

## **ADMINISTRATIVE PANEL DECISION**

Josue Echavarria Lopez v. Daniel Kametani, Hedgehog  
Case No. D2023-4519

### **1. The Parties**

The Complainant is Josue Echavarria Lopez, Mexico, self-represented.

The Respondent is Daniel Kametani, Hedgehog, United States of America (“United States”), self-represented.

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

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

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 31, 2023. On October 31, 2023, 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 (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 1, 2023, 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 amended Complaint on November 2, 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 the Respondent of the Complaint, and the proceedings commenced on November 2, 2023. In accordance with the Rules, paragraph 5, the initial due date for Response was November 22, 2023. The Respondent requested an extension for the response due date on November 20, 2023. Accordingly, the response due date was extended to November 26, 2023 under paragraph 5(b) of the Rules. A Response and an amended Response were filed with the Center on November 26, 2023.

The Center appointed Iris Quadrio, Warwick A. Rothnie and Luca Barbero as panelists in this matter on December 12, 2023. The Panel finds that it was properly constituted. Each member of 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 Complainant is the owner of several trademark registrations for JYE, including the following, as per trademark certificates submitted as Annexes 3 through 6 to the Complaint:

- International trademark registration No. 1477209 for JYE (figurative mark), registered on June 26, 2019, in class 3;
- United States trademark registration No. 6004653 for JYE (figurative mark), filed on June 26, 2019, and registered on March 10, 2020 in international class 3;
- United States trademark registration No. 7084244 for JYE (figurative mark), filed on April 13, 2022, claiming priority on Mexico applications filed on February 8, 2022, and registered on June 20, 2023, in international classes 09, 35 and 42;
- Mexico trademark registration No. 1645609 for JYE (figurative mark), filed on March 3, 2016, and registered on June 10, 2016, in class 3;
- Mexico trademark registration No. 2239099 for JYE (word mark), filed on February 19, 2021, and registered on April 29, 2021, in class 5;
- Mexico trademark registration No. 2395106 for JYE (figurative mark), filed on February 8, 2022, and registered on May 13, 2022, in class 9;
- Mexico trademark registration No. 2396881 for JYE (figurative mark), filed on February 8, 2022, and registered on May 17, 2022, in class 35;
- Mexico trademark registration No. 2560783 for JYE (figurative mark), filed on January 31, 2023, and registered on June 16, 2023, in class 36;
- Mexico trademark registration No. 2554540 for JYE (figurative mark), filed on January 31, 2023, and registered on June 1, 2023, in class 38;
- Mexico trademark registration No. 2554538 for JYE (figurative mark), filed on January 31, 2023, and registered on June 1, 2023, in class 39;
- Mexico trademark registration No. 2400315 for JYE (figurative mark), filed on February 8, 2022, and registered on May 25, 2022, in class 42;
- Mexico trademark registration No. 2563188 for JYE (figurative mark), filed on January 31, 2023, and registered on June 22, 2023, in class 44;
- Mexico trademark registration No. 2560778 for JYE (figurative mark), filed on January 31, 2023, and registered on June 16, 2023, in class 45.

The Complainant also registered a JYE.COM logo in Mexico as copyright, as per copyright registration certificate No. 03-2023-081812005400-01 dated August 18, 2023, submitted at Annex 7 to the Complaint. A certification of a notary public submitted in the same Annex certifies that the copyright registration certificate has been issued to the Complainant as legitimate and sole inventor of JYE.COM and was first disclosed to public on January 1, 1995.

The Complainant also submitted in the same Annex evidence of use of the trademark JYE in connection with the promotion and offer for sale of cosmetics on the websites “www.alibaba.com” (the “Alibaba website”) and “www.amazon.com” (the “Amazon website”). The Complainant’s activity is described in the company overview section of the Complainant’s official page on the Alibaba website as follows: “100% Mexican company, first in Latin America to be a pioneer in the manufacture of quality cosmetic oils, beauty products in general and accessories, committed to the best care and quality for more than 17 years”. According to the additional information displayed on such page, the company was established in 2016, manufactures and sells oils, creams, gel, brushes and accessories with a turnover of USD 1 million- USD 2.5 million and has North America, Eastern Europe and Northern Europe as its main markets.

The Complainant is also the owner of the domain names <jye.mx> and <jye.com.mx>, registered on February 9, 2016, and <jye.us> registered on July 9, 2015, all pointed to active websites promoting and offering for sale cosmetics under the trademark JYE.

The disputed domain name <jye.com> was registered on March 7, 2000, and is pointed to a parking page with pay-per-click links. Based on the printout submitted by the Complainant and on the Panel's review of the webpage to which the disputed domain name currently resolves, none of the links are related to the Complainant's trademark or to cosmetic products.

## **5. Parties' Contentions**

### **A. Complainant**

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

Notably, the Complainant contends that the disputed domain name <jye.com> is identical to the trademark JYE in which the Complainant has rights as it reproduces the trademark in its entirety with the mere addition of the generic Top-Level Domain (gTLD) ".com" and submits that such similarity risks creating confusion with the Complainant's rights to the trademark.

With reference to rights or legitimate interests in respect of the disputed domain name, the Complainant states that: i) there is no evidence that the Respondent has used the disputed domain name or made demonstrable preparations to use it for a legitimate offering of goods or services; ii) the Respondent is not commonly known by the disputed domain name and there is no indication that the Respondent ever acquired rights to the JYE trademark; iii) the Respondent has not made legitimate, noncommercial, or fair use of the disputed domain name, since the Respondent has pointed the disputed domain name to a parking page with pay-per-click links with the intent to generate revenue from advertising, thus exploiting the reputation of the Complainant's mark to attract online traffic for its own benefit.

With reference to the circumstances evidencing bad faith, the Complainant claims that, by registering and using the disputed domain name, the Respondent is intentionally interfering with the Complainant's business activities, as the Complainant has been using the distinctive sign JYE since 1995, and this interference is aimed at undermining the Complainant's market position and harming their business activities. The Complainant further submits that such interference is exacerbated by the Respondent's location in the United States, the same country where the Complainant's trademark is registered, including for advertising and advertisement services.

The Complainant also states that the Respondent has used the disputed domain name with the purpose of attracting profit-seeking Internet users through pay-per-click advertising and submits that such use of the disputed domain name creates the potential for confusion with the Complainant's brand in terms of its source, sponsorship, and promotion.

### **B. Respondent**

The Respondent contends that the Complainant has not satisfied all three of the elements required under the Policy for a transfer of the disputed domain name, for the following reasons.

With reference to the Complainant's rights in the JYE mark, the Respondent states that JYE is a common name used by people around the world, and that the Complainant has failed to present evidence that it may have become widely known by the JYE mark. The Respondent also submits that the Complainant has registered trademarks in multiple classes but has failed to show evidence of use of the JYE mark in commerce aside from the sale of oils, creams, gels, brushes and accessories.

With reference to rights or legitimate interests in respect of the disputed domain name, the Respondent rebuts the Complainant's contentions stating that contrary to the Complainant's allegations, the Respondent registered the disputed domain name in 2000 for use in connection with a *bona fide* legitimate service, namely, an online directory similar to the one at "www.yahoo.com" and submits that though the site at the disputed domain name today does not reflect such intent, the original site (as proven by the screenshots provided at Annex 5 to the Response), operated as a directory until 2006.

With reference to the use of the disputed domain name's since 2007, the Respondent contends that its pay-per-click services were conducted in a *bona fide* legitimate manner for two main reasons: the first that it could not have been interfering with the Complainant's business at the time, since the Respondent had no knowledge of the Complainant, considering the Complainant at the time did not appear to be conducting any business or owning any trademark rights in JYE. The second reason being that JYE is one of the commonly used English spellings of a word and character, 傑, in the Chinese language, meaning "heroic", "outstanding" or "prominent", also used as a name in the Chinese language.

The Respondent also contends that it registered the disputed domain name in 2000 for its inherent value as a short name and acronym and states that the Complainant has failed to provide evidence that the Respondent has not made legitimate fair use of the disputed domain name without intent for commercial gain to misleadingly divert customers or to tarnish the Complainant's trademark, as the Complainant has not proven that the links shown on the webpage to which the disputed domain name resolves are related to products for which the Complainant's trademark is used, i.e., oils, creams, gels, brushes or accessories.

With reference to the circumstances evidencing bad faith, the Respondent indicates that the Complainant's assertion that the registration of a copyright for a logo design featuring the letters JYE in 1995 should be treated as evidence of use of the letters JYE in commerce is unfounded, since the Complainant offers no evidence or case law to suggest that a copyright may be treated in the same way as a trademark.

The Respondent also underlines that trademark law defines "use in commerce" as the *bona fide* use of a mark in the ordinary course of trade, and not made merely to reserve a right in a mark and submits that the Complainant has not proven ownership of trademark rights for JYE at the time of registration of the disputed domain name by the Respondent.

The Respondent also states that the Complainant has failed to present evidence that the Respondent, a resident of the United States, would have known or should have known at the time of registering the disputed domain name, about a copyright that was registered or published in Mexico in 1995, especially considering that such information could have in any case only been accessible to the Complainant, according to Mexican copyright laws, if the Complainant had granted authorization to access the 1995 copyright documentation.

The Respondent further contends that the Complainant has failed to demonstrate that the Respondent used the disputed domain name in bad faith and that the Respondent is intentionally interfering with the Complainant's business. Specifically, the Respondent claims that the Complainant has failed to show any link on the Respondent's website targeting any of the Complainant's products or services.

The Respondent also states that the Complainant has failed to provide evidence that it owns the exclusive right to use the JYE mark in advertising and that the Respondent's use by generating income through advertising clicks is "particularly" in bad faith. In this respect, the Respondent notes that the Complainant's trademark JYE was registered for advertising and advertisement services (via the United States Registration No. 7084244) only on June 20, 2023, whilst the Respondent has been engaged in the business of advertising through pay-per-click since 2006.

Finally, the Respondent requests that the Panel make a finding of reverse domain name hijacking, since: i) the Complainant ought to have known it could not succeed under any fair interpretation of the facts which were available to the Complainant prior to filing of the Complaint; ii) the Complainant failed to supply any evidence to support the claim for bad faith registration of the disputed domain name; iii) the Complainant was or should have been aware that the disputed domain name was registered long before the Complainant engaged in a *bona fide* commerce with the JYE mark and acquired any trademark rights in it and it was thus impossible for the Respondent to have registered the disputed domain name with the Complainant's trademark in mind; iv) the Complainant has presented no evidence of actual use of the JYE mark until 2016; and v) the Complainant knew or should have known that a 1995 copyright registration from Mexico for a logo design is not proof, in and of itself, of engaging in business under the JYE mark and could not establish trademark rights in the JYE mark.

## 6. Discussion and Findings

According to paragraph 15(a) of the Rules: "A 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." Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following:

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

### 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.

Based on the available record, the Panel finds the 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. Indeed, as highlighted under section 4 above, the Complainant has provided evidence of ownership of valid trademark registrations for JYE, including a word trademark registration in Mexico (No. 2239099).

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

Therefore, based on the available record, the Panel finds the first element of the Policy has been established.

### B. Rights or Legitimate Interests

In light of the Panel's findings under the next section, it is not necessary to address the issue whether the Respondent has rights or legitimate in the disputed domain name.

### **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.

The disputed domain name was registered on March 7, 2000. The Complainant claims to have been using its trademark JYE since 1995 and provides in support of this claim a copyright registration certificate for the JYE.COM logo in Mexico dated August 18, 2023, along with a certification of a notary public mentioning that the logo was first disclosed to public on January 1, 1995. It is not clear to the Panel, however, whether the Notary is certifying some fact which the Notary has personally witnessed or certifying something that has been represented to the Notary.

The Panel notes that the earliest of the Complainant's registered trademark rights only dates from March 3, 2016, i.e., the Mexico trademark registration No. 1645609. The other trademarks on which the Complainant relies date from 2019 through to 2023. In addition, the Complainant registered its various "jye" domain names from July 9, 2015, onwards.

The Panel also notes the description of the Complainant's business provided on the Alibaba account of the Complainant (screenshots of which have been submitted as Annex 7 to the Complaint) states that the trademark JYE has been used for 17 years. However, according to the information provided on the same account, the Complainant was established only in 2016 and indeed all other evidence provided supporting the use of the trademark JYE by the Complainant, such as the offering of the Complainant's products in Alibaba and Amazon, is dated after the Complainant's trademark's registration in 2016.

The Panel further notes that the Complainant has not provided any evidence to demonstrate that the trademark JYE was already known at the time of registration of the disputed domain name in 2000.

Moreover, the Complainant submitted that the Respondent's registration of the disputed domain name interferes with the Complainant's business but has failed to provide evidence to show that the Respondent intended to target the Complainant and its trademark. Indeed, based on the screenshots provided by the Complainant, none of the links displayed on the Respondent's pay-per-click website referred to the Complainant, its trademark JYE or the products for which the JYE mark is being used according to the evidence provided by the Complainant (Annex 7 to the Complaint).

Furthermore, the Panel considers the nature of the disputed domain name as a three-letter acronym. The Panel notes that this type of domain name has inherent value just from the fact that they are made of only three letters and, therefore, considerable caution needs to be exercised unless there is clear evidence of targeting the Complainant's trademark. In the case at hand, the Respondent appears to have registered several additional three-letter domain names besides the disputed domain name around the time the Respondent registered the disputed domain name. Moreover, there is no additional evidence that the Respondent intended to target the Complainant by registering additional domain names corresponding to its trademarks.

In view of the above, the Panel finds that the Complainant has failed to provide sufficient evidence to demonstrate that the Respondent registered the disputed domain name with the Complainant's trademark in mind and intended to target the Complainant and its trademark.

Therefore, based on the available record, the Panel finds the third element of the Policy has not been established.

## 7. Decision

For the foregoing reasons, the Complaint is denied.

*/Luca Barbero/*

**Luca Barbero**  
Presiding Panelist

*/Iris Quadrio/*

**Iris Quadrio**  
Panelist

*/Warwick A. Rothnie/*

**Warwick A. Rothnie**  
Panelist

Date: December 25, 2023