

ADMINISTRATIVE PANEL DECISION

Jeryl Abramson, Yasgur Road Productions, LLC v. lianxin zhou
Case No. D2022-3447

1. The Parties

The Complainant is Jeryl Abramson, Yasgur Road Productions, LLC, United States of America (“United States”, represented by Dianne Blair, Lehigh Valley Website Design, United States.

The Respondent is lianxin zhou, Hong Kong, China.

2. The Domain Name and Registrar

The disputed domain name <yasgurroad.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 14, 2022. On September 16, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on September 23, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint on September 27, 2022.

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 the Respondent of the Complaint, and the proceedings commenced on September 29, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 19, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 21, 2022.

The Center appointed Andrew D. S. Lothian as the sole panelist in this matter on November 4, 2022. 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 Complaint lists two parties as the Complainant, namely an individual named Jeryl Abramson, and a corporation named Yasgur Road Productions, LLC, both of the same address and based in the United States. Due to the fact that the Complaint is extremely brief and perfunctory, very little is known about the Complainant. The named individual appears to have been the owner of United States Registered Trademark No. 4743788 in respect of the word mark YASGUR ROAD which was registered on May 26, 2015, in Classes 16, 21, 25, 41, and 43, and which was cancelled on December 3, 2021. The only fact known regarding Yasgur Road Productions, LLC, is that it received an authorization from the New York State Department of Taxation and Finance to collect sales and use taxes under applicable law with effect from May 22, 2018.

For the purposes of this Decision, the Panel will assume that the Complainant that is an individual is the controlling mind behind the Complainant that is a corporation and, for convenience, the Panel will treat them as one and the same, such that references to “the Complainant” comprise both individual and corporation.

The Complaint is accompanied by annexes without any index or commentary. These contain a variety of images. There is a photograph of what appears to be a rural road with a farm in the background. In the foreground is a street sign with the capitalized words “YASGUR RD.”. There are pictures of two flyers, two baseball hats, a logo, two mugs, a shirt and tickets, all of which appear to promote either “Yasgur Road”, “Yasgur’s Farm” or a “Yasgur Road Reunion”. The tickets specify that they relate to “Yasgur Road Reunion”. One of these is dated August 11, 2006, to August 13, 2006, and refers to “the 37th anniversary celebration of the original Woodstock Music and Arts Festival”. The other only contains a partial date of “August 20-22” but as it refers to “the 35th anniversary celebration of the original Woodstock Music and Arts Festival”, it may be extrapolated that the date of the event was from August 20, 2004, to August 22, 2004. Neither of the tickets mentions the Complainant, although the ticket containing the partial date of “August 20-22” states that tickets are available “at Monticello Real Estate online at [the disputed domain name]”.

The flyers also promote the “Yasgur Road Reunion”. One of these states that it is “celebrating Woodstock 49” and is dated August 10, 11, and 12, 2018. The other does not feature a complete date, although it contains the number “50” in the image of a flag flying from a barn marked “Yasgur”, and the partial date “August 15-18”, from which it may be extrapolated that the full date of this event is likely to have been August 15, 2019, to August 18, 2019. The Complainant has not explained its connection to these events, or to the original Woodstock Music and Arts Festival (of which the Panel is aware), or to the apparently related merchandise to the reunion events. It is conceivable that Yasgur Road Productions, LLC, may have organized these events, and/or sold merchandise as featured in the annexes, under license of the YASGUR ROAD trademark. However, that is mere conjecture on the Panel’s part based on the fact that said corporation has been authorized to collect sales taxes from May 22, 2018.

Nothing is known of the Respondent, which has not participated in the administrative proceeding, other than that it appears to be an individual with an address in Hong Kong, China. According to the Registrar’s verification response, the disputed domain name was registered on April 25, 2011. The Complainant states that the website associated with the disputed domain name promotes a vape shop but did not supply any screenshots or a more detailed description of said site.

5. Parties' Contentions

A. Complainant

As noted above, the Complaint is perfunctory and may be quoted largely *verbatim*.

Identical or confusingly similar

The disputed domain name is identical to the YASGUR ROAD trademark. Said mark has been described in the factual background section above.

Rights or legitimate interests

The name "Yasgur Road" is registered, and in use, under the YASGUR ROAD trademark, as described above.

Registered and used in bad faith

The disputed domain name is associated with the Yasgur Farm, United States, home of the 1969 Woodstock Festival. The name is directly linked to the physical business address on Yasgur Road. The Respondent is not associated with The Woodstock Festival or Yasgur's farm. The disputed domain name is being used to promote a vape shop, with has nothing to do with Yasgur's or Woodstock.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied:

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

A. Identical or Confusingly Similar

In order to succeed under this element of the Policy, as a threshold issue, the Complainant must first demonstrate that it has UDRP-relevant rights in a trademark. The relevant date for these rights to be in existence is the date of filing of the Complaint. In the present case, the trademark at issue appears to be YASGUR ROAD. The Complainant has supplied a copy of a trademark certificate for the mark described in the factual background section above. The certificate is valid *ex facie*. However, when the Panel checked the current status of the mark on the website of the United States Patent and Trademark Office¹, it noted that the mark had been cancelled on December 3, 2021. A mark that is no longer in force cannot satisfy the requirement of the Policy that it is a "trademark or service mark in which the complainant has rights" and accordingly the Complainant has failed to pass the threshold test.

¹ With regard to the Panel conducting limited factual research into matters of public record, such as consulting relevant publicly available websites, see section 4.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

It is possible that the Complainant might have claimed unregistered trademark rights in the YASGUR ROAD mark. However, it has not done so. The tickets which the Complainant has produced suggest that the “Yasgur Road Reunion” event may have taken place at least in the years 2004, 2006, 2018 and 2019. However, the Complainant failed to specify its relationship to this event, far less to supply the kind of evidence normally required by panels under the Policy to establish a secondary meaning in the mark concerned².

As the Complainant has not established that it has UDRP-relevant rights in a trademark, it is not possible to make an assessment of the disputed domain name’s identity or confusing similarity thereto.

In all of these circumstances, the Complainant has failed to carry its burden in terms of the first element of the Policy and the Complaint fails.

B. Rights or Legitimate Interests

As the Complaint must fail, no good purpose would be served by considering this ground.

C. Registered and Used in Bad Faith

As the Complaint must fail, it is not necessary to consider this ground in any detail. However, the Panel notes for completeness that in the absence of certain exceptional circumstances, usually involving nascent trademark rights which have been anticipated by the Respondent, a panel will not normally find registration and use in bad faith where a respondent has registered the domain name concerned before the coming into existence of the trademark in which the complainant claims rights. That would have been the case here, even if the registered trademark cited by the Complainant had not been cancelled. The disputed domain name was registered on April 25, 2011. The trademark cited by the Complainant was registered on May 26, 2015. Furthermore, although the claimed first use in commerce date in such trademark is not of evidentiary significance on its own, this was specified as August 15, 2014, which also post-dated the registration date of the disputed domain name.

As noted above, the Complainant might have claimed unregistered trademark rights in a relevant mark which predated the date of registration of the disputed domain name, particularly given the tickets it produced, which suggest that certain events may have taken place in 2004 and 2006, and indeed that the disputed domain name itself appears to have been associated with the sale of tickets by “Monticello Real Estate online” for the 2004 event. However, no claim to unregistered trademark rights has been made, nor sufficient related evidence supplied, nor has the Complainant’s relationship to the activities concerned been specified. Even had such a claim been made successfully, there is no evidence or related submissions before the Panel suggesting that the Respondent’s registration of the disputed domain name, which appears to reference a road or street name, could necessarily be regarded as targeting any rights of the Complainant. Accordingly, there is no evidence before the Panel that the disputed domain name was registered and is being used in bad faith.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Andrew D. S. Lothian/

Andrew D. S. Lothian

Sole Panelist

Date: November 18, 2022

² See, for example, section 1.3 of the [WIPO Overview 3.0](#).