

ADMINISTRATIVE PANEL DECISION

CKE Restaurants, Inc. v. Name Redacted

Case No. D2024-4752

1. The Parties

Complainant is CKE Restaurants, Inc., United States of America (“United States”), represented by 101domain.com, United States.

Respondent is Name Redacted.¹

2. The Domain Name and Registrar

The disputed domain name <carlsjrfood.com> (the “Disputed Domain Name”) is registered with Hostinger Operations, UAB (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 19, 2024. On November 19, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On November 20, 2024, 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 (Information not available on WHOIS/Domain Admin, Privacy Protect, LLC (PrivacyProtect.org)) and contact information in the Complaint. The Center sent an email communication to Complainant on November 20, 2024, 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 November 21, 2024.

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

¹Respondent appears to have used the name of a third party when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted Respondent’s name from this Decision. However, the Panel has attached as Annex 1 to this Decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this Decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

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 November 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 16, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on December 23, 2024.

The Center appointed Richard W. Page as the sole panelist in this matter on January 2, 2025. 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

CKE Restaurants, Inc. is the parent of Carl’s Jr. Restaurants LLC, a wholly-owned and controlled subsidiary (jointly referred to herein as “Complainant”).

Complainant operates a globally recognized restaurant chain with over 1,000 franchised or company-operated restaurants spanning the United States and 28 other countries. Complainant was founded in 1941 and has been operating in the restaurant industry for over eight decades, building worldwide brand recognition around the trademarked term “CARL’S JR.” (the “CARL’S JR. Mark”).

Complainant registered its first United States Trademark on October 20, 1970 (Registration No. 901,315) in international class 42, with a first use date of February 1964, and registered its second United States Trademark on July 8, 1986 (Registration No. 1,400,272) in international classes 16, 20 and 21. Additionally, Complainant registered a European Union Trademark on September 26, 2001 (Registration No. 001698638), for various food products including meat, fish, poultry, bread products, and desserts (international classes 29, 30, and 42).

Complainant’s primary website “www.carlsjr.com” was created in 1998 and provides instant access for online customers to learn more about Complainant’s franchise locations, and detailed product and market descriptions promoted under the CARL’S JR. Mark.

Complainant maintains an extensive brand portfolio of over 50 domain names consisting of country code Top-Level Domain (“ccTLD”) and generic Top-Level Domain (“gTLD”) variations of the CARL’S JR. Mark, including <carlsjr.catering>, <carlsjr.restaurant>, and <carlsjrinternational.com>.

The Disputed Domain Name was registered on July 1, 2024, and previously redirected to Complainant’s primary domain name and website. The Disputed Domain Name no longer resolves to an active website.

5. Parties’ Contentions

A. Complainant

Complainant contends that it has enforceable rights in the CARL’S JR. Mark and that the Disputed Domain Name is confusingly similar to the CARL’S JR. Mark.

Complainant submits that it has not licensed nor allowed Respondent to use the CARL’S JR. Mark for any purpose. Complainant was made aware of the Disputed Domain Name due to their proactive monitoring of brand infringement. Complainant flagged the Disputed Domain Name as it was attempting to mislead unsuspecting Internet users by redirection to Complainant’s primary domain name.

Complainant submits that its large number of domain names related to the CARL'S JR. Mark significantly increases the likelihood of confusion when Internet users search for Complainant's brand name products and find Respondent's infringing Disputed Domain Name.

Complainant further submits that Respondent has no registered trademarks using the term CARL'S JR. and trades on the goodwill Complainant has established under the CARL'S JR. Mark. Respondent does not appear to have any legitimate connection to Complainant or the CARL'S JR. Mark, and the Disputed Domain Name is solely being used to deceive the public and prevent consumers from navigating Complainant's true domain name.

Complainant further submits that it has consistently and consecutively used the CARL'S JR. Mark since 1970, over 50 years prior to the recent registration of the Disputed Domain Name. Therefore, Respondent's registration and use of the Disputed Domain Name cannot be considered bona fide or legitimate.

Complainant further submits that Respondent is not commonly known by the Disputed Domain Name and registered the Disputed Domain Name primarily for the purpose of disrupting the business of Complainant and to tarnish the CARL'S JR. Mark.

Complainant further submits that the Registrar preliminarily suspended the Disputed Domain Name pending resolution of this proceeding, which is further evidence that Respondent lacks rights or legitimate interests in the Disputed Domain Name.

Complainant alleges that the redirecting of the Disputed Domain Name to Complainant's primary domain name and website demonstrates Respondent registered the Disputed Domain Name with Complainant in mind. Complainant further alleges that it is being prevented from reflecting its CARL'S JR. Mark and company name in the Disputed Domain Name.

Complainant further alleges that Respondent supplied fraudulent information to the Registrar, including one of Complainant's official employee's name and one of Complainant's corporate addresses. Complainant has not authorized Respondent to use any of Complainant's corporate information in any capacity. Additionally, Respondent's email address has no legitimate connection with Complainant and the listed phone number is invalid.

Complainant further alleges that with its consumer base spanning the world, Complainant's corporate brand is devoted to the CARL'S JR. Mark and should be permitted to reflect the CARL'S JR. Mark accordingly without the confusion of the Disputed Domain Name.

Complainant further alleges that these are all indications of bad faith.

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

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 and 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 three 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 essential elements:

- i) that the Disputed Domain Name registered by Respondent is identical or confusingly similar to the CARL'S JR. 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

[WIPO Overview 3.0](#), section 1.2.1 states that registration of a trademark is prima facie evidence of Complainant having enforceable rights in the CARL'S JR. Mark.

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

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 CARL'S JR. Mark and the Disputed Domain Name. [WIPO Overview 3.0](#), section 1.7.

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

Although the addition of other terms, here "food," may bear on assessment of the second and third elements, the Panel finds the addition of this term does not prevent a finding of confusing similarity between the Disputed Domain Name and the CARL'S JR. Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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.

Paragraph 4(c) of the Policy allows three nonexclusive methods for the Panel to conclude that Respondent has rights or legitimate interests in the Disputed Domain Name:

- (i) before any notice to you [Respondent] of the dispute, your use of, or demonstrable preparations to use, the Disputed domain Name or a name corresponding to the Disputed Domain Name in connection with a bona fide offering of goods or services; or
- (ii) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Disputed Domain Name, even if you have acquired no trademark or service mark rights; or
- (iii) you [Respondent] are making a legitimate noncommercial or fair use of the Disputed Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the CARL'S JR. Mark.

Although the overall burden of proof in UDRP proceedings is on Complainant, panels have recognized that proving Respondent lacks rights or legitimate interests in the Disputed 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 Disputed 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.

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.

Respondent’s registration of the Disputed Domain Name includes the CARL’S JR. Mark combined with “food,” a dictionary term commonly associated with Complainant’s field of industry. This falsely suggests an affiliation with Complainant, which cannot constitute fair use. [WIPO Overview 3.0](#), section 2.5.1.

Panels have held that the use of the Disputed Domain Name for illegitimate activity, here claimed use of the name of one of Complainant’s official employees and corporate address to register the Disputed Domain Name and impersonation by initially redirecting it to Complainant’s website can never confer rights or legitimate interests on 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 the Disputed Domain Name in bad faith.

Paragraph 4(b) of the Policy sets forth four nonexclusive criteria for Complainant to show bad faith registration and use of the Disputed Domain Name:

- (i) circumstances indicating that you [Respondent] have registered or you have acquired the Disputed Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Disputed Domain Name registration to Complainant who is the owner of the CARL’S JR. Mark or to a competitor of Complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the Disputed Domain Name; or
- (ii) you [Respondent] have registered the Disputed Domain Name in order to prevent the owner of the CARL’S JR. Mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or
- (iii) you [Respondent] have registered the Disputed Domain Name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the Disputed Domain Name, you [Respondent] have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the CARL’S JR. Mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product on your website or location.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that the Disputed Domain Name was registered and used in bad faith, but other circumstances may be relevant in assessing whether Respondent's registration and use of the Disputed Domain Name is in bad faith.

[WIPO Overview 3.0](#), section 3.2.1.

[WIPO Overview 3.0](#), section 3.1.4 instructs that confusing similarity (particularly domain names incorporating the mark plus a descriptive term) to a famous or well-known trademark by an unaffiliated entity can by itself create a presumption of bad faith.

WIPO Version 3.0, section 3.2.2 states that whether Respondent knew or should have known of Complainant's rights in the CARL'S JR. Mark at the time of registration of the Disputed Domain Name supports a finding of bad faith.

The Disputed Domain Name previously redirected to Complainant's primary domain name and website but it no longer resolves to an active website. Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness and reputation of the CARL'S JR. Mark, and the composition of the Disputed Domain Name clearly targeting Complainant, and finds that in the circumstances of this case the passive holding of the Disputed Domain Name does not prevent a finding of bad faith under the Policy.

The composition of the Disputed Domain Name not only increases online confusion with the Complainant among customers, but, along with the Respondent's use of Complainant's corporate address as well as falsely using the name of one of Complainant's official employees for registration, also demonstrates Respondent intentionally registered the Disputed Domain Name to impersonate Complainant.

Panels have also held that the use of the Disputed Domain Name for illegitimate activity, here claimed as supplying fraudulent information to the Registrar for registration of the Disputed Domain Name and impersonation by initially redirecting it to Complainant's website, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Having reviewed the record, the Panel finds Respondent's registration and use of the Disputed Domain Name constitutes bad faith under the Policy.

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 <carlsjrfood.com> be transferred to Complainant.

/Richard W. Page/

Richard W. Page

Sole Panelist

Date: January 16, 2025