

ADMINISTRATIVE PANEL DECISION

JB IP, LLC v. Marissa Hudson

Case No. D2023-5280

1. The Parties

Complainant is JB IP, LLC, United States of America (“United States”), represented by Valauskas Corder LLC, United States .

Respondent is Marissa Hudson, United States.

2. The Domain Name and Registrar

The disputed domain name <jungleboyscarts.net> (“Disputed Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 19, 2023, against two Disputed Domain Names. On December 20, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On December 20, 2023, 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 (Registered with Privacy) and contact information in the Complaint.

The Center sent an email communication to Complainant on December 22, 2023, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting Complainant to either file separate complaints for the Disputed Domain Name associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity. On December 27, 2023, Complainant submitted the amended Complaint to the Center only for the Disputed Domain Name <jungleboyscarts.net>.

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 January 10, 2024. In accordance with the Rules, paragraph 5, the due

date for Response was January 30, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on February 1, 2024.

The Center appointed Richard W. Page as the sole panelist in this matter on February 12, 2024. 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 is a Delaware limited liability company doing business as the well-known Jungle Boys and has been continuously using the JUNGLE BOYS Mark in commerce in the cannabis industry since at least as early as 2016. Complainant is the owner of the following trademark registrations:

United States Trademark Registration No. 7134110 JUNGLE BOYS registered August 8, 2023 in classes 16, 21 and 34; and

International Trademark Registration Nos. 1763500 JUNGLE BOYS registered October 12, 2023 in class 25; 1763498 JUNGLE BOYS registered October 12, 2023 in class 25; and 1620669 JUNGLE BOYS registered April 5, 2021 in classes 3, 18, 24 and 34.

Complainant also owns various domain names incorporating the JUNGLE BOYS Mark, including without limitation, <jungleboysclothing.com> registered in 2016, <jungleboys.com> registered in 2000, and <jungleboysflorida.com> registered in 2020. Complainant's domain names permit Internet users to find websites featuring detailed information about the goods and services offered by Complainant. Complainant's websites include display of the JUNGLE BOYS Mark, and also contain text, artwork, photographs and other copyrighted content.

Complainant also owns and operates the JUNGLE BOYS retail stores in California and Florida.

Respondent registered the Disputed Domain Name on March 18, 2023, which resolves to a website which attempts to impersonate Complainant without Complainant's permission.

5. Parties' Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Disputed Domain Name.

Complainant further contends that the Disputed Domain Name utilizes the JUNGLE BOYS Mark in its entirety. Consumers are likely to believe that the Disputed Domain Name is associated with Complainant and the JUNGLE BOYS Mark in which Complainant has rights. Complainant further contends that the Disputed Domain Name is identical or confusingly similar to the JUNGLE BOYS Mark.

Complainant further contends that the Disputed Domain Name is used to operate a website that attempts to impersonate Complainant with the intent to trade on Complainant's recognition and goodwill. By impersonating Complainant, Respondent cannot demonstrate a bona fide offering of goods or services.

Complainant further contends that Respondent has never been commonly known by the Disputed Domain Name.

Complainant alleges that it did not authorize Respondent to use the JUNGLE BOYS Mark. However, Respondent's website illustrates content that is the same and is closely related to that which appears on Complainant's websites.

Complainant further alleges that Respondent is attempting to divert consumers with intent for commercial gain. Therefore, Respondent is not making a legitimate noncommercial or fair use of the Disputed Domain Name.

Complainant further alleges that the Disputed Domain Name includes the JUNGLE BOYS Mark and is linked to a website claiming to provide the same or highly related goods and services offered and sold by Complainant without Complainant's permission. It is clear that Respondent is attempting to profit from Complainant's JUNGLE BOYS Mark. Respondent's efforts to pass itself off as Complainant disrupts Complainant's business and misleads consumers. By using the Disputed Domain Name, Respondent is intentionally attempting to attract for commercial gain, Internet users to Respondent's website, by creating a likelihood of confusion with the JUNGLE BOYS Mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website or of a product on Respondent's website.

Complainant concludes that Respondent registered and used the Disputed Domain Name in bad faith.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs the Panel as to the principles the Panel is to use in determining the dispute: "A Panel shall decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules, and any rules and principles of law that it deems applicable."

Even though Respondent has failed to file a Response or to contest Complainant's assertions, the Panel will review the evidence proffered by Complainant to verify that the essential elements of the claims are met. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.3.

Paragraph 4(a) of the Policy directs that Complainant must prove each of the following three elements:

- i) that the Disputed Domain Name registered by Respondent is identical or confusingly similar to the JUNGLE BOYS Mark in which Complainant has rights; and
- ii) that 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 JUNGLE BOYS Mark and the Disputed Domain Name. [WIPO Overview 3.0](#), section 1.7.

Complainant has shown rights in respect of the JUNGLE BOYS Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the Disputed Domain Name. Accordingly, the Disputed Domain Name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other term here, “official” may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the Disputed Domain Name and the JUNGLE BOYS Mark for the purposes of the Policy.

[WIPO Overview 3.0](#), section 1.8.

In addition, an extension which is a generic Top-Level Domain (“gTLD”) such as “.net” may be disregarded for purposes of assessing confusing similarity. [WIPO Overview 3.0](#), section 1.11.1.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which Respondent may demonstrate rights or legitimate interests in the Disputed Domain Name.

Although the overall burden of proof in UDRP proceedings is on Complainant, panels have recognized that proving Respondent lacks rights or legitimate interests in a domain name may result in the difficult task of “proving a negative”, requiring information that is often primarily within the knowledge or control of Respondent. As such, where Complainant makes out a prima facie case that Respondent lacks rights or legitimate interests, the burden of production on this element shifts to Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on Complainant). If Respondent fails to come forward with such relevant evidence, Complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Complainant contends that the Disputed Domain Name includes the JUNGLE BOYS Mark in its entirety. Consumers are likely to believe that the Disputed Domain Name is associated with Complainant and the JUNGLE BOYS Mark in which Complainant has rights.

Complainant further contends that the Disputed Domain Name is used to operate a website that attempts to impersonate Complainant with the intent to trade on Complainant’s recognition and goodwill. By impersonating Complainant, Respondent cannot demonstrate a bona fide offering of goods or services.

Complainant further contends that Respondent has never been commonly known by the Disputed Domain Name.

Complainant alleges that it did not authorize Respondent to use the JUNGLE BOYS Mark. However, Respondent’s website illustrates content that is the same and is closely related to that which appears on Complainant’s websites.

Having reviewed the available record, the Panel finds Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the Disputed Domain Name. Respondent has not rebutted Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Disputed Domain Name such as those enumerated in the Policy or otherwise.

The Panel finds the second element of the Policy has been established.

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.

Paragraph 4(b)(iv) of the Policy states: “by [Respondent] using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other on-line location, by creating a likelihood of confusion with Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product on Respondent’s website or location.”

Complainant alleges that it did not authorize Respondent to use the JUNGLE BOYS Mark. However, Respondent’s website illustrates content that is the same and is closely related to that which appears on Complainant’s websites.

Complainant further alleges that the Disputed Domain Name includes the JUNGLE BOYS Mark and is linked to a website claiming to provide the same or highly related goods and services offered and sold by Complainant without Complainant’s permission. It is clear that Respondent is attempting to profit from Complainant’s JUNGLE BOYS Mark. Respondent’s efforts to pass itself off as Complainant disrupts Complainant’s business and misleads consumers. By using the Disputed Domain Name, Respondent is intentionally attempting to attract for commercial gain, Internet users to Respondent’s website, by creating a likelihood of confusion with the JUNGLE BOYS Mark as to the source, sponsorship, affiliation, or endorsement of Respondent’s website or of a product on Respondent’s website.

Complainant concludes that Respondent registered and used the Disputed Domain Name in bad faith.

The Panel finds that Complainant has established the third element 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 <jungleboyscarts.net> be transferred to Complainant.

/Richard W. Page/

Richard W. Page

Sole Panelist

Date: February 26, 2024