



Asian Domain Name Dispute Resolution Centre

hong kong

(Hong Kong Office)

## ADMINISTRATIVE PANEL DECISION

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<b>Case No.</b>	<b>HK-2401948</b>
<b>Complainant:</b>	<b>Roadget Business Pte. Ltd.</b>
<b>Respondent:</b>	<b>Domain Administrator, of Sugarcane Internet Nigeria Limited</b>
<b>Disputed Domain Name(s):</b>	<b>&lt;shien.com&gt;</b>

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### 1. The Parties and Contested Domain Name

The Complainant is **Roadget Business Pte. Ltd.**, of 12 Marina Boulevard #15-01, Marina Bay Financial Centre Singapore, Singapore 018982.

The Respondent is **Domain Administrator, of Sugarcane Internet Nigeria Limited**, of 4 Akanbi Danmola Street off Ribadu Road, Ikoyi, Lagos, Nigeria 106104.

The domain name at issue is <shien.com>, registered by Respondent with **GoDaddy.com, LLC**, of [udrpdiscutes@godaddy.com](mailto:udrpdiscutes@godaddy.com).

### 2. Procedural History

The Complaint and the supporting documents were first received by the Asian Domain Name Dispute Resolution Centre (“ADNDRC”) (Hong Kong Office) on 16 December 2024. The Complainant has elected to have the Complaint decided by one Panelist.

The Complaint and the supporting documents were sent by the ADNDRC to the Respondent’s email address registered with the Registrar ([sugarcane@mm.st](mailto:sugarcane@mm.st)) on 27 December 2024. On the same day, the ADNDRC received an auto-reply email from the Respondent confirming successful delivery. The deadline for the Respondent to submit a Response to the Complaint was 16 January 2025.

The Panel was appointed by the ADNDRC on 17 January 2025. This dispute is governed by the Internet Corporation for Assigned Names and Numbers (“ICANN”) Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for ICANN Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the ADNDRC Supplemental Rules to the ICANN Uniform Domain Name Dispute Resolution Policy and the Rules for the Uniform Domain Name Dispute Resolution Policy.

The Respondent via its legal representative filed a time extension request to submit a Response on 18 January 2025 at 5:53 am (Hong Kong time), for the reason that the emails from the ADNDRC were identified as spam, and not received by the Respondent. The Respondent claims that the ADNDRC's email dated 17 January 2025 at 12:07 pm (Hong Kong noon time) is the first notice of the proceedings that the Respondent has received.

By an Administrative Order No. 1 dated 21 January 2025, the Respondent's deadline to submit a Response to the Complaint was extended to 6 February 2025 at 12:07 pm (Hong Kong noon time). It was also ordered that, unless the Respondent files the Response by the said deadline, the Respondent shall be debarred from doing so.

On 26 January 2025 at 9:42 am (Hong Kong time), the Complainant filed an application to submit supplementary submissions in support of its Complaint (the "**Application**"). The Respondent, on 28 January 2025, provided its written response to the Application, opposing the Application and requesting 20 days to respond if the Application is allowed.

By an Administrative Order No. 2 dated 28 January 2025, the Complainant was allowed to submit the supplementary submission dated 26 January 2025 with its annexures in support of the Complaint, and the Respondent's deadline to submit a Response to the Complaint was extended to 15 February 2025 at 9:42 am (Hong Kong time).

The Respondent filed its Response and supporting documents on 14 February 2025. In the Response Form, the Respondent has indicated that it agrees to have one single Panelist to decide the present case.

In the Response, the Respondent contends that it was the Complainant which authorized and purchased the advertisements and site traffic from the Respondent, and in April 2024, the Complainant's representative approved a partnership with marketing company SitePlug, whereby SitePlug would in turn partner with third party domain name and website owners to purchase advertisements and site traffic for the Complainant.

In an email chain submitted by the Respondent to the Response dated 2 April 2024, the representatives from Affinity and Snow Consulting referred to an apparent approval for a certain program on 14 March 2024 (the "**Apparent Approval**"), as the following wordings were used in the said emails: "*It looks like you were approved March 14*" and "*... it looks like we did get approved ... on the 14<sup>th</sup>*". On the other hand, no email, approval notice or any materials pertaining to the said approval dated or given on 14 March 2024 was exhibited in the Response.

Paragraph 12 of the Rules expressly provides that the Panel has sole discretion to request any further statements or documents from the parties it may deem necessary to decide the case. By an Administrative Order No. 3 dated 25 February 2025, the Respondent was allowed, by the end of 5 March 2024 (24:00) (Hong Kong time), to submit a supplementary submission and supporting document(s) pertaining to the Purported Approval dated or given on 14 March 2024, and the Complainant is allowed, by the end of 5 March 2024 (24:00) (Hong Kong time), to submit a further supplementary submission and supporting document(s) in relation to the issue regarding the Apparent Approval, but not on or in connection with any other issue.

Pursuant to the said Administrative Order No. 3, on 4 March 2025, the Respondent filed a supplementary submission and supporting documents pertaining to the Purported Approval; and the Complainant filed a further supplementary submission and supporting documents on 5 March 2025.

On 6 March 2025, the Respondent sent an email to the Panel submitting that the Complainant’s further supplementary submission is improper should be stricken off, as it fails to adhere to the narrow scope specified by the Panel in relation to the “Apparent Approval”, and fails to address the said issue.

On 6 March 2025, the ADNDRC (Hong Kong Office) sent an email to all parties that all preliminary issues, including but not limited to the admissibility of further statements submitted by the parties, will be determined by the Panel in this decision. The Panel will address the admissibility of further statements submitted by parties in this decision under Section 4 below.

### 3. Factual background

The Complainant is **Roadget Business Pte. Ltd.**, a company registered in Singapore in 2019. The Complainant is the operating entity of the global SHEIN brand, a global online retailer of fashion and lifestyle products.

It is not disputed that, the Complainant's affiliated company, Guangzhou Shein International Import & Export Co., Ltd. (广州希音国际进出口有限公司), established in 2017, has been using SHEIN as a trade name in respect of online retailing services.

The Complainant owns the intellectual property rights related to SHEIN in different jurisdictions, including without limitation, the following trade mark registrations in the United States of American (the “U.S.” or “USA”):

Region	Application No.	Registration No.	Application Date	Registration Date	Trademark	Class	Status
USA	88809699	6181709	02-25-2020	10-20-2020	SHEIN CURVE	25	Registered
USA	87857241	5909109	03-30-2018	11-12-2019	<b>SHEIN</b>	20	Registered
USA	87857188	6649063	03-30-2018	02-22-2022	<b>SHEIN</b>	35	Registered
USA	86526588	5256688	02-06-2015	08-01-2017	<i>SheIn</i>	14, 18, 25, 26, 35	Registered
USA	87857222	5944948	03-30-2018	12-24-2019	<b>SHEIN</b>	16	Registered

The Complainant registered the domain name <shein.com> on 16 January 1998, and is using the said domain as its official website [shein.com](http://shein.com) to sell and promotes its products or services to consumers worldwide.

The Respondent, Domain Administrator, Sugarcane Internet Nigeria Limited, is a company incorporated in and has the principal place of business in Nigeria.

According to WHOIS record, the disputed domain name <shien.com> was created in 2001. It is not disputed that the disputed domain name was then transferred to and owned by the Respondent since or after November 2022.<sup>1</sup>

At the filing date of the Complaint, and according to the screenshots submitted by the Complainant – which have not been contested by the Respondent - the disputed domain name was used as a parked page, and pointed to a pay-per-click landing page including links under 3 taglines namely, “Shein Shopping”, “Womens Fashion” and “Shein Official”.

#### **4. Parties’ Contentions**

##### **A. Complainant**

The Complainant’s contentions may be summarized as follows:

- i. The Complainant has trademark and trade name rights in “SHEIN”. The Complainant has successfully registered “SHEIN” and a series of “SHEIN” trademarks in various classes, including Classes 1, 9, 14, 18, 25, 26, 35, 36, and 40, covering products/services such as clothing and advertising through websites. The Complainant has such right in “SHEIN” prior to the registration of the disputed domain name.
- ii. The distinctive part of disputed domain name “SHIEN” is highly similar to the Complainant's prior trademarks and trade names containing “SHEIN”. The only difference between them is that the position of letters “I” and “E” are interchanged. Further, these two marks have the same pronunciation. The Complainant believes that this light difference constitutes typosquatting.
- iii. The Complainant contends that Respondent does not own any trademark worldwide, especially in Nigeria, WIPO, and the U.S., and does not have the prior rights or legitimate interests in respect of the SHIEN. The Respondent held the disputed domain name from or around November 2022, well after the Complainant’s “SHEIN” trademark (US application number 86526588) had been filed in 2015 and registered in 2017.
- iv. The Complainant contends that “SHEIN” is not a dictionary word in English and is a trademark with originality and high recognition, closely associated with the

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<sup>1</sup> In the Complain Form, the Complainant said that “the disputed domain was transferred on November 3, 2022...” (page 9, bullet point b.) but at the same time, the Complainant also said that “The registrant held the disputed domain name from August 9, 2022...” (page 10, the 3<sup>rd</sup> line). In the Response Form, the Respondent admitted that the disputed domain name was owned by the Respondent since 2022 (page 3, last line). In the declaration of Jenkins Alumona dated 13 February 2025, it is stated that the Respondent acquired the dispute domain name in November 2022.

Complainant. The Complainant considers that, the Respondent, knowing the Complainant's well-known trademark, still secured the disputed domain name and it could not have any legitimate rights or interests in the disputed domain name.

- v. The Complainant contends that its first U.S. trademark SHEIN was registered in 2017 and the brand SHEIN is well known in the U.S. According to a CNN report in 2024, the company, SHEIN, is a mysterious online shopping upstart that has made headlines recently for surpassing Amazon (AMZN) in app downloads in the United States. Hence, the Complainant contends that the Respondent should have known the brand SHEIN when it purchased the disputed domain, and thereby purchased the disputed domain in bad faith for earning profit.
- vi. The Complainant contends that the Respondent is also using the disputed domain in bad faith, and such use constitutes unfair competition and infringes upon the Complainant's right. The parked page of <shien.com> shows three buttons: "Shein Shopping", "Women Fashion", and "Shein Official". Two of these three buttons contain the complainant's mark "SHEIN". Further, the word shopping is the same as the Complainant's business field. According to the screenshots provided by the Complainant, after clicking each button shown on the disputed domain name, the jumped webpages showed the listings of 3rd party sponsored advertisements, which are further directed to 3rd party websites selling clothes, in competition of the Complainant's business.
- vii. The Complainant further contends that the Respondent has engaged in a pattern of cybersquatting activities. For example, the Respondent has had 16 domain name dispute cases before the WIPO as respondent, and the Respondent has been found to have registered and used domain names in bad faith in several UDPR cases.
- viii. In the 5 March Submissions, the Complainant further contends the following which contents have been admitted by the Panel:
  - (i) The Complainant confirmed that they did not instruct or approve the current usage of the disputed domain name in displaying links or advertisements of 3rd party websites, and the Complainant cannot find any emails sent from the <shein> email addresses to approve such matter.
  - (ii) As can be seen from Annex 16 and 17 to the Complaint Form, all Ads' titles including the "SHEIN" word are directed to the third parties' websites and these third parties are in the clothing industry, which are in direct competition with the Complainant, and it is unreasonable for the Complainant to purchase service to hijack the disputed domain name and put on advertisements of competitors.

## **B. Respondent**

The Respondent's contentions in the Response and the Respondent's Supplemental Submissions may be summarized as follows:

- i. The Complaint is a sophisticated, manufactured attempt by the Complainant to reverse hijack Respondent's rightful and valuable domain name, as the Complainant has hired a domain traffic marketing company to place advertisements and secure traffic from the

disputed domain name, which was used by the Respondent as a parked page with advertising links unrelated to the Complainant. The Respondent acquired the disputed domain name in 2022, but there was no protest by the Complainant until December 2024, roughly around 8 months after the Complainant authorized its representative to secure traffic directly from the disputed domain name.

- ii. The Respondent concedes that the disputed domain name is confusingly similar to “SHEIN”, a trademark in which Complainant has rights.
- iii. The Respondent contends that it can have a legitimate interest in the disputed domain name, separate from any use by the Complainant of the word “SHEIN”, seeing that the disputed domain name has been registered since 2001 by numerous different owners for numerous different reasons and purposes. In addition, the Respondent has and had the right to register this non-exclusive, valuable, five-letter domain for its potential as a possible corporate moniker and brand.
- iv. Therefore, the Respondent considers that it has legitimate interest in the disputed domain name, which is also supported by the fact that the disputed domain name does not have advertisements or links to the Complainants’ website until April 2024, after SitePlug confirmed to the Respondent’s parking partner, Giant Panda, that it has been approved for a partnership with the Complainant to purchase advertisements and site traffic from the disputed domain name.
- v. The Respondent contends that the Complainant has failed to present any evidence that Respondent knew about the Complainant in 2022 when acquiring the disputed domain name, or that SHEIN was a known brand in Nigeria in 2022, or present any evidence that the Respondent targeted the Complainant specifically with this particular domain name registration, as required to find a bad faith registration.
- vi. The Respondent also contends that it was the Complainant itself that authorized and purchased advertisements and site traffic from the Respondent in April 2024. The Complainant has thus been benefiting from the disputed domain name by inducing the Respondent to send user traffic to Site Plug, and has acquiesced to and authorized the Respondents’ which the Complaint now complains.
- vii. The Respondent also contends that the Respondent used the services of third-party SitePlug to manage the monetization of the parked page also militates in favor of finding that Respondent did not act in bad faith. This is because the Respondent do not have control over the links that were being placed on the page, which was managed by SitePlug, The Respondent never solicited or in any way initiated contact with the Complainant, evidencing that the Respondent never had any intention of targeting Complainant nor selling the disputed domain name to the Complainant.
- viii. In relation to other UDPR or domain name disputes to which the Respondent was a party, the Respondent considers that the number of such proceedings is not significant considering that Respondent owns and manages thousands of domain names. The Respondent did not oppose those UDRP complaints, and such default decisions should not assist the finding of bad faith in the present case, as each case should be decided on its own facts.

- ix. In the Respondent's Supplemental Submissions, the Respondent submitted that, the Respondent were informed by SitePlug that:
- (a) SitePlug always secures explicit approvals from brands after thoroughly explaining the marketing proposals and plans, and SitePlug worked with Snow Consulting (the Complainant's affiliate marketing agency), which works directly for the Complainant.
  - (b) After explaining their proposal with the brand/it marketing agency, SitePlug submitted their application to the Complainant via CJ.com's platform, which the Complainant reviewed and approved. The Respondent submitted that this is the reason why in Annex 6 of the Response, being the email chain submitted by the Respondent between the representatives of Affinity and Snow Consulting refers to the Apparent Approval for the program on 14 March 2024, which read: *"It looks like you were approved March 14"* and *"... it looks like we did get approved ... on the 14<sup>th</sup>"*.
  - (c) The Respondent submitted that Snow Consulting had communicated the said approval to SitePlug based on the Complainant's approval on the platform, as that is SitePlug's only way to verify the status.

## 5. Findings

### I. Preliminary

As stated in Section 2 above, the Respondent challenged the admissibility of the Complainant's further supplementary submission and supporting documents filed on 5 March 2025 (the "**5 March Submissions**").

Pursuant to Paragraph 10(a) the Rules, the Panel shall conduct the administrative proceeding in such manner as it considers appropriate in accordance with the Policy and the Rules. Paragraph 10(c) of the Rules vests the Panel with the authority to determine the admissibility, relevance, materiality and weight of the evidence.

According to WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("**WIPO Overview 3.0**"), "Unsolicited supplemental filings are generally discouraged, unless specifically requested by the panel" and "... panels have repeatedly affirmed that the party submitting or requesting to submit an unsolicited supplemental filing should clearly show its relevance to the case and why it was unable to provide the information contained therein in its complaint or response (e.g., owing to some "exceptional" circumstance)".

In the present case, by the Administrative Order No. 3, the Panel requested the Complainant to submit a further supplementary submission and supporting document(s) in relation to the issue regarding the Apparent Approval, but not on or in connection with any other issue. However, in the 5 March Submissions, the Complainant sought to, amongst others, reiterate its arguments in the Complaint Form and respond to the Respondent's Response filed on 14 February 2025. Upon review of the 5 March Submissions, the Panel considers that only the following contents are relevant to the issue of the Apparent Approval (collectively, the "**Relevant Contents**"):

- (i) "... the Respondent claimed that their domain name was hijacked by the advertising supplier, AFFINITY, of the Complainant. The complain[an]t confirmed that they did not contact with the AFFINITY and did not instruct any hijack matter against disputed domain name. The AFFINITY contact with the Complaint's supplier snow-consulting, but there is still not hijack instruction from the Complainant." (page 5, paragraph 3)
- (ii) "We also did not find any email send from the <SHEIN> email to approve the hijack matter." (page 6, paragraph 3)
- (iii) "Fourth, refer to the Complainant's Annex 16 and 17, we can notice that all Ads' title including <SHEIN> word, are direct to the third parties' website and these third parties are in the clothes industry, which has the competition against the Complainant. It is unreasonable that the Complaint purchased the site direct service to hijack the disputed domain name and put the Ads of the competitors." (page 7, paragraph 2)

The Relevant Contents are submission and information from the Complainant which directly goes to or closely connected with whether the Complainant has approved the current usage of the disputed domain name, being the crust of the Respondent's defence. Accordingly, the Relevant Contents are information requested by the Panel under the Administrative Order No. 3, and the Panel will admit and consider the same when giving this decision.

With respect to other contents in the 5 March Submissions which are not requested by the Panel, the Complainant has failed to address their relevance, or the reason why such contents could not be submitted earlier. In such circumstances, the Panel will not take into account any other contents in the 5 March Submissions, save and except the Relevant Contents.

As an observation, filing of unsolicited submissions, which contain reiterations of repeated arguments in the Complaint Form, and without explaining relevance and why such information could not be submitted earlier, and/or without adhering to procedural rules, will only delay expedited resolution of the proceedings and such practice should not be encouraged.

## **II. Substantive**

The Policy provides at Paragraph 4(a) that each of three findings must be made in order for a Complainant to prevail:

- i. the Respondent's domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- ii. the Respondent has no rights or legitimate interests in respect of the domain name; and
- iii. the Respondent's domain name has been registered and is being used in bad faith.

Under paragraph 15(a) of the Rules, the Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable.

### **A) Identical / Confusingly Similar**

The Panel accepts that the Complainant is the registered owner of various "SHEIN"-formative marks in many countries worldwide including in the USA, thus having legal rights and interests in the mark "SHEIN". Pursuant to the Panel's trade mark searches conducted on the USPTO's



website on 7 March 2025, the registrations set out in the table on page 3 of this decision are valid and subsisting.

To assess whether the condition of “identical or confusing similarity” is satisfied, the Panel has focused on the key identification part of the disputed domain name “SHIEN”, and has disregarded the international top-level domain suffix “.com” which, based on previous decisions, are generally disregarded when considering the first condition.

The Panel finds that “SHIEN” is confusingly similar to the Complainant’s mark “SHEIN”, as the only difference between them is the change of position of the 3rd and 4th letters of the two five-letter words. Hence, the two words are visually and aurally very similar to each other. The Respondent also does not attempt to argue otherwise.

The Panel therefore finds that the Complainant has satisfied the first condition under Paragraph 4(a) of the Policy.

The Panel also notes that the Complainant attempts to argue that the disputed domain name constitutes typosquatting of the Complainant’s mark “SHEIN”. However, the Complainant did not file evidence to support this argument, such as, for example, internet search engines mainly displaying results relating to the Complainant’s mark “SHEIN” when a user types in “shien”, or the search engines or word processing software will autocorrect the input of “shien” to “shein”, etc. Although the Complainant’s argument on typosquatting may have inherent merits, the Panel considers it inappropriate to make a finding in this connection in the absence of evidence filed by the Complainant. In any event, it is not necessary for the Panel to make a finding on the typosquatting issue, when deciding on the first condition under Paragraph 4(a) of the Policy.

## **B) Rights and Legitimate Interests**

Since a respondent in a UDRP proceeding is in the best position to assert rights or legitimate interests in a disputed domain name, it is well established that after a complainant makes a prima facie case, the burden of proof to show rights or legitimate interests in the disputed domain name shifts to the respondent.

In this instance, the Complainant has made out a prima facie case by showing that (i) the Complainant is the registered owner of “SHEIN”-formative marks in many countries around worldwide, including in the USA, which pre-dated the time of acquisition of the disputed domain name by the Respondent in November 2022; (ii) the disputed domain name is confusingly similar to its trademarks; and (iii) according to the Complainant’s trade mark search record with the worldwide IP search platform FOVEA filed as part of the Complainant’s evidence, the Respondent does not own trademark registration worldwide, especially in Nigeria, WIPO and the USA.

Therefore, the Panel finds that the Complainant has made out a prima facie case that the Respondent does not have any rights or legitimate interests in respect of the disputed domain name. The burden of proof thus shifts to the Respondent to show its rights and/or legitimate interests in the same.

The Respondent has not relied on the non-exclusive examples of instances in which a respondent may establish rights or legitimate interests in a domain name under the Policy. The Respondent contends that it can have a legitimate interest in the disputed domain name, separate from that of the Complainant, as the disputed domain name has been registered since 2001 by numerous

different owners for numerous different reasons and purposes. In addition, the Respondent has and had the right to register this non-exclusive, valuable, five-letter disputed domain name for its potential as a possible corporate moniker and brand. Therefore, the Respondent considers that it has legitimate interest in the disputed domain name, and argued that such interest is supported by the fact that the disputed domain name does not have advertisements or links to the Complainants' website until April 2024, after SitePlug confirmed to the Respondent's parking partner, Giant Panda, that it has been approved for a partnership with the Complainant to purchase advertisements and site traffic from the disputed domain name.

The Panel hereby deals with the Respondent's arguments one by one.

Although the Respondent has filed evidence to show that the disputed domain name can be used for different meaning, reasons or purposes (for example, "Shien" is a familial name of various ethnic origins originated from Ireland, and can be used as the name of a music artist, as a series in a widely-played card game, a widely-played shooter video game, as a name for a New York City cosmetics company, the name of a tv streaming service, as well as being a common mandarin word meaning "to show kindness"), but the Respondent did not go any further to argue or to show how above possible usages or meanings of "Shien" is related to the Respondent (being a Nigerian corporation) itself, and how the Respondent has a legitimate interest in such uses or meanings of "Shien" as a domain name. Notably, the Respondent's legal representative only states that the Respondent "can have" a legitimate interest in the disputed domain name, rather than it "does have" a legitimate interest, in the first paragraph on page 4 of the Response, when submitting that "SHIEN" can have various use cases and meanings.

The Respondent then cited *Media General Communications, Inc. v. Rarenames, WebReg*, D2006-0964 (WIPO Sept. 23, 2006) and *Energy Source Inc. v. Your Energy Source*, FA 96364 (Nat. Arb. Forum Feb. 19, 2001) to support the argument that the Respondent has and had the right to register this non-exclusive, valuable, five-letter domain name for its potential as a possible corporate moniker and brand, no matter whether the Respondent ultimately developed the domain or used it as a parked page for advertising.

However, a detailed review of the cases cited by the Respondent does not appear to support the Respondent's argument.

In *Energy Source Inc.*, the Panel held that the complainant in that case did not make out a prima facie case that the respondent in question did not have a legitimate interest because:

- (i) First, the respondent asserted that, prior to notification of this dispute, it had already begun preparations to offer goods and services via the domain name at issue.
- (ii) The respondent has persuasively shown that the domain name is comprised of generic and/or descriptive terms, and, in any event, is not exclusively associated with Complainant's business. Thus, the respondent claimed that it was making a fair use of the domain consistent with Paragraph 4(c)(iii) of the Policy.

In the present case, according to the online Cambridge Dictionary at <https://dictionary.cambridge.org> and dictionary.com, "shien" is not a dictionary word. There is no evidence to show that "shein" or "shien" are generic, descriptive or commonly used. Hence, it could not be said that the disputed domain name in the present case is comprised of generic and/or descriptive terms. In addition, there is no evidence showing that the Respondent is using the disputed domain name in connection with a bona fide offering of goods or services prior to

the dispute. Hence, the fact pattern of *Energy Source* is different from the present case and should be distinguished.

In *Media General Communications, Inc. v. RareNames, WebReg*, D2006-0964 (WIPO Sept. 23, 2006), the Panel decided as follows in relation to the element of legitimate interest:

The list of legitimate interests found in paragraph 4(c) of the Policy is not exclusive, however, and the Panel agrees with the conclusion of *KIS* and several other UDRP decisions that, in the absence of evidence suggesting name selection because of correspondence to a trademark, domain resale and the use of a domain to publish advertising links are both normally legitimate business enterprises. The panel in *Incorp Services, Inc. v. RareNames, WebReg*, FA0509000559911 (NAF), a case involving the same Respondent, concluded that the business of selling domain names **consisting of generic or descriptive terms** represents a legitimate interest in such domain names, **at least where the names are not identical or confusingly similar to famous or distinctive marks.** See also *HP Hood LLC v. hood.com*, FA0408000313566 (NAF) (**domain speculation is a legitimate business interest absent evidence that the respondent was aware of the complainant's trademark.**) As an early UDRP panel concluded in *Shirmax Retail Ltd. v. CES Marketing, Inc.*, AF-0104 (e-Resolution):

**“Where the domain name and trademark in question are generic — and in particular where they comprise no more than a single, short, common word — the rights/interests inquiry is more likely to favor the domain name owner. The ICANN Policy is very narrow in scope; it covers only clear cases of ‘cybersquatting’ and ‘cyberpiracy,’ not every dispute that might arise over a domain name. See, e.g., Second Staff Report on Implementation Documents for the Uniform Dispute Resolution Policy (October 24, 1999).”**

Similarly, the respondent in *The Landmark Group v. Digimedia L.P.*, FA0406000285459 (NAF), **registered “large numbers of dictionary words”** and received revenue from pay-per-click advertising links, at least some of them related to the generic nature of the domain name. The panel in that case held that, “as long as the domain names have been registered **because of their attraction as dictionary words**, and not because of their value as trademarks, this business model is permitted under the Policy.” The panel in *HP Hood LLC v. hood.com*, FA0408000313566 (NAF) agreed, adding that “an established domain name resale enterprise that restricts its portfolio in a good faith effort to avoid misleading the public qualifies as a legitimate interest.”

**In sum, reselling domain names or using them for advertising links can in certain circumstances represent legitimate interests for purposes of paragraph 4(c) of the Policy, but not in all instances.** These practices are most likely to be deemed legitimate under the Policy when:

- the respondent regularly engages in the business of registering and reselling domain names, and/or using them to display advertising links;
- the respondent makes good-faith efforts to avoid registering and using domain names that are identical or confusingly similar to marks held by others;
- the domain name in question is a “dictionary word” or a generic or descriptive phrase;
- the domain name is not identical or confusingly similar to a famous or distinctive trademark; **and**
- there is no evidence that the respondent had actual knowledge of the complainant’s mark.

The Respondent here is clearly in the business of reselling domain names on a large scale and using them, at least in the interim, to point to websites with advertising links. **But the Response does not indicate what steps, if any, the Respondent takes in good faith to avoid registering, using, and selling domain names that correspond to trademarks. The domain name in question is a short string of letters, but it is not a dictionary word or descriptive phrase. Rather, it is suspiciously identical to the Complainant's arbitrary mark.**

**Thus, the determination of legitimacy in this case largely hinges on the question of bad faith, which is better addressed below in connection with the third element of the Policy.** If the Respondent registered and used the Domain Name, and offered it for sale, in good faith, then we must conclude that the Respondent had a legitimate interest in the Domain Name as it does in hundreds of thousands of other domain names in its portfolio. On the other hand, if the Respondent failed to act in good faith, by registering and using a non-generic domain name that it should have realized was likely to correspond to a trademark, then the Respondent has no legitimate interest in this particular Domain Name. [emphasis added]

As mentioned above, in the present case, the Panel considers that “shien” is neither a generic, descriptive, common nor a dictionary word. In any event, the Respondent did not file sufficient evidence to show “shien” is common, generic, descriptive or commonly used either in Nigeria or in the world. In addition, the Respondent concedes that “shien” is confusingly similar to the Complainant's trade marks. The Respondent has not submitted or filed any evidence to show that it has made good-faith efforts to avoid registering and using domain names that are identical or confusingly similar to marks held by others. As can be seen, the present case does not satisfy at least 3 out of the 5 considerations set out in the case of *Media General Communications, Inc.*, when the 5 considerations are linked by the conjunctive “and”, such that all 5 considerations will have to be satisfied when the Panel should find the business of reselling domain names or using them for advertising links represent legitimate interests. For the reasons above, the Panel considers that case of *Media General Communications, Inc.* cannot assist the Respondent.

The Respondent then relied on *Roderick W. Accetta v. Domain Admin et al.*, FA 826565 (Nat. Arb. Forum Jan. 2, 2007) and *Williams, Babbitt & Weisman, Inc. v. Ultimate Search*, FA 98813 (Nat. Arb. Forum Oct. 8, 2001) to argue that the Respondent's legitimate interest is bolstered by the fact that there is no evidence that, prior to April, 2024, when the Complainant authorized Site Plug to purchase traffic from what it deemed to be “typos” of “Shein” from third parties, Respondent had not posted any competitive advertising links. From the Response Form, it appears that the case of *Williams, Babbitt & Weisman* is relied on to demonstrate the same principles set out in *Roderick W. Accetta*.

In *Roderick W. Accetta*, the panel held:

Complainant has failed to establish a *prima facie* case in support of its allegations that Respondent lacks rights and legitimate interests under Policy ¶ 4(a)(ii). Complainant has herein merely confirmed that Respondent is using the Domain Name for a legitimate purpose.

Respondent asserts that it uses the disputed domain name in connection “with a third party service that places pay-per-click advertising links on the web page and shares the revenue earned with Respondent.” Respondent claims this constitutes a *bona fide* offering of goods or services pursuant to Policy ¶ 4(c)(i) because *the terms of the <rollabout.com>*

*domain name are of common usage and do not refer to Complainant or its products.* Respondent's use of the <rollabout.com> domain name to operate a pay-per-click search engine is a *bona fide* offering of goods or services pursuant to Policy ¶ 4(c)(i), based on previous UDRP decisions holding such use to give rise to rights or legitimate interests in a respondent. *See Target Brands, Inc. v. ALDnet Media Group and Edward Harrison*, FA 227647 (Nat. Arb. Forum Mar. 24, 2004) (holding that the respondent's use of the <targetwholesale.com> domain name to offer search engine services to wholesale vendors and their customers was a *bona fide* offering of goods or services pursuant to Policy ¶ 4(c)(i)); ....

There are numerous Third Parties using the term "roll about," including "Roll-about videoconferencing system; roll-about abrasive blasters; roll-about chair; roll-about shovel; roll-about fan." A Google search of the term "roll about," yields 184,000 Third-Party uses of the term.

Respondent establishes rights or legitimate interests in the <rollabout.com> domain name under Policy ¶ 4(b)(ii), because it is composed of common terms. *See FilmNet Inc. v. Onetz*, FA 96196 (Nat. Arb. Forum Feb. 12, 2001) (finding that the complainant failed to establish that the respondent did not have rights or legitimate interests in the <filmnet.com> domain name, where the disputed domain name is wholly comprised of common words, even though the complainant is the owner of the FILMNET mark); *see also Shirmax Retail Ltd. v. CES Mktg., Inc.*, AF-0104 (eResolution Mar. 20, 2000) ("[G]iven the generic nature of the domain name, [Respondent] has at least a tenable argument that its use on the web merely for the purpose of redirecting visitors to a different site constitutes a legitimate fair use, as long as this use is not misleading to consumers and does not tarnish a trademark."). [emphasis added]

As can be seen from *Roderick W. Accetta* pay-per-click advertising links on the web page are considered as bona fide offering of service only when the elements in the disputed domain name are common terms or of common usage. Again, these two cases do not apply in the present case.

Hence, in the Panel's view, the Respondent's assertions are inadequate to establish rights or a legitimate interest in the disputed domain name. The Complainant has established a prima facie case that the Respondent has no rights or legitimate interest in respect of the Disputed Domain Name and the Respondent has not satisfactorily rebutted this assertion.

The Panel would also like to address the issue about the material time for assessing legitimate interest of the Respondent. According to section 2.11 of WIPO Overview 3.0, panels tend to assess claimed respondent rights or legitimate interests in the present, i.e., with a view to the circumstances prevailing at the time of the filing of the complaint.

In other words, in the present case, it is open for the Panel to assess whether the Respondent has legitimate interest at the time of filing of this Complaint. As the Respondent has also admitted, since around April 2024, there is evidence that the disputed domain name has been used in relation to tags or words containing "SHEIN" (i.e. the Complainant's mark) and the Respondent had posted competitive advertising links via the disputed domain name. As such, around or after April 2024, the Respondent must have actual knowledge or should have known about the Complainant's brand, and that the Respondent has been using the disputed domain name to earn a profit through the Complainant's brand and reputation thereafter after. Even if the Panel is wrong such that the Respondent might have a legitimate interest in the disputed domain name

when it acquired the same in November 2022, the Panel considers that the Respondent would not have legitimate interest as of the filing of the Complainant in any event.

The Panel will discuss the issue about the Purported Approval in the section of bad faith – in summary, based on evidence submitted by the parties, the Panel does not satisfy that, on balance of probabilities, the Complainant has approved the current usage of the disputed domain name.

Accordingly, the Panel finds that the Complainant has fulfilled Paragraph 4(a)(ii) of the Policy.

### **C) Bad Faith**

In making the decision on “bad faith”, the Panel has taken into account the considerations stipulated in Paragraph 4(b) of the Policy and the circumstances of the case.

According to section 3.1 of WIPO Overview 3.0, bad faith under the Policy is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant’s mark. Paragraph 4(b) of the Policy set out the following non-exclusive scenarios constituting evidence of a respondent’s bad faith:

- i. circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent’s documented out-of-pocket costs directly related to the domain name; or
- ii. the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- iii. the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- iv. by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website 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 the respondent’s website or location or of a product or service on the respondent’s website or location.

It is trite that the burden of proof rests with the Complainant to prove that the Respondent has both registered and is using the disputed domain name in bad faith.

The applicable standard of proof in UDRP cases is the “balance of probabilities”. Under this standard, a party should demonstrate to the Panel’s satisfaction that it is more likely than not that a claimed fact is true. According to section 4.2 of WIPO Overview 3.0, while conclusory statements unsupported by evidence will normally be insufficient to prove a party’s case, panels may draw certain inferences in light of the particular facts and circumstances of the case e.g., where a particular conclusion is prima facie obvious, where an explanation by the respondent is called for but is not forthcoming, or where no other plausible conclusion is apparent.

According to section 3.9 of WIPO Overview 3.0, the date on which the current registrant acquired the disputed domain name is the material date a panel will consider in assessing bad faith in respect of the element whether the disputed domain name has been registered in bad faith.

It should be noted that the Respondent acquired the disputed domain name around November 2022, which was the material time for assessing bad faith in relation to domain registration in the present case.

The Panel accepts that the Complainant has generated goodwill in the “SHEIN” marks in many countries around worldwide and, in particular, in the USA through its offering of online retail services and promotion via its official website and its mobile application under the said mark. Such goodwill is also supported by the Google Play screenshot, showing that the Complainant’s SHEIN mobile application has over 500 million downloads by 2024, and data analytics from Similarweb on SHEIN that there were around 208.1 million of total visits of the Complainant’s official website shein.com by October 2024. The Complainant has also filed an online article to show that SHEIN had entered into the African market in around May 2022. Hence, the Panel disagreed with the Respondent’s submission that SHEIN was not a known brand in Nigeria in 2022.

In light of the evidence submitted by the Complainant, the Panel accepts the Complainant’s evidence that the Complainant’s trademark was filed as early as 2015 and registered as 2017 in the USA (i.e. much earlier than the Respondent’s acquisition date of the disputed domain name), the Complainant has been using its domain name since 1998, and that it entered into the African market in May 2022. In light of the above evidence, the Panel considers that the Respondent should have known the SHEIN brand when it acquired the disputed domain name in November 2022. Given it is not disputed that “SHIEN” (the distinctive element of the disputed domain name) is confusingly similar to the Complainant’s mark “SHEIN”, the Panel considers that the Respondent has acquired / registered the disputed domain name in bad faith in November 2022, having knowledge about the Complainant’s mark “SHEIN”, but still proceeded to acquire the disputed domain name without legitimate interest.

It is undisputed that the disputed domain name is being used to display advertising links in the following manner: Based on the evidence submitted by the Complainant, the disputed domain name displays three buttons, namely: “Shein Shopping”, “Women Fashion”, and “Shein Official”. Two of these three buttons contain the Complainant’s mark “SHEIN”, and the business indicators “shopping” and “fashion” are the same as those of the Complainant. However, after clicking each of the above button, users will be directed to webpages showing listing of sponsor advertisements, which are further directed to 3<sup>rd</sup> party websites selling clothes which not are offered.

The Respondent’s defence is that it was the Complainant which authorized and purchased the advertisements and site traffic from the Respondent in/since April 2024. The Respondent contends that the Complainant's representative approved a partnership with marketing company SitePlug, whereby SitePlug would in turn partner with third party domain name and website owners to purchase advertisements and site traffic for Complainant.

On the other hand, the Complainant said that it had not instructed its advertising partner, Affinity, to place the advertisement links via the disputed domain name, and it is unreasonable for the Complainant to purchase site traffic for 3<sup>rd</sup> party advertisements in favour the Complainant’s competitors.

The Respondent filed the following evidence to support its arguments:

- (i) A declaration of JENKJNS ALU MONA dated 13 February 2025 (“**Declaration**”) which states “Since acquired, the Domain Name was being used as a parked page. managed by Google and Site Plug, third-party marketing companies that auto-generate ads and direct site traffic. To the best of my knowledge, the Domain Name did not have ads or links to Complainant" s website until April 2024, after SitePlug confirmed to Sugarcane’s parking partner, Giant Panda, that it had been approved for a partnership with Complainant to purchase advertisements and site traffic from the Domain Name. SitePlug then themselves auto-generated links on the Domain Name and directed site traffic to Complainant. ...”
- (ii) an email chain submitted by the Respondent, in particular in an email from a representative from Snow Consulting to a representative from Affinity dated 2 April 2024, which states “*It looks like you were approved March 14*”, and a reply email from Karishma Parmar (email: [karishma.p@affinity.com](mailto:karishma.p@affinity.com)) to Tanya Smith (email: [tanya@snow-consulting.com](mailto:tanya@snow-consulting.com)) on the same day), which states “... *it looks like we did get approved ... on the 14<sup>th</sup>*”.
- (iii) In the said email chain, the Affinity’s representative in an email of 2 April 2024 sought to recap the services offered as follows:

Below is a quick recap of each of our products:

- **Site Discover** shortens the purchase journey by connecting brands with prospective buyers across our network of 10,000+ content sites & coupon sites
- **Site Direct** navigates the user to the brand’s correct website by recognizing and rectifying millions of misspelled domains
- **Site Suggest** identifies the user’s search inputs on browsers and search engines and recommends the most relevant brand to the user through 2 unique placements - Sponsored Listings and Knowledge Graph Card. [emphasis added]

- (iv) A leaflet of SHEIN.com Affiliate Program managed by Snow Consulting which states:

**Approved country list as of 2/2023: US, ES, MX, FR, UK, DE, IT, AU, BE, SE, NL, PT, IE, GR, and HU**

**Orders from non-approved countries will be voided.** If you are generating orders from non-approved countries your account may be suspended and or your commission rate lowered without notice.

....

You are strictly prohibited from using any advertising method that does not to SHEIN sites such as wholesale and drop shipping .... You are not allowed to direct link. You are not allowed to use the shein.com display URL ....

....

**Unfortunately, we are not accepting new affiliates into the program at this time. Feel free to check back at a later date when there may be some openings.**

- (v) SitePlug's marketing materials sent to the Complainant in April 2024, in which SitePlug emphasized this strategy of benefiting from valuable domain names without requiring Complainant to purchase the underlying domain names.



It is noted that the Declaration only states that SitePlug confirmed to Sugarcane's parking partner, Giant Panda, that it had been approved for a partnership with Complainant which involved "directed site traffic to Complainant". There is no evidence which shows that the Complainant did or has approved the placing of 3<sup>rd</sup> party advertisement links on the disputed domain name. SitePlug's marketing materials sent to the Complainant in April 2024 do not assist as it did not show the Complainant approved any program, not to say the nature of such program.

The closest evidence is the email chain between representatives from Affinity and Snow Consulting. However, the email chain only said that "*It looks like you were approved March 14*", "*... it looks like we did get approved ... on the 14<sup>th</sup>*". On the other hand, no email, approval notice or any materials pertaining to the said approval dated or given on 14 March 2024 was exhibited in the Response or in the Respondent's supplementary submissions. It is unclear as to which party has approved the program and what program is referred to. By the Administrative Order No. 3, the Panel has asked the Respondent to provide further evidence about such said approval on March 14. However, no further useful evidence was submitted.

Nothing in the above suggests that the Complainant has approved the use of the disputed domain name in relation to the placing of 3<sup>rd</sup> party advertising links to direct users to 3<sup>rd</sup> party websites. In particular, in the email chain dated 2 April 2024 submitted by the Respondent, the service offered by Site Direct is to "navigates the user to the brand's correct website by recognizing and rectifying millions of misspelled domains" but not diverting or linking to 3<sup>rd</sup> party sites.

The Panel also notes that, based on the evidence submitted by the Respondent, which is a printout Snow Consulting's leaflet, it clearly states that Snow Consulting does not accepted orders from Nigeria (NOR), and the affiliates are not allowed to use any advertising method that does not funnel to SHEIN sites nor to direct link. Such evidence filed by the Respondent is inconsistent with and contradicts the Respondent's case.

In light of the above, the Panel considers that there is insufficient evidence to show, on balance of probabilities, that the Complainant has authorized the present use of the disputed domain name in the manner being complained of by the Complainant.

The Respondent also contends that the Respondent used the services of third-party SitePlug to manage the monetization of the parked page and the Respondent do not have control over the links that were being placed on the disputed domain name. The Panel considers that such argument does not assist the Respondent. Pursuant to section 3.5 of WIPO Overview 3.0, with respect to "automatically" generated pay-per-click links, panels have held that a respondent cannot disclaim responsibility for content appearing on the website associated with its domain name (nor would such links ipso facto vest the respondent with rights or legitimate interests). Neither the fact that such links are generated by a third party would by itself prevent a finding of bad faith.

Regarding other UDPR or domain name disputes to which the Respondent was a party, the Panel agrees with the Respondent that each case should be decided on its own facts, and the findings of bad faith on the part of the Respondent in other default proceedings should not affect the Panel's assessment in the present case.

In light of the above analysis, and having considered the evidence submitted by both parties, the Panel considers that the Complainant has made out a case, on balance, that by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain,

Internet users to other on-line location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of a product or service on the Respondent's locations, and thereby has satisfied Paragraph 4(b) of the Policy.

To conclude, the Panel finds that the Respondent registered and has used the disputed domain name in bad faith and the Complainant has satisfied the third condition under Paragraph 4(a) of the Policy.

## **6. Reverse Domain Name Hijacking**

Since the Panel has decided that the Complainant has established all 3 elements under the Policy, the Respondent's claims that the Complaint was brought in bad faith and constitute an attempt of reverse domain name hijacking or was brought primarily to harass the domain-name holder, would automatically fail.

## **7. Decision**

For all 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 <shien.com> be transferred to the Complainant.



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Eliza Siew  
Panelist

Dated: 10 March 2025