

ADMINISTRATIVE PANEL DECISION

ABG Juicy Couture, LLC v. Yan Liang

Case No. D2022-4309

1. The Parties

The Complainant is ABG Juicy Couture, LLC, United States of America (“United States”), represented by Authentic Brands Group, United States.

The Respondent is Yan Liang, China.

2. The Domain Name and Registrar

The disputed domain name <juicycoutureshops.com> is registered with Name.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 11, 2022. On November 14, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 14, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 November 16, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 6, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 8, 2022.

The Center appointed George R. F. Souter as the sole panelist in this matter on December 19, 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 Complainant has been selling tracksuits, and other apparel and accessories, under its JUICY COUTURE trademark since 1995. Its turnover is currently over USD 887 million, and JUICY COUTURE products are currently sold in 70 retail stores, shop-in-shops, and in travel retail locations in over 30 countries.

The Complainant is the proprietor of over 500 registrations of its JUICY COUTURE trademark internationally, including United States registration number 2,348,674, registered on May 9, 2000.

The disputed domain name was registered on May 17, 2022, and at the time of the Complaint, resolved to a website offering apparel bearing the JUICY COUTURE trademark.

5. Parties' Contentions

A. Complainant

The Complainant alleges that the disputed domain name is confusingly similar to its JUICY COUTURE trademark, containing the Complainant's JUICY COUTURE in its entirety, with the mere addition of the word "shops".

The Complainant alleges that the Respondent lacks rights or legitimate interests in the disputed domain name, in particular that the Respondent is not making fair use of the disputed domain name, and the Complainant has never granted permission to the Respondent to use its JUICY COUTURE trademark in connection with registration of a domain name, or otherwise.

The Complainant alleges that the disputed domain name was registered in bad faith, and is being used in bad faith, in connection with the website described above.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy lists three elements that the Complainant must prove to merit a finding that the disputed domain name be transferred to the Complainant:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (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

The Panel finds that the Complainant has rights to its JUICY COUTURE trademark for the purposes of these proceedings.

It is well established in prior decisions under the UDRP, with which the Panel agrees, that a generic Top-Level Domain ("gTLD") may generally be disregarded when comparing a trademark with a disputed domain name.

The Panel considers the “.com” gTLD to be irrelevant in the circumstances of the present case, and finds that it may be disregarded here.

The Complainant’s JUICY COUTURE trademark is clearly recognizable in the disputed domain names, rendering the disputed domain name confusingly similar to the Complainant’s trademark, and the mere addition of the word “shops” does not detract from this finding.

Accordingly, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy in connection with the disputed domain names at issue.

B. Rights or Legitimate Interests

The Panel considers that the Complainant’s allegations are sufficient to provide a *prima facie* case under this heading. In this regard, the Panel notes the use of the disputed domain name does not amount to a *bona fide* offering of goods or services, nor a legitimate noncommercial or fair use. The Complainant contends the Respondent is offering counterfeit goods on the website resolving from the disputed domain name; such use could never confer rights or legitimate interests on the Respondent. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 2.13. While the significantly discounted prices on the Respondent’s website tend to support the Complainant’s contentions regarding counterfeit goods, even if the goods are actual products of the Complainant the website at the disputed domain name would still not constitute a *bona fide* offering of goods or services, noting in particular that the website not only fails to disclose its lack of relationship with the Complainant, but seeks to falsely suggest an association or affiliation with the Complainant. See [WIPO Overview 3.0](#), section 2.8.

It is the consensus view of UDRP panels, with which the Panel agrees, that a *prima facie* case advanced by the complainant will generally be sufficient for the complainant to be deemed to have satisfied the requirement of paragraph 4(a)(ii) of the Policy, provided the respondent does not come forward with evidence demonstrating rights or legitimate interests in the domain name and the complainant has presented a sufficient *prima facie* case to succeed under paragraph 4(a)(ii) of the Policy.

The Respondent did not advance any claim of rights or legitimate interests in the disputed domain name to rebut this *prima facie* case.

Furthermore, the nature of the disputed domain name, incorporating the Complainant’s well-known JUICY COUTURE trademark, carries a risk of implied affiliation. See [WIPO Overview 3.0](#), section 2.5.1.

Accordingly, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(ii) of the Policy, in connection with the disputed domain name.

C. Registered and Used in Bad Faith

The Panel is of the view that the finding that a respondent has no rights or legitimate interests in a disputed domain name can lead, in appropriate circumstances, to a finding of registration of a disputed domain name in bad faith. The circumstance of the present case, in which the Panel regards it as self-evident that the Complainant’s JUICY COUTURE trademark was deliberately appropriated in the disputed domain name is such that the Panel concludes that a finding of registration in bad faith is justified, in connection with the disputed domain name and so finds.

The Panel considers the use of the inherently misleading dispute domain name, wholly incorporating the Complainant’s distinctive trademark and a related commercial term, in a manner that creates confusion as to the affiliation or sponsorship of the Respondent’s website for commercial gain falls squarely within the meaning paragraph 4(b)(iv) of the Policy. The circumstances of the present case constitute, in the Panel’s opinion, a clear example of bad faith use, and, accordingly, the Panel finds that the disputed domain name is being used in bad faith.

Accordingly, the Panel finds that the Complainant has satisfied the requirements of 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 <juicycoutureshops.com> be transferred to the Complainant.

/George R. F. Souter/

George R. F. Souter

Sole Panelist

Date: January 2, 2023