademark Office of China Intellectual Property Administration.  
Entered on register: 19-4-2018  
Registered in class 25

Furthermore, the Complainant has also registered its own domain name <reiss.com> since 1996, that it uses in connection with its official online store.

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#### FACTUAL BACKGROUND

#### FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

The Complainant is a British fashion brand and retail store chain. It has been operating since 1971, is a house-hold name in the fashion industry and has 160 stores around the world in 15 different countries. The Complainant is the owner of multiple trademarks which are registered in – among others – the People's Republic of China, the European Union, the United Kingdom and the United States.

The Respondents are based in China.

The disputed domain names were registered between May 18, 2022 and June 16, 2022.

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#### PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

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#### RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

First, the Complainant claims rights in the REISS mark through its trademark registrations. By virtue of its trademark registrations, Complainant has proved that it has rights in the mark under paragraph 4(a) of the Policy. See Avast Software s. r. o. v Milen Radumilo, 102384, (CAC 2019-03-12).

Second, the Complainant claims that its REISS mark is fully recognizable within the disputed domain names and the geographical term "us" and the generic terms "shop" and "store" cannot prevent a finding of confusingly similarity. Furthermore, the Complainant further contends that both the hash sign "-" and the top level domain (TLD) do not negate the similarity between the disputed domain names and Complainant's REISS mark.

The Panel accepts that the disputed domain names are confusingly similar to Complainant's REISS trademark.

For the foregoing reasons, the Panel finds the Complainant has satisfied paragraph 4(a)(i) of the Policy.

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#### NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondents to have no rights or legitimate interests in respect of the disputed domain names (within the meaning of paragraph 4(a)(ii) of the Policy). More specifically, the

Complainant must first make a prima facie case that the Respondents lack rights and legitimate interests in the disputed domain names, and the burden of prove then shifts to the Respondents to show they do have rights or legitimate interests. See *PepsiCo, Inc. v Smith power production*, 102378, (CAC 2019-03-08) ("The Panel finds that the Complainant has made out a prima facie case that arises from the considerations above. All of these matters go to make out the prima facie case against the Respondent. As the Respondent has not filed a Response or attempted by any other means to rebut the prima facie case against it, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.").

First, the Complainant contends that it has no relationship whatsoever with the Respondents and has never licensed or otherwise authorized the Respondents to use the REISS trademark or the disputed domain names. The Complainant has exclusive trademark rights which predate the registration of the disputed domain names. The Respondents cannot demonstrate any legitimate offering of goods or services under the REISS mark. In the absence of a license or permission from the Complainant concerning the use of its trademarks, no actual or contemplated bona fide or legitimate use of the disputed domain names can reasonably be claimed.

Second, the Complainant further claims that the Respondents failed to satisfy the requirement under the Oki Data test that the sites do not accurately and prominently disclose the Respondents relationship with the Complainant'. The Respondents are also not commonly known by the disputed domain names. The use made of the websites is to offer goods for sale to consumers is clearly commercial, it cannot be considered a legitimate 'non-commercial or fair use of the disputed domain names, without intent for commercial gain (...)' pursuant to paragraph 4(c)(iii) of the Policy.

The Panel finds that the Complainant has established a prima facie case that the Respondents have no rights or legitimate interests in the disputed domain names. The burden of proof has been shifted to the Respondents to prove that they have right or legitimate interests to the disputed domain names. However, the Respondents have not submitted any response to rebut the assertion within the required period of time.

For the foregoing reasons, the Panel finds the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

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#### BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain names have been registered and are being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

First, the Complainant reiterates that it has been the rights owner of the REISS trademarks since at least 1999 which is more than 20 years before the registration of the disputed domain names. Therefore, it is clear that the Respondents were well aware of the trademark and they have registered the disputed domain names with the intention to attempted to attract, for commercial gain, Internet users to its web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of its web site or location or of a product or service on its web site or location. Actual knowledge of a complainant's rights in a mark prior to registering a confusingly similar domain name evinces bad faith under paragraph 4(a)(iii) of the Policy. See *ARCELORMITTAL (SA) v. acero*, 102399 (CAC 2019-04-22). The Panel is of the view that at the time of registration of the disputed domain name, the Respondents knew, or at least should have known, of the existence of the Complainant's trademarks and that registration of domain names containing well-known trademarks constitutes bad faith per se. The Panel agrees with Complainant and finds that Respondents should have actual knowledge of Complainant's mark, demonstrating bad faith registration under paragraph 4(a)(iii) of the Policy.

Second, the Respondents are offering services for goods similar to those of the Complainant under the Complainant's trademarks. Such use carries a risk of implied affiliation with the Complainant. It is mala fides to register and use a domain name identical or confusingly similar to a complainant's trademark that resolves to a website that advertises or offers competing goods and services. Considering the close competitive proximity of the services, initial interest confusion arises. Using a confusingly similar domain name in a manner disruptive of a complainant's business by trading upon the goodwill of a complainant for commercial gain evinces bad faith under paragraph 4(b)(iii) & (iv) of the Policy. See *TOD'S S.p.A. v. Wei Xifeng*, 103839, (CAC 2021-06-28) ("Using a confusingly similar domain name in a manner disruptive of a complainant's

business by trading upon the goodwill of a complainant for commercial gain evinces bad faith under paragraph 4(b)(iii) & (iv) of the Policy. See *Intesa Sanpaolo S.p.A. v. Abayomi Ajileye*, 102396 (CAC 2019-04-25) and *ROGER VIVIER S.P.A. v. linannan*, 103788 (CAC 2021-06-08). Complainant has provided a screenshot of the resolving website, which displays the HOGAN mark and various images of shoes for sale. Complainant also provides a screenshot of its own website for comparison purposes. Complainant alleges that the goods offered on Respondent's website are counterfeit given the heavily discounted prices. Accordingly, the Panel agrees that Respondent disrupts Complainant's business and attempted to commercially benefit off Complainant's mark in bad faith under paragraph 4(b)(iii) & (iv) of the Policy." Accordingly, the Panel agrees that Respondent disrupts Complainant's business and attempted to commercially benefit off Complainant's mark in bad faith under paragraph 4(b)(iii) & (iv) of the Policy.

For the foregoing reasons, the Panel finds the Complainant has satisfied paragraph 4(a)(iii) of the Policy.

#### PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

#### PRELIMINARY FINDINGS - CONSOLIDATION:

Pursuant to Paragraph 10(c) of the Rules that a Panel shall decide a request by a Party to consolidate multiple domain name disputes in accordance with the Policy and these Rules. The Rules further state that Respondent means the holder of a domain-name registration against which a complaint is initiated. The Complainant submitted a request for consolidation that:

- the disputed domain names were registered by 3 registrants, i.e. Fashionreiss.com & usreiss.store: Dnhdfht Bbdw; Reisuss.com: Bing Zhang and Reiss-shop.com: Lei Liu;
- all disputed domain names have been registered at the same Registrar, Name.com;
- all disputed domain names use a similar naming pattern, namely the entirety of Complainant's trademark and a generic term ('fashion', 'shop') or a geographical term ('us');
- all disputed domain names have been registered within 1 month of each other, between March 18, 2022 and June 16, 2022;
- all disputed domain names use virtually the same template, contain the same references and near identical content such as a fake copyright notice;
- all disputed domain names are hosted on the same IP address-zones: 172.67 and 104.21;
- all disputed domain names use Cloudflare.com Nameservers.

The Respondent did not submit a timely Response within the required period of time.

Despite the details of the registrants of the disputed domain names are not entirely the same, the Registrar and Name servers are the same and the registration dates of the disputed domain names are very close. In addition, having reviewed the website content resolved by the disputed domain names, the Panel agrees that the content and design are very similar and it is very likely that they were built on the same template with some minor changes. Without receiving a Response from the Respondent, the Panel tends to agree that the disputed domain names are under common control. On this basis, the Panel accepts the consolidation request in accordance with Paragraph 10(e) of the Rules and article 4.11.2 of the WIPO Overview 3.0.

#### PRELIMINARY FINDINGS - LANGUAGE OF PROCEEDING:

The Panel notes that the language of the Registration Agreement is English as confirmed by the Registrar. Pursuant to paragraph 11 of the Rules, unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

Without receiving any agreement or disagreement on the language of proceeding of the present case, the Panel determines

that the language requirement has been satisfied and decides that the language of proceeding to be English.

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PRINCIPAL REASONS FOR THE DECISION

Having established all three elements required under the UDRP Policy, the Panel concludes that relief shall be granted.

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FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

**Accepted**

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AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **REISSUS.COM** : Transferred
  2. **REISS-SHOP.COM**: Transferred
  3. **FASHIONREISS.COM** : Transferred
  4. **USREISS.STORE**: Transferred
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## **PANELLISTS**

Name	<b>Mr Paddy TAM</b>
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DATE OF PANEL DECISION **2022-09-29**

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Publish the Decision

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