

## **ADMINISTRATIVE PANEL DECISION**

JB IP, LLC v. Kylie Dahlhauser  
Case No. D2023-5259

### **1. The Parties**

Complainant is JB IP, LLC, United States of America (“United States” or “U.S.”), represented by Valauskas Corder LLC, United States.

Respondent is Kylie Dahlhauser, United States.

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

The disputed domain name <jungleboyss.com> is registered with Hosting Concepts B.V. d/b/a Registrar.eu. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 18, 2023. On December 19, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 20, 2023, 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 (Whois Privacy Protection Foundation) and contact information in the Complaint. The Center sent an email communication to Complainant on January 9, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on January 9, 2024.

The Center verified that the Complaint together with the amendment to 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 Respondent of the Complaint, and the proceedings commenced on January 17, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 6, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on February 9, 2024.

The Center appointed Scott R. Austin as the sole panelist in this matter on February 15, 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 following facts appear from the Complaint (as amended solely to add the Registrar provided registrant) and its attached Annexes, which have not been contested by Respondent, and provide evidence sufficient to support:

Since 2016 Complainant has operated its business in the cannabis industry, “a collective of Los Angeles based cultivators”, who sell a range of cannabis products, clothing and related merchandise both online and through local retail store dispensaries licensed in California and Florida under the trademark JUNGLE BOYS (the “JUNGLE BOYS Mark”) which use by Complainant and its predecessor Complainant claims dates back to at least as early as 2016.

Complainant owns a number of registrations in the U.S. and around the world for the JUNGLE BOYS Mark for cannabis products and distribution services, including the following:

- United States Registration No. 7134110, JUNGLE BOYS, registered on August 08, 2023, for a range of goods in International Classes 16, 21 and 34, and claiming a first use date at least as early as December 21, 2016; and
- International Registration No. 1620669, JUNGLE BOYS, registered on May 4, 2021, for a range of goods in International Classes 3, 18, 25 and 34, including Non-medicated herbal body care products, namely, body oils, salves, serums for use on facial skin and lip balms containing CBD solely derived from industrial hemp containing less than 0.3% THC on a dry-weight basis in International Class 3, with designations in Canada, Spain, Great Britain and Mexico; and
- California Trademark Registration No. 02001302, JUNGLE BOYS, registered on August 28, 2019, for “Herbs for medical purposes, namely cannabis and medicinal cannabis extracts” in International Class 5, and “Herbs for smoking, namely cannabis”, and “Cannabis extracts” in International Class 34, claiming a first use date of April 20, 2009.

Complainant also shows it incorporates the JUNGLE BOYS Mark into its official domain name <jungleboys.com>, created April 18, 2000, used to promote Complainant’s cannabis products, clothing and merchandise on its official website at “www.jungleboys.com” (the “Official JUNGLE BOYS Mark Website”) as well as Complainant’s official domain names <jungleboysclothing.com> created November 25, 2016, and <jungleboysflorida.com>, created August 30, 2020.

Respondent registered the disputed domain name on August 10, 2020. The Panel’s independent investigation of the disputed domain name found that as of the date visited, February 29, 2024, Respondent’s disputed domain name resolved to what is generally referred to as a “copycat” website which displayed a landing page strikingly similar to the content on the Official JUNGLE BOYS Mark Website, including Complainant’s stylized font logo, products with labels using the JUNGLE BOYS Mark, Complainant’s color scheme in labels, font style, graphics, store locations, infringing copies of Complainant’s copyright protected digital images, as well as fraudulent contact data for Respondent to phish confidential personal and financial data from unsuspecting consumers visiting Respondent’s copycat website used to impersonate Complainant<sup>1</sup>. Numerous cases support a panel’s power to undertake such limited factual

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<sup>1</sup> “Noting in particular the general powers of a panel articulated inter alia in paragraphs 10 and 12 of the UDRP Rules, it has been accepted that a panel may undertake limited factual research into matters of public record if it would consider such information useful to assessing the case merits and reaching a decision. This may include visiting the website linked to the disputed domain name in order to obtain more information about the respondent or its use of the domain name or accessing trademark registration databases.” WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.8. See e.g., *Humble Bundle, Inc. v. Domain Admin, Whois Privacy Corp.*, WIPO Case No. [D2016-0914](#); *Creative NetVentures, Inc. v. Webheads*, WIPO Case No. [D2000-1655](#).

research and the Panel has, in its discretion, examined Respondent's website and the application for the above referenced California Trademark Registration No. 02001302 as filed in the California Secretary of State's trademark registration database.

## **5. Parties' Contentions**

### **A. Complainant**

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

### **B. Respondent**

Respondent did not reply to Complainant's contentions.

## **6. Discussion and Findings**

Paragraph 15 of the Rules provides that the Panel is to decide the Complaint on the basis of the statements and documents submitted in accordance with the Policy, the Rules, and any rules and principles of law that it deems applicable.

The onus is on Complainant to make out its case and it is apparent from the terms of the Policy that Complainant must show that all three elements set out in paragraph 4(a) of the Policy have been established before any order can be made to cancel a domain name. As the proceedings are administrative, the standard of proof under the Policy is often expressed as the "balance of the probabilities" or "preponderance of the evidence" standard. Under this standard, an asserting party needs to establish that it is more likely than not that the claimed fact is true. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.2.

Thus, for Complainant to succeed it must prove within the meaning of paragraph 4(a) of the Policy and on the balance of probabilities that:

1. The disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
2. Respondent has no rights or legitimate interests in respect of the disputed domain name; and
3. The disputed domain name has been registered and is being used in bad faith.

The Panel finds that Complainant has met its burden in all three elements of the Policy and will deal with each of these elements in more detail below.

### **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 Complainant's trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. Trademark registration evidence has been submitted in the form of electronic copies of valid and subsisting national and international trademark registration documents in the name of Complainant referenced in Section 4 above. Ownership of a nationally registered trademark constitutes prima facie evidence that the complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. [WIPO Overview 3.0](#), section 1.2.1; see *Advance Magazine Publishers Inc., Les Publications Conde Nast S.A. v. Voguechen*, WIPO Case No. [D2014-0657](#); see also *Janus International Holding Co. v. Rademacher*, WIPO Case No. [D2002-0201](#).

A consensus among UDRP panels has recognized that the global nature of the Internet and Domain Name System renders the jurisdiction(s) where a trademark is registered irrelevant to panel assessment under the first element test, as are the goods and/or services for which the mark is registered or used in commerce, the filing/priority date, date of registration, and date of claimed first use. See [WIPO Overview 3.0](#), section 1.1.2.

While the Panel finds Complainant's foregoing national and international registrations are sufficient to demonstrate statutory trademark rights in Complainant's JUNGLE BOYS Mark to meet Complainant's burden under the first element of the Policy, review of these registrations shows registration of the disputed domain name predates the registration dates of the national and international registrations, leaving the remaining state registrations and other factors Complainant has relied upon as evidence for the Panel to consider to determine whether Complainant is able to meet its burden under elements two and three below.

A side-by-side comparison between the disputed domain name and Complainant's Mark shows the disputed domain name is confusingly similar to the JUNGLE BOYS Mark as well as Complainant's official domain name <jungleboys.com> used to access Complainant's Official JUNGLE BOYS Mark Website.

Complainant's JUNGLE BOYS Mark is incorporated in its entirety in the disputed domain name except for Respondent adding a second letter "s" to the end to configure the disputed domain name in a manner that could be easily overlooked by unsuspecting consumers as a typo or inadvertently reached by typing an extra "s", followed only by the generic Top-Level Domain ("gTLD") ".com". Prior UDRP panels have held "in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing." See, *L'Oréal, Lancôme Parfums et Beauté & Cie v. Jack Yang*, WIPO Case No. [D2011-1627](#); see also, *Wal-Mart Stores, Inc. v. Richard MacLeod d/b/a/ For Sale*, WIPO Case No. [D2000-0662](#). Prior UDRP panels have also found the TLD, being viewed as a standard registration requirement, may typically be disregarded under the paragraph 4(a)(i) analysis. See [WIPO Overview 3.0](#), section 1.11.1; see also *L'Oréal v. Tina Smith*, WIPO Case No. [D2013-0820](#).

Complainant also contends that the disputed domain name must be considered confusingly similar to Complainant's Mark because the redundant final "s" reconfiguration noted above is a purposeful misspelling of Complainant's JUNGLE BOYS Mark, and Complainant's Mark remains clearly recognizable within the disputed domain name. Prior UDRP panels have held that the addition of letters among the examples of a deliberate misspelling of a trademark registered as a domain name, and such reconfiguration intended to confuse Internet users must be confusingly similar by design. See [WIPO Overview 3.0](#), section 1.9; See also, *Sanofi, Genzyme Corporation v. Domain Privacy*, WIPO Case No. [D2016-1193](#).

The Panel finds that the added letter here does not prevent a finding of confusing similarity with Complainant's JUNGLE BOYS Mark and the mark is recognizable 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.

Based on the available record, 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 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 Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Complainant contends that none of the circumstances provided in paragraph 4(c) of the Policy for demonstrating a respondent's rights to and legitimate interests in a domain name are present in this case. Respondent has not rebutted 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.

First, Complainant asserts that it has no commercial relationship with Respondent, who is not sponsored by or affiliated with Complainant in any way, nor has Complainant given Respondent authority or license to register or use Complainant's trademarks in any manner, including in domain names. Prior UDRP panels have held "in the absence of any license or permission from Complainant to use its trademark, no actual or contemplated bona fide or legitimate use of the disputed domain name could reasonably be claimed". *Sportswear Company S.P.A. v. Tang Hong*, WIPO Case No. [D2014-1875](#).

Second, Complainant contends Respondent is not commonly known by the disputed domain name, which evinces a lack of rights or legitimate interests under Policy paragraph 4(c)(ii). Complainant has shown in the Registrar's registrant data submitted to the Center that Respondent, as registrant of the disputed domain name, identified as "Kylie Dahlhauser" is not commonly known by the disputed domain name because it clearly bears no resemblance to it, nor to the JUNGLE BOYS Mark or Complainant's official <jungleboys.com> domain name. Prior UDRP panels have held where no evidence, including the Whois record for the disputed domain name, suggests that Respondent is commonly known by the disputed domain name, then Respondent cannot be regarded as having acquired rights to or legitimate interests in the disputed domain name within the meaning of Policy paragraph 4(c)(ii). See *Moncler S.p.A. v. Bestinfo*, WIPO Case No. [D2004-1049](#).

Most importantly, Complainant contends Respondent is not using the disputed domain name in connection with a bona fide offering of goods or services because, as Complainant's Annex 10 to the Complaint evidence of the web page connected to the disputed domain name shows, the disputed domain name resolved to a carefully crafted "copycat" version of Complainant's official JUNGLE BOYS Mark website to create a false association with Complainant. Respondent's fraudulent activities therefore undermine any claim of rights and legitimate interests. The Panel notes that evidence submitted in the Annexes to the Complaint persuasively supports Complainant's argument because it shows Respondent's website prominently features sale of competing products unauthorized use of Complainant's JUNGLE BOYS Mark for the sale of ostensibly competing products or more likely the illegitimate purpose of furthering an illegal phishing scheme for Respondent's commercial benefit. Respondent, therefore, is using the disputed domain name to confuse Internet users and suggest an affiliation with or sponsorship by Complainant to resolve Internet users to its website for its commercial gain. Based on these facts the Panel finds Respondent's actions are clearly not legitimate and clearly are misleading. Respondent, therefore, cannot establish rights or legitimate interests pursuant to paragraph 4(c)(iii) of the Policy. See *Six Continents Hotels v. "m on"*, WIPO Case No. [D2012-2525](#).

Respondent configured the disputed domain name as part of a fraudulent scheme to attract unsuspecting consumers searching for Complainant and its cannabis and related clothing and merchandise products identified by the JUNGLE BOYS Mark create the false impression that products for sale at Respondent's website accessed through the disputed domain name are authorized or affiliated with Complainant and thereby unlawfully extract financial and personal information from unsuspecting third parties believing Respondent to be Complainant. Prior UDRP panels have held that impersonating a complainant by using a disputed domain name as part of copycat website in furtherance of a fraudulent purposes constitutes evidence of a lack of rights or legitimate interests. See [WIPO Overview 3.0](#), section 2.13.

Essentially it is a well-established principle according to a consensus of UDRP Panels that the use of a domain name for illegal activity such as the fraudulent purposes found here, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Having reviewed the record, the Panel finds Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Respondent has not rebutted

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 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 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 also 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.

Complainant contends that Respondent has demonstrated a knowledge of and familiarity with Complainant's brand and business by registering a domain name that incorporates the JUNGLE BOYS Mark in its entirety with the addition of an extra "s", turning "jungleboys" into "jungleboyss". Respondent has thereby created a domain name for registration that is confusingly similar to Complainant's trademark, as well as its official domain name. Prior UDRP panels have found a domain name was registered in bad faith where the respondent registered the domain name for the purpose of intentionally attempting to impersonate or mislead in order to commit fraud. See, e.g., *Houghton Mifflin Co. v. The Weatherman Inc.*, WIPO Case No. [D2001-0211](#); *Marlink SA v. Sam Hen, Elegant Team*, WIPO Case No. [D2019-1215](#); *Beam Suntory Inc. v. Name Redacted*, WIPO Case No. [D2018-2861](#).

Prior UDRP panels have also held where the disputed domain name is configured in a manner to wholly incorporate a complainant's mark, as Complainant's Mark is incorporated here with an additional letter, the disputed domain name can only sensibly refer to Complainant; thus, there is no obvious possible justification for Respondent's selection of the disputed domain name other than registration in bad faith.

Complainant also argues that the disputed domain name constitutes typosquatting based on the redundant trailing "s" misspelling of Complainant's JUNGLE BOYS Mark, as well as misspelling its <jungleboys.com> domain name, which Respondent has appended to capitalize on typing errors made by Complainant's customers searching for Complainant on the Internet. Typosquatting has been accepted as evidence of bad faith registration and use by numerous past UDRP panels. See [WIPO Overview 3.0](#) at 3.1.4; see also *Longs Drug Stores California, Inc. v. Shep Dog*, WIPO Case No. [D2004-1069](#); *Wal-Mart Stores, Inc. v. Longo*, WIPO Case No. [D2004-0816](#).

As discussed in greater detail in Section 6B above, Complainant shows in evidence in the Annexes to its Complaint that Respondent used the disputed domain name to configure a copycat website to impersonate Complainant attempted to fraudulently extract money from Internet users seeking Complainant's products through products which are either counterfeit or non-existent and intended to further a fraudulent phishing scheme which constitutes evidence of bad faith under the well-established principles in the cases decided under the Policy. See [WIPO Overview 3.0](#), section 3.4 and *The Coca-Cola Company v. PrivacyProtect.org/ N/A, Stephan Chukwumaobim*, WIPO Case No. [D2012-1088](#); *Ropes & Gray LLP v. Domain Administrator, c/o DomainsByProxy.com / Account Receivable*, WIPO Case No. [D2020-0294](#).

Having reviewed the record, the Panel finds Respondent's registration and use of the disputed domain name constitutes bad faith registration and use under the Policy. The Panel finds that the evidence presented here, Respondent's copycat website selling unauthorized copies of Complainant's products under its JUNGLE BOYS Mark both on the website and on labels affixed to products sold to pass itself off as Complainant's Official website, as well as further a fraudulent phishing scheme is exceptional and sufficient for this Panel to find bad faith registration and use. While the Complainant's publicly recorded statutory trademark rights at the time of the registration of the disputed domain name were limited to a Californian state trademark registration, the registration is dated almost 10 months prior the registration of the disputed domain name and the California Secretary of State trademark database shows the state trademark application included a specimen image of Complainant's cannabis product wrapped in a sealed, see-through package with label affixed using the JUNGLE BOYS Mark. Such trademark registration, therefore, still serves as evidence of the use of the trademark in commerce (particularly in a geographic location where the

Respondent reportedly resides), which is ultimately reinforced given the first date of use (i.e., 2016) reflected in the United States registration obtained in 2023. Under these circumstances, there can be little doubt Respondent had actual knowledge of Complainant, targeted Complainant's Mark and used its actual knowledge to configure a mimic website for its commercial advantage. Accordingly, 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 <jungleboyss.com> be transferred to Complainant.

*/Scott R. Austin/*

**Scott R. Austin**

Sole Panelist

Date: March 3, 2024