

ADMINISTRATIVE PANEL DECISION

Kuiu, LLC v. TJennings Christopher

Case No. D2023-5323

1. The Parties

Complainant is Kuiu, LLC, United States of America ("United States"), represented by Dorsey & Whitney, LLP, United States.

Respondent is TJennings Christopher, United States.

2. The Domain Name and Registrar

The disputed domain name <kuiu-usa.com> (the "Disputed Domain Name") is registered with Gname.com Pte. Ltd. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on December 21, 2023. On December 22, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 25, 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 (Unknown) and contact information in the Complaint. The Center sent an email communication to Complainant on December 28, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on December 28, 2023.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the "Policy" or "UDRP"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules"), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the "Supplemental Rules").

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified Respondent of the Complaint, and the proceedings commenced on January 4, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 24, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on January 25, 2024.

The Center appointed Michael A. Albert as the sole panelist in this matter on February 12, 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

Complainant KUIU was formed in 2011 to manufacture and market hunting gear, apparel, and related accessories. For more than a decade, Complainant and/or its predecessors in interest have exclusively used the trademark KUIU in connection with a wide variety of goods and services, including bags, backpacks, belt bags, hip bags, and related accessories; hunting apparel, including clothing, footwear, headwear, gloves, and waders; protective hunting apparel, including insulated outdoor clothing; outdoor recreational equipment and accessories; and related retail services. In addition to its KUIU trademark, Complainant has also exclusively used the Ram's Head logo, and the trademarks VALO, VIAS, and VERDE for the same goods and services.

Complainant is the owner of many trademarks worldwide, including, but not limited to, the following United States trademark registrations:

Mark	Trademark Registration No.	Registration Date
KUIU	United States Reg. No. 4475223	January 28, 2014
KUIU logo (the "Ram's Head Mark")	United States Reg. No. 4475224	January 28, 2014
KUIU NATION	United States Reg. No. 6314431	April 6, 2021

Complainant actively promotes and advertises its hunting apparel and outdoor recreational goods and services on the website <kuiu.com>.

Respondent registered the disputed domain name on October 11, 2023, and it resolves to a website featuring KUIU-branded apparel, as well as apparel bearing Complainant's trademarks.

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.

Notably, Complainant contends that the disputed domain name is confusingly similar to Complainant's KUIU trademark, trade name, and its associated <kuiu.com> domain name.

Respondent cannot demonstrate it has any rights or legitimate interests in the disputed domain name. Complainant's use of the KUIU Marks dates back to as early as 2011, and thus predates Respondent's registration of the disputed domain name by at least twelve years, as the disputed domain name was not registered until October of 2023. Respondent is not a licensee of Complainant, nor has Complainant otherwise authorized Respondent to register the disputed domain name or otherwise use Complainant's KUIU or other marks.

Respondent's use of disputed domain name is an attempt to pass itself off as Complainant, or at least as a Complainant-authorized entity. To the best of Complainant's knowledge, Respondent accepts payment from consumers for the purchase of apparel that it does not sell, nor does it intend to ever sell. Therefore, Respondent does not use, and has not used, the disputed domain name for any legitimate business purpose.

Respondent registered the disputed domain name in bad faith. Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent's website, by creating a likelihood of confusion with Complainant's marks.

B. Respondent

Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

Here, Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical or confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The addition of the geographic designation "-usa" does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative," requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Here, the Panel finds that Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

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

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

Given the long use of Complainant's KUIU marks, and the confusing similarity between the mark and the disputed domain name, it is highly implausible that Respondent was not aware of the KUIU mark at the time Respondent registered and used the disputed domain name. Such knowledge is sufficient to establish that the disputed domain name was appropriated by Respondent in bad faith. The disputed domain name resolves to a website that features images of the Complainant's products and incorporates Complainant's trademarks and logo. It appears that Respondent registered the disputed domain name in order to pass itself off as, or as an affiliate of, Complainant, located in the United States.

The Panel finds that the Complainant has established the third element of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <kuiu-usa.com> be transferred to the Complainant.

/Michael A. Albert/

Michael A. Albert

Sole Panelist

Date: February 26, 2024