

ADMINISTRATIVE PANEL DECISION

Institución Ferial de Madrid (IFEMA) v. Kwangpyo Kim, Mediablue Inc
Case No. D2023-2602

1. The Parties

Complainant is Institución Ferial de Madrid (IFEMA), Spain, represented by PONS IP, Spain.

Respondent is Kwangpyo Kim, Mediablue Inc, Republic of Korea.

2. The Domain Name and Registrar

The disputed domain name <juvenalia.com> (the “Domain Name”) is registered with GoDaddy Online Services Cayman Islands Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 16, 2023. On June 16, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On June 20, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name, which differed from the named Respondent (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to Complainant on June 21, 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 July 24, 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 July 25, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 14, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on August 18, 2023.

The Center appointed Christopher S. Gibson as the sole panelist in this matter on August 28, 2023. 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, founded in 1980, is a consortium formed by the Community of Madrid, the Madrid City Council, the Chamber of Commerce and Industry, and the Montemadrid Foundation. Complainant operates trade fairs and other fairs, congresses, and exhibitions in Spain and is also an important player on the international circuit across Europe. Complainant annually organizes and holds exhibitions, trade fairs and shows related to different business sectors where companies meet to generate business relationships and multiply their contacts. This generates a large influx of visitors, professionals and the public. Complainant hosts half of all international fairs held in Spain every year and is Spain's leading trade fair operator. Complainant's activity has an economic impact of EUR 4.374 billion and generates more than 26,000 jobs. Complainant's activity is not only carried out in Madrid, but also in other countries, where Complainant exports its knowledge and experience in the management and commercialization of events and spaces. In this regard, Complainant promotes activity in new markets, strengthening its international position with 16 delegations operating in 28 countries.

Complainant's "Juvenalia" event has been organized since the 1980s¹ and has been held annually each year during the first days of December. It is a children's and youth leisure show, aimed at children and young people from ages 1 to 16 years, and has a playful and educational character with pedagogical content that contributes to the intellectual, affective, and social development of youth. Complainant has provided samples of posters for these events including from the eleventh annual JUVENALIA event organized by Complainant.

Complainant is the owner of the <ifema.es> website, which includes webpages dedicated to its JUVENALIA event. Complainant has provided evidence of the large number of visitors to its website, and has verified that the JUVENALIA event has the fourth most visited pages on the site, and positioning itself in the different search engines and social networks. Complainant has submitted evidence that Complainant has a large presence on social networks, including Instagram. Complainant has also provided evidence to show that it makes significant investments in advertising.

Complainant owns the following JUVENALIA trademarks:

- Spanish Trademark registration M 947.085 in class 35, filed July 2, 1980.
- Spanish Trademark registration M 3.566.043 in classes 35 and 41, filed on June 11, 2015.
- Spanish Trademark registration M 3.634.766 in class 41, filed on October 20, 2016.

The Domain Name was registered on July 21, 2010. It resolves to a pay-per-click parking page that also indicates the Domain Name is for sale.

5. Parties' Contentions

A. Complainant

(i) Identical or confusingly similar

Complainant states that its trademarks are used and relate to its services, allowing Complainant to be known and enjoy protection not only in Spain but also in the European Union. Complainant submits that the wide range of fairs and congresses owned by Complainant have made Complainant acquire an important local

¹ The Panel has gathered this information through a quick search on the Internet, in limited exercise of its general powers under paragraph 10 of the Rules.

and international prestige. Moreover, Complainant claims that all of its trademarks, including its JUVENALIA mark, have acquired a global and international character. These trademarks are generally and widely well known and famous in the relevant sector due to their registration duration, intensity or geographical scope of use, as well as their value and prestige achieved in the market.

Complainant states that according to the trademark rulings in force, the registration of the trademark JUVENALIA confers on Complainant the exclusive right to use it and to prevent third parties not having its consent from using it in the course of trade in relation to goods or services and, in particular, using the sign on communication networks and as a domain name.

Bearing in mind all these circumstances, Complainant claims its JUVENALIA trademark and the Domain Name are absolutely identical and this makes the consumer consider wrongly that the Domain Name belongs to Complainant. Complainant's prior rights in the JUVENALIA mark and that mark's function in identifying and distinguishing Complainant's services are not being observed. The Domain Name incorporates Complainant's JUVENALIA trademark in its entirety without modification or addition, and thus the Domain Name is identical to a mark in which Complainant has rights.

(ii) Rights or legitimate interests

Complainant states that the Domain Name was registered on July 21, 2010, and now resolves to a parking page. Complainant emphasizes that it owns Spanish trademarks for the name JUVENALIA, as well as trademarks comprised of the stylized word JUVENALIA. One of these trademarks was filed in 1980, prior to the registration date of the Domain Name. Complainant submits that the registration of the trademark JUVENALIA confers on Complainant the exclusive right to use it and to prevent all third parties not having its consent from using it in the course of trade or on communication networks or as a domain name.

Complainant also states that (i) Respondent is not known in the course of trade or business by the name of JUVENALIA and has no legal, commercial or any other relationship with Complainant; (ii) Complainant has not authorized or granted any license to Respondent to register and use the Domain Name or any trademark or trade name under the name JUVENALIA; and (iii) Respondent is not currently using the Domain Name to offer products or services. The content of the website hosted by the Domain Name indicates that it is offered for sale on GoDaddy's auction site for USD 23,850, a sum far in excess of any out-of-pocket expenses Respondent can reasonably have incurred in acquiring it.

According to Complainant, these circumstances demonstrate Respondent has no rights or legitimate interests in respect of the Domain Name, as Respondent does not have any trademark right under the name JUVENALIA to identify its services and does not have Complainant's authorization to use the JUVENALIA mark in the trade course.

(iii) Registered and used in bad faith

Complainant states the examples of bad faith registration and use set forth in paragraph 4(b) of the Policy are not meant to be exhaustive of all circumstances from which such bad faith may be found. The overriding objective of the Policy is to curb the abusive registration of domain names in circumstances where the registrant seeks to profit from and exploit the trademark of another.

Complainant observes that Respondent registered the Domain Name after Complainant filed its application to register the JUVENALIA mark in 1980. The Domain Name is identical to Complainant's marks, and the attendant circumstances in this case suggest that Respondent's in all likelihood was aware of Complainant's previously registered and applied for JUVENALIA marks, as the Domain Name is identical to them.

Complainant submits that according to the Policy, Complainant must prove the Domain Name was registered and is being used in bad faith. Complainant maintains these requirements are met, as follows: (i) Complainant is a well-known company that owns trademarks under the name JUVENALIA; (ii) Complainant's trademarks are well-known and famous and due to the reputation of Complainant's

trademarks, it is evident that Respondent was or should have been aware of Complainant's JUVENALIA mark prior to registering the Domain Name; and (iii) if Respondent had acted with a *bona fide* intention in registering the Domain Name, he would have checked the relevant trademark database and known that, upon registering the Domain Name, it would infringe Complainant's prior trademark rights.

Complainant contends that Respondent's intention in registering the Domain Name was to prevent Complainant from registering it. Additionally, Complainant submits there is an evidence of registration and use of the Domain Name in bad faith as Respondent registered and acquired it primarily for the purpose of selling or otherwise transferring it to Complainant, who bears the name and is the owner of the JUVENALIA trademark, for valuable consideration in excess of the registrant's documented out-of-pocket costs directly related to the Domain Name. In this particular case, the Domain Name is being offered for sale for USD 23,850, an amount that far exceeds the costs related to registration and maintenance of the Domain Name, which Complainant contends proves Respondent's bad faith in registration. Complainant has submitted evidence of a copy of GoDaddy's auction website as evidence that Respondent registered the Domain Name for the purpose of selling it for economical profit. Complainant submits the term "cybersquatting" is most frequently used to describe the deliberate, bad faith abusive registration of a domain name in violation of rights in trademarks or service marks.

Complainant amended its Complaint, having received the identification of Respondent from the Center. In the amendment, Complainant points out that the Respondent has already been Respondent in similar cases, in particular: *Unilever NV 대 김광표*, WIPO Case No. [D2002-0614](#); and *Deutsche Lufthansa AG v. Whois Privacy Services Pty Ltd / Mediablue Inc, Kwangpyo Kim*, WIPO Case No. [D2013-1844](#). Complainant claims Respondent is in the business of registering domain names. The domain names registered by Respondent are always offered for sale. For this reason, Complainant considers that Respondent's conduct in this case registering the Domain Name confirms Respondent general conduct of registering domain names, including those corresponding to well-known trademarks, so that they can be sold to the owners of those marks.

In addition, Complainant contends that Respondent's non-disclosure of its identity shows that Respondent has registered and is using the Domain Name in bad faith.

Due to all the above-mentioned reasons, Complainant concludes it is clear and obvious that Respondent registered and is using the Domain Name in bad faith.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

In order to succeed on its Complaint, Complainant must demonstrate that the three elements set forth in paragraph 4(a) of the Policy have been satisfied. Those elements are as follows:

- (i) the Domain Name registered by Respondent is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) Respondent has registered and is using the Domain Name in bad faith.

A. Identical or Confusingly Similar

The Panel finds that Complainant has demonstrated well-established rights in its JUVENALIA trademark, both through registration and widespread use of the mark for over three decades. The annual JUVENALIA event is a longstanding and well-publicized event, and Complainant has submitted evidence to establish the

reputation of Complainant's JUVENALIA mark. It is a common practice under the Policy to disregard the generic Top-Level Domain ("gTLD") for the purposes of comparing a trademark and domain name. Therefore, the relevant part of the Domain Name is the term, "juvenalia" and this element is identical to the Complainant's JUVENALIA trademarks.

Accordingly, the Panel finds that the Domain Name is identical to a trademark in which Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Regarding the second element of the Policy, section 2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), states, "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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element."

Here, the Panel determines that Complainant has made out a *prima facie* case, while Respondent has failed to respond to Complainant's contentions. Complainant has provided evidence and emphasized that its JUVENALIA trademark is long-standing and well-known in its field; that Complainant has not authorized Respondent to use Complainant's JUVENALIA trademark in the Domain Name or otherwise; that Respondent is not commonly known by the Domain Name; that Respondent has not used the Domain Name for a legitimate noncommercial or fair use, nor used it in connection with a *bona fide* offering of goods or services. Instead, the Domain Name is being used by Respondent to link to a pay-per-click website where the Domain Name is also listed for sale, and the Domain Name is also offered for sale on the Registrar's auction site for USD 23,850, a sum likely in excess of any out-of-pocket expenses relating to registration of the Domain Name. In the face of these allegations, Respondent has not submitted a response.

Accordingly, the Panel finds that Complainant has made a *prima facie* showing of Respondent's lack of rights or legitimate interests in respect of the Domain Name, which has not been rebutted by Respondent. The Panel therefore finds that Complainant has established the second element of the Policy in accordance with paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

The third element of paragraph 4(a) of the Policy requires that Complainant demonstrate that Respondent registered and is using the Domain Name in bad faith. [WIPO Overview 3.0](#), section 3.1, states, "bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark."

Here, the Panel determines that the Domain Name was registered and is being used in bad faith. Respondent adopted the term "juvenalia" for the Domain Name, which is identical to Complainant's JUVENALIA mark, and the Domain Name was linked to a pay-per-click webpage, while also offering it for sale. Complainant has provided circumstantial evidence that – given the distinctiveness of its JUVENALIA trademark; the more than 30 years that have passed between Complainant's earliest trademark registration and the registration of the Domain Name; and the reputation of Complainant's business while using the JUVENALIA mark for one of its annual events – Respondent, when registering the Domain Name, was likely aware of Complainant and its JUVENALIA mark, and intentionally targeted it, when registering the Domain Name. In the face of Complainant's contentions and evidence in the Complaint, Respondent has provided no response in this case to attempt to justify its registration of the Domain Name, or to deny Complainant's allegations. Moreover, the Panel also finds that Complainant has provided sufficient un rebutted evidence that Respondent is using the Domain Name for the bad faith purpose of selling it to Complainant for an amount that exceeds Respondent's likely registration costs. Respondent, by directing the Domain Name to pay-per-click links (listed in the Spanish language) and also offering it for sale at a high price, has used it in bad faith. See [WIPO Overview 3.0](#), section 3.1.1 (if "circumstances indicate that the respondent's intent in

registering the disputed domain name was in fact to profit in some fashion from or otherwise exploit the complainant's trademark, panels will find bad faith on the part of the respondent." Such circumstances, which have been alleged here, include: "(i) the respondent's likely knowledge of the complainant's rights;" "(ii) the distinctiveness of the complainant's mark;" "(iii) a pattern of abusive registrations by the respondent;" and "(vii) failure of a respondent to present a credible evidence-backed rationale for registering the domain name." Id.). Moreover, in this case Complainant has indicated the presence of additional factors: "a clear absence of rights or legitimate interests coupled with no credible explanation for the respondent's choice of the domain name", Respondent's use of a privacy service, and Respondent's failure as a professional domainer to search and/or screen registrations against available online databases, all of which may be indicia of bad faith. See [WIPO Overview 3.0](#), sections 3.2.1, 3.2.3 and 3.6. In sum, the unrebutted circumstantial evidence indicates Respondent is using the Domain Name to take unfair advantage of Complainant's JUVENALIA mark.

Accordingly, in view of all of the facts and circumstances in this case, and Respondent's failure to provide a response, the Panel finds on the balance of the probabilities that the Domain Name has been registered and is being used in a bad faith in accordance with paragraph 4(a)(iii) 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, <juvenalia.com>, be transferred to Complainant.

Christopher S. Gibson

Christopher S. Gibson

Sole Panelist

Date: September 17, 2023