

## **ADMINISTRATIVE PANEL DECISION**

Age International, Inc. d/b/a Blanton Distilling Company v. Domain Administrator, See PrivacyGuardian.org / Jone Mike, Shengyi Co., Ltd.  
Case No. D2022-2262

### **1. The Parties**

Complainant is Age International, Inc. d/b/a Blanton Distilling Company, United States of America (“United States” or “US”), represented by Leason Ellis LLP, United States.

Respondent is Domain Administrator, See PrivacyGuardian.org, United States / Jone Mike, Shengyi Co., Ltd., United States.

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

The disputed domain name <blantonsbourbonus.com> (the “Domain Name”) is registered with NameSilo, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 22, 2022. That same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. Also, on June 22, 2022, 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 and contact information in the Complaint. The Center sent an email communication to Complainant on June 23, 2022, 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 June 29, 2022.

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 June 30, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 20, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on July 21, 2022.

The Center appointed Harrie R. Samaras as the sole panelist in this matter on July 27, 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**

Complainant owns US Trademark Reg. No. 1,699,319 for its BLANTON'S Mark, which was registered on July 7, 1992 but the Mark has been used to sell bourbon whiskey since 1984. Complainant also owns the domain names <blantonsbourbon.com> and <blantonsbourbonshop.com>, which respectively direct the public to the website at which Complainant provides information about the long history of the BLANTON'S brand and Complainant's retail website offering BLANTON'S branded merchandise for sale. Complainant's bourbon has been recognized with awards in the United States and internationally.

The Domain Name was registered on June 14, 2022. Until recently, shortly before this proceeding commenced, the Domain Name resolved to a website that: (a) featured the BLANTON'S Mark prominently at the top of each page of the website in the same place on the page where Complainant places its BLANTON'S Mark; (b) the size and script font that Respondent uses for the Mark is the same as Complainant uses for the Mark on its website; (c) the photograph of the bourbon bottle shown on Respondent's website is the same as or similar to one of the photographs that Complainant uses on its website to sell bourbon; (d) there is a background history called "How Blanton's Came to Be" on Respondent's website that is directly, verbatim from Complainant's website; and (e) Respondent describes "Gold Edition", "Special Reserve", and "Straight from the Barrel" products on its website that are verbatim descriptions from Complainant's website. Now, the Domain Name resolves to a website that states: "This Connection Is Not Private. This website may be impersonating "www.blantonsbourbonus.com" to steal your personal or financial information. You should go back to the previous page."

#### **5. Parties' Contentions**

##### **A. Complainant**

Complainant's Mark is famous for exceptional bourbon, having won numerous awards as shown by the long list of awards from 1997-2019 appearing on the website of Complainant's distillery. The Domain Name is nearly identical to Complainant's BLANTON'S Mark. The only differences are: (a) the absence of an apostrophe; (b) the addition of the generic/geographical wording "bourbon US," which identifies the product for which Complainant is known, *i.e.*, bourbon, and the place where Complainant's product is known to come from, *i.e.*, US; and (c) the addition of the non-substantive ".com". The Domain Name substantially incorporates the Mark to establish confusing similarity and the slight differences do not prevent such a finding.

Respondent is not and has never been a representative or licensee of Complainant nor is Respondent authorized by Complainant to use its trademarks in the Domain Name. The Domain Name is identical to Complainant's BLANTON'S Mark (without the apostrophe in the latter), with only the addition of the generic/geographical terms "bourbon" and "US", both of which terms are associated with Complainant's bourbon product made in the United States and is highly similar to the wording of the domain name for Complainant's retail site accessible at <blantonsbourbon.com>.

Respondent registered the Domain Name on June 14, 2022, decades after Complainant's Mark was first used and registered. Given the fame of the Mark in connection with bourbon, Respondent cannot reasonably deny that the Domain Name was registered with Complainant in mind. That Respondent has used a privacy service to hide its identifying information is further evidence of bad faith, that is to hide its identity so as to avoid legal proceedings. The declassified information concerning Respondent's identity and address is even more suspect: (a) there seems to be no one relevant with the name Jone Mike; (b) the street address matches a UPS store in a strip mall in California; (c) there is no town/city called California

that is located in Alabama; (d) the zip code is for Arizona; (e) the area code is in Trinidad and Tobago; and (f) the email address is an incomprehensible string of letters. Thus, Respondent's contact details are designed to further confuse and prevent proper identification of the party operating the website at the Domain Name.

Most egregiously, Respondent is using the Domain Name to attract consumers to a retail website purporting to offer discounted products using photographs taken from Complainant's website and also offering competitors' bourbon products. Thus, Respondent registered and is using the Domain Name intentionally to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with Complainant's Mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website. Because of Complainant's renown, Respondent cannot make an argument for good faith use of the Domain Name.

## **B. Respondent**

Respondent did not reply to Complainant's contentions.

## **6. Discussion and Findings**

### **A. Identical or Confusingly Similar**

It is uncontroverted that Complainant has established rights in the BLANTON'S Mark based on long-standing use as well as the aforementioned trademark registration for it.

Furthermore, the Domain Name <blantonsbourbonus.com> is confusingly similar to the BLANTON'S Mark because it incorporates the Mark in its entirety, merely making the following changes: (a) removal of an apostrophe (which is not possible to represent in a domain name); (b) adding the terms "bourbon" and "us"; and (c) adding ".com". None of these prevent a finding of confusing similarity here. See section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

It is well settled that the addition of the generic Top-Level Domain, here ".com", is not significant in determining whether a domain name is identical or confusingly similar to a trademark. See *CBS Broadcasting Inc. v. Worldwide Webs, Inc.*, WIPO Case No. [D2000-0834](#).

For the foregoing reasons, the Panel finds that paragraph 4(a)(i) of the Policy has been satisfied.

### **B. Rights or Legitimate Interests**

Respondent is not and has never been a representative or licensee of Complainant nor is Respondent authorized by Complainant to use the Mark. The Domain Name is confusingly similar to Complainant's BLANTON'S Mark and Respondent has been using it on a website to sell similar products, which is not a *bona fide* offering of goods or services or a legitimate noncommercial or fair use of the Mark.

Where, as here (as described above), Complainant has raised a *prima facie* presumption of Respondent's lack of any rights or legitimate interests in the Domain Name, and Respondent has failed to rebut that presumption, the Panel is satisfied that Complainant has carried its burden of proving that Respondent has no rights or legitimate interests in the Domain Name within the meaning of paragraph 4(a)(ii) of the Policy.

### **C. Registered and Used in Bad Faith**

At the time Respondent registered the Domain Name on June 14, 2022, it is undisputed that Complainant had been using the BLANTON'S Mark for decades to sell bourbon whiskey. Given Complainant's long-standing use of the Mark, the Panel finds it is highly unlikely Respondent was unaware of it when registering the Domain Name. Respondent's bad faith registration is also evidenced by the facts that: (1) Respondent has not shown that it has any rights or legitimate interests in the Domain Name;

(2) Respondent registered the Domain Name that is effectively the same as Complainant's registered BLANTON'S Mark with minor differences. One of those is the mere omission of the apostrophe in the BLANTON'S Mark, but the other evidences Respondent's awareness of Complainant (*i.e.*, adding the terms "bourbon" and "us", which identifies the product for which Complainant is known and the place where Complainant's product is known to come from, the United States); (3) the Domain Name is highly similar to the domain name for Complainants' retail site at <blantonsbourbon.com>; and (4) until recently, the Domain Name resolved to a website that further evidences Respondent's knowledge of Complainant and its rights in the BLANTON'S Mark (*e.g.*, the website featured: the BLANTON'S Mark prominently at the top of each page of the website in the same place on the page where Complainant places its BLANTON'S Mark; the size and script font that Respondent uses for the Mark is the same as Complainant uses for the Mark on its website; the photograph of the bourbon bottle shown on Respondent's website is the same as or similar to one of the photographs that Complainant uses on its website to sell bourbon; there is a background history called "How Blanton's Came to Be" on Respondent's website that is directly, verbatim from Complainant's website; and Respondent describes "Gold Edition", "Special Reserve", and "Straight from the Barrel" products on its website that are verbatim descriptions from Complainant's website.) On the uncontroverted evidence, the Panel finds that Respondent registered the Domain Name in bad faith.

Respondent has also been using the Domain Name in bad faith. Respondent had been using the Domain Name to attract consumers to a retail website purporting to offer similar, discounted products (including those of competitors) using a website with both design and content features taken from Complainant's website. Thus, Respondent registered and was using the Domain Name intentionally for commercial purposes in violation of the Policy.

Also, "parking" a domain name, as Respondent is now doing, can constitute bad faith use. See, *e.g.*, *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#) (holding that "passive holding" of the domain name could constitute use of the domain name in bad faith). The Panel has already found that Respondent incorporated in the Domain Name Complainant's registered BLANTON'S Mark (which Complainant has used for many years) for which Respondent lacks any rights or legitimate interests. Respondent has parked the Domain Name after using it in a manner that violates the Policy without submitting any evidence that it will use it in good faith in the future. Indeed, as things currently stand, the Domain Name resolves to a page warning the public: "This Connection Is Not Private. This website may be impersonating "www.blantonsbourbonus.com" to steal your personal or financial information. You should go back to the previous page." This activity also, does not evidence a good faith use of the Mark.

And, as Complainant sets forth, Respondent's bad faith is also evidenced by its use of a privacy service and its misrepresentations related to its contact information: (a) there seems to be no one relevant with the name Jone Mike; (b) the street address matches a UPS store in a strip mall in California; (c) there is no town/city called California that is located in Alabama; (d) the zip code is for Arizona; (e) the area code is in Trinidad and Tobago; and (f) the email address is an incomprehensible string of letters. Thus, Respondent's contact details are designed to further confuse and prevent proper identification of the party operating the website at the Domain Name.

For the foregoing reasons, the Panel finds that paragraph 4(a)(iii) of the Policy has been satisfied.

## 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 Domain Name <blantonsbourbonus.com> be transferred to Complainant.

*/Harrie R. Samaras/*

**Harrie R. Samaras**

Sole Panelist

Date: August 16, 2022