

ADMINISTRATIVE PANEL DECISION

James Perse Enterprises LLC v. MOLTER TRENTON

Case No. D2024-3325

1. The Parties

The Complainant is James Perse Enterprises LLC, United States of America (“United States” or “U.S.”), represented by DLA Piper US LLP, United States.

The Respondent is MOLTER TRENTON, Romania.

2. The Domain Name and Registrar

The disputed domain name <james-perse.shop> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 14, 2024. On August 14, 2024, 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 August 19, 2024, 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 amendment to the Complaint on August 22, 2024.

The Center verified that the Complaint together with the amendment to 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 August 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 15, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 16, 2024.

The Center appointed Indrek Eelmets as the sole panelist in this matter on September 19, 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

The Complainant is an apparel company founded in 1994. The Complainant sells its goods through its retail stores and retail partners throughout the U.S. and internationally. The products are also available through its online retail store and platform ("www.jamesperse.com") in more than one hundred countries around the world.

The Complainant owns trademark registrations for JAMES PERSE in numerous countries worldwide, including:

- European Union Trademark Registration JAMES PERSE, No. 001367812, registration date January 25, 2001, in classes 18, 25, and 40; and
- U.S. Trademark Registration JAMES PERSE, No. 2214520, registration date December 29, 1998, in class 25.

The disputed domain name was registered on July 12, 2024. At the time this Complaint was submitted, the disputed domain name resolved to a website that purportedly offers JAMES PERSE branded products for sale and uses the same photos and product descriptions as used by the Complainant on its website <jamesperse.com>.

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 is confusingly similar to the trademark, that the Respondent has no rights or legitimate interests with respect to the disputed domain name, and that the disputed domain name was registered and is being used in bad faith. The Complainant has not licensed or otherwise permitted the Respondent to use the JAMES PERSE trademark or to apply for any domain name incorporating the JAMES PERSE trademark. The Complainant believes that Respondent uses the disputed domain name to fraudulently collect personal and financial information, and money from customers.

The Complainant requests transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

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.

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. 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.

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 the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a 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 the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the 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.

For the reasons discussed in relation to bad faith below, it is likely that the disputed domain name was registered to fraudulently collect personal and financial information, and money from customers. Panels have held that the use of a domain name for illegal activity can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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.

In the present case, the Panel notes that the Respondent must have been aware of the trademark when he registered the disputed domain name given the trademark was registered and widely used prior to registration of the disputed domain name and the Respondent has misappropriated copyrighted images and product descriptions from the Complainant's website.

The Panel finds that by using the disputed domain name, the Respondent intentionally attempted to attract for commercial gain, Internet users to the Respondent's website or other on-line location, by creating a likelihood of confusion with the Complainant's mark.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have held that the use of a domain name for illegal activity constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy. The Complainant has asserted that the disputed domain name was registered and is used to fraudulently collect personal and financial information, and money from customers. The evidence presented by the Complainant shows that when making test purchases from the Respondent's website, personal information and credit card details are required, but the transaction cannot be completed. However, the credit card used for the test purchase received charges for amounts that did not match the value of the attempted purchase.

The Panel finds that the 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 <james-perse.shop> be transferred to the Complainant.

/Indrek Eelmets/

Indrek Eelmets

Sole Panelist

Date: October 3, 2024