

## **ADMINISTRATIVE PANEL DECISION**

JB IP, LLC v. V tech, John Williams, Ultimate, Jonathan Littlewood  
and Francis Clark, Molyko  
Case No. D2023-2721

### **1. The Parties**

The Complainant is JB IP, LLC, United States of America ("United States or U.S."), represented by Valauskas Corder LLC, United States.

The Respondents are V tech, John Williams, Cameroon; Ultimate, Jonathan Littlewood, United States; and, Francis Clark, Molyko, Cameroon.

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

The disputed domain names <jungleboysfarm.com>, <jungleboysmarijuana.com>, and <jungleboysproducts.com> (the "Disputed Domain Names") are registered with NameSilo, LLC (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on June 24, 2023. On June 26, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On June 26, 2023, the Registrar transmitted by email to the Center its verification response, disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Redacted for Privacy / See PrivacyGuardian.org) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 30, 2023, with the registrant and contact information of multiple underlying registrants revealed by the Registrar, requesting the Complainant to either file separate complaint(s) for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity. The Complainant filed an amended Complaint on July 5, 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 Respondents of the Complaint, and the proceedings commenced on July 12, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 1, 2023. On August 23, 2023, the Respondent Francis Clark, Molyko sent an informal email communication to the Center indicating that “the files sent will be forwarded to the client owner” of the disputed domain name <jungleboysproducts.com>. On August 25, 2023, the Center notified the Parties that it would proceed to panel appointment.

The Center appointed Colin T. O’Brien as the sole panelist in this matter on September 1, 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**

The Complainant is a Delaware limited liability company doing business as JUNGLE BOYS since 2009. The Complainant is the owner of:

California State Trademark Registration No. 02001302 JUNGLE BOYS with first use date of April 20, 2009;

U.S. Federal Trademark Registration No. 7134110, registered August 8, 2023 for JUNGLE BOYS covering “pens; drinking glasses; coffee mugs, lighters for smokers; hemp wick for smokers’ lighters; ashtrays; cigarette rolling papers”;

The Complainant owns and operates under the JUNGLE BOYS mark online retail stores and numerous retail stores in California and Florida. The Complainant also claims that it owns domain names incorporating the JUNGLE BOYS mark - the domain names <jungleboysclothing.com> registered in 2016, <jungleboys.com> registered in 2000, and <jungleboysflorida.com> registered in 2020.

The Disputed Domain Name <jungleboysfarm.com> was registered on May 1, 2020, the Disputed Domain Name <jungleboysproducts.com> was registered on March 28, 2023, and the Disputed Domain Name <jungleboysmarijuana.com> was registered on August 20, 2020. At the time the Complaint was filed, the Disputed Domain Name <jungleboysmarijuana.com> did not resolve to an active website, the Disputed Domain Name <jungleboysfarm.com> resolved to a webpage displaying a message “Sorry, we’re doing some work on the site”, and the Disputed Domain Name <jungleboysproducts.com> resolved to an online store offering “jungle boys seeds” for sale. The Complainant has submitted evidence showing that the Disputed Domain Names previously resolved to online stores with highly similar layout offering for sale cannabis-related products under the Complainant’s trademark.

#### **5. Parties’ Contentions**

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

The Disputed Domain Names utilize the Complainant’s mark in its entirety. Consumers are likely to believe that the Disputed Domain Names are associated with the Complainant and the JUNGLE BOYS trademark in which the Complainant has rights. Undoubtedly, the Disputed Domain Names are confusingly similar to the Complainant’s trademark.

The Respondent’s<sup>1</sup> confusingly similar Disputed Domain Names were or are used to operate websites that attempt to impersonate the Complainant with the intent to trade on the Complainant’s recognition and goodwill. By impersonating the Complainant, the Respondent cannot demonstrate a *bona fide* offering of goods or services.

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<sup>1</sup> Due to consolidation arguments provided below, the Complainant references the Respondents as the “Respondent”.

The Complainant did not authorize the Respondent to use its trademark JUNGLE BOYS. However, the Respondent's websites illustrate content that is the same if not highly related to that which appears at the Complainant's websites. The Respondent is attempting to divert consumers with intent for commercial gain. The Respondent is not making a legitimate noncommercial or fair use of the Disputed Domain Names.

The Disputed Domain Names utilize the dominant identity of the Complainant's mark and are linked to websites claiming to provide the same or highly related goods and services offered and sold by the Complainant without the Complainant's permission. The Respondent is attempting to profit from the Complainant's recognized mark. The Respondent's efforts to pass itself off as the Complainant disrupt the Complainant's business and mislead consumers. By using the Disputed Domain Names, the Respondent intentionally attempts to attract for commercial gain, Internet users to the Respondent's web site, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's web site or of a product on the Respondent's web site.

The Respondent registered and uses the Disputed Domain Name in bad faith

## **B. Respondents**

The Respondents did not substantively reply to the Complainant's contentions. As indicated above, the Respondent Francis Clark, Molyko sent an informal email communication claiming to forward the Center's notice documents "to the client owner of this domain".

## **6. Discussion and Findings**

### **6.1 Consolidation of Respondents**

Paragraph 10(e) of the Rules grants the Panel authority to "decide a request by a Party to consolidate multiple domain name disputes in accordance with the Policy and these Rules". Similarly, paragraph 3(c) of the Rules provides that a complaint "may relate to more than one domain name, provided that the domain names are registered by the same domain-name holder".

Prior UDRP panel decisions have described situations which indicate multiple domain names are under the common control or ownership of a single person including a presumption that common control may exist where "the domain names at issue point to nearly identical web pages". *General Electric Company v. Marketing Total S.A.*, WIPO Case No. [D2007-1834](#); see also *Sharman License Holdings, Limited v. Dustin Dorrance/Dave Shullick/Euclid Investments*, WIPO Case No. [D2004-0659](#) (noting that the multiple domains at issue "all directed to essentially identical websites"). Additionally, when the registrants provide false or incorrect Whols information there can be a presumption of common control.

In this case the Complainant has averred the Disputed Domain Names are registered by the same entity or are under common control for the following reasons:

- The information provided by each registrant is either inaccurate, incomplete, falsified, and/or misleading. For example, the information provided for the registrants of the Disputed Domain Names <jungleboysmarijuana.com> and <jungleboysproducts.com> is incomplete and inaccurate, seeing as neither provides a street address and the postal codes listed are not used in Cameroon.
- The contact email addresses include some common terms.
- There was similar content that was posted on each website associated with the Disputed Domain Names.

While one Respondent did submit an informal communication, there was no objection to the consolidation request and the Panel notes that the Respondent's informal communication referenced a further "client owner" of one of the disputed domain names. Given the false nature of the disclosed details, the informal communication seems to further reinforce the notion that the Respondents have attempted to frustrate

potential UDRP proceedings by providing false information inferring different underlying registrants. Given what the Complainant has submitted and a lack of objection from the Respondents, the Panel is convinced that the Disputed Domain Names were under common control. The Respondents are, therefore, hereinafter collectively referred to as the “Respondent”.

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

The Complainant has demonstrated it owns registered trademark rights in the JUNGLE BOYS mark in connection with good and services related to marijuana and has shown that no other entity has rights in or uses the Complainant’s mark. The additions of “marijuana”, “farm” or “products” do not prevent the Complainant’s trademark from being recognizable in the Disputed Domain Names. The generic Top-Level Domain (“gTLD”) “.com” is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.

See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.8 and 1.11.1, and *Hoffmann-La Roche AG v. Domain Admin, Privacy Protection Service INC d/b/a PrivacyProtect.org / Conan Corrigan*, WIPO Case No. [D2015-2316](#).

Accordingly, the Disputed Domain Names are confusingly similar to a mark in which the Complainant has rights.

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

The Complainant has presented a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Names and has not been commonly known by the Disputed Domain Names. The fact that the Respondent obtained the Disputed Domain Names after the Complainant began using its coined JUNGLE BOYS mark indicates that the Respondent sought to piggyback on the Complainant’s mark for illegitimate reasons, particularly in light of the impersonating nature of the content hosted at the Disputed Domain Names.

After a complainant has made a *prima facie* case, the burden of production shifts to a respondent to present evidence demonstrating rights or legitimate interests in the domain name. See, e.g., *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#).

Here, the Respondent has provided no evidence of any rights or legitimate interests in the Disputed Domain Names. Moreover, the evidence provided by the Complainant shows that the Disputed Domain Names resolved to websites seemingly impersonating the Complainant by featuring the Complainant’s trademark, logo, and copyrighted images of the Complainant’s trademarked goods. While resellers and distributors may have limited rights to use a complainant’s trademark for nominative purposes, the lack of any authorization by the Complainant and similarly, the lack of any information on the Disputed Domain Names as to the websites lack of authorization or relation to the Complainant, renders any fair use safe haven inapplicable in this instance. See section 2.8 of the [WIPO Overview 3.0](#).

Irrespective of the Disputed Domain Names satisfying the so-called *Oki Data* test, the nature of the Disputed Domain Names adding the terms “marijuana”, “farm” and “products” to the Complainant’s trademark carries a risk of implied affiliation, especially when considering the impersonating nature of the content which was exhibited at the Disputed Domain Names, and as such cannot constitute fair use. See section 2.5.1 of the [WIPO Overview 3.0](#).

It is not necessary for the Panel to make any ultimate determination as to the nature of the goods, as the evidence clearly shows the Respondent has attempted to pass itself off as the Complainant. The Panel finds therefore that such use cannot be qualified as a *bona fide* offering of goods or services or legitimate noncommercial or fair use. See section 2.13 of the [WIPO Overview 3.0](#).

In the absence of any evidence rebutting the Complainant's *prima facie* case indicating the Respondent's lack of rights or legitimate interests in respect of the Disputed Domain Names, the Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

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

The Panel finds that the Complainant has satisfied its burden of proof in establishing the Respondent's bad faith in registration and use of the Disputed Domain Names. Paragraph 4(b)(iv) of the Policy states that evidence of bad faith may include a respondent's use of a domain name to intentionally attempt to attract Internet users, for commercial gain.

Due to the incorporation of the JUNGLE BOYS mark, it is inconceivable that the Respondent registered the Disputed Domain Name adding the words "marijuana", "farm" and "products" and the gTLD ".com" without knowledge of the Complainant. While the Disputed Domain Names were registered prior to the registration of the Complainant's federal trademark application, the Complainant did have a valid California state trademark registration and has provided evidence along with demonstrating its use of the trademark since 2009, predating the registration of all of the Disputed Domain Names. Importantly, the Disputed Domain Names were used for websites which allegedly claimed to sell products identical to those offered by the Complainant and bearing its trademarks, establishing that the Respondent knew of and targeted the Complainant with the intention of misleading unsuspecting Internet users for its presumed commercial gain.

The facts establish a deliberate effort by the Respondent to cause confusion with the Complainant for commercial gain. Such an impersonation of the Complainant is sufficient to establish the Respondent's bad faith (see section 3.1.4 of the [WIPO Overview 3.0](#)). Under these circumstances, the Panel finds no plausible good faith reason for the Respondent's conduct and concludes that the Disputed Domain Names were registered and used in bad faith.

### **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, <jungleboysfarm.com>, <jungleboysmarijuana.com>, and <jungleboysproducts.com>, be transferred to the Complainant.

/Colin T. O'Brien/

**Colin T. O'Brien**

Sole Panelist

Date: September 18, 2023