

ADMINISTRATIVE PANEL DECISION

Jay at Play Int'l. Hong Kong Limited d/b/a Jay at Play v. imad lak
Case No. D2024-4867

1. The Parties

The Complainant is Jay at Play Int'l. Hong Kong Limited d/b/a Jay at Play, China, represented by The Plus IP Firm, United States of America ("U.S.").

The Respondent is imad lak, Morocco.

2. The Domain Name and Registrar

The disputed domain name <happynappersbag.com> is registered with NameCheap, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on November 25, 2024. On November 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 26, 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 (Saeed) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 27, 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 amended Complaint on November 27, 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 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 29, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 19, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 20, 2024.

The Center appointed Beatrice Onica Jarka as the sole panelist in this matter on December 26, 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 in this administrative proceeding is a Hong Kong corporation which manufactures and sells plush toys, pillows, and sleeping bags under the trademark HAPPY NAPPERS. The Complainant is the owner of the trademark HAPPY NAPPERS, including the below registrations as examples:

- U.S. Trademark Registration No. 3998335, HAPPY NAPPERS, with a filing date of July 2, 2010, and a registration date of July 19, 2011.

- U.S. Trademark Registration No. 6102208, HAPPY NAPPERS, with a filing date of February 4, 2020, and a registration date of July 14, 2020, and a first use date of December 1, 2019.

The Complainant also owns numerous international registrations throughout the European Union, United Kingdom, and other international jurisdictions (e.g., European Union trademark: HAPPY NAPPERS, with registration number: 009261173, registered on December 10, 2010, for class: 28; United Kingdom trademark: HAPPY NAPPERS with registration number: UK00909261173, registered on December 10, 2010, for class 28).

In addition to its registered trademark rights, the Complainant has established significant common law rights in the HAPPY NAPPERS mark through extensive and continuous use in commerce since at least June 2010. Over the years, the Complainant has expended substantial resources in developing, marketing, and promoting the HAPPY NAPPERS brand. This investment includes significant advertising expenditures, product development costs, and efforts to establish a strong market presence. The HAPPY NAPPERS mark has become widely recognized and associated with high-quality plush toys, pillows, and sleeping bags.

The disputed domain name was registered on May 4, 2024.

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 uses the terms "happynapper" and such use is identical to the Complainant's use of the HAPPY NAPPERS marks.
- The disputed domain is confusingly similar to the HAPPY NAPPERS marks, as it incorporates the HAPPY NAPPERS mark in its entirety, with only minor alterations that do not significantly differentiate it from the trademark.
- It is well established that the addition of a generic Top-Level Domains ("gTLDs") such as ".com" and ".me", does not detract from the association likely to be made with the Complainant's HAPPY NAPPERS Mark.

- Additionally, the use of the term “bag” is a merely descriptive identifier that heightens confusion between the disputed domain name and Complainant’s HAPPY NAPPERS Mark.
- The addition of the generic term “bag” is purely descriptive, and it reinforces the commercial association with the HAPPY NAPPERS mark, suggesting a type of product associated with the HAPPY NAPPERS mark.
- The Respondent’s use of the marks on the disputed domain name closely mimics the Complainant’s use of the HAPPY NAPPERS marks. Both the Complainant’s and Respondent’s logos feature the same distinctive stylized text and playful design elements, which further reinforces the likelihood of confusion among consumers. Specifically, both logos feature multi-colored bubble letter fonts consisting of an additional outlining of each letter.
- The images used on the Respondent’s websites are strikingly similar to those used by the Complainant. This includes the use of the same or highly similar characters and color schemes, which are integral to the HAPPY NAPPERS brand identity. By replicating these key elements, the Respondent creates an overall look and feel that is almost indistinguishable from the Complainant’s official branding.
- The Complainant is not aware of any rights that the Respondent may have in the disputed domain name.
- The Complainant is the prior user of the trademark rights in the disputed domain, since at least June 2010.
- The Complainant has not granted any permission or consent to the Respondent to use the HAPPY NAPPERS marks in any capacity.
- The Respondent has provided misleading contact information for both Morocco and Florida, which was purposefully designed to deceive consumers into believing the website has a physical presence in the United States, thereby exploiting the market influence of the Happy Nappers brand.
- The Respondent used the disputed domain name – comprising the Complainant’s HAPPY NAPPERS mark – to set up websites that copy the Complainant’s branding elements, likely in an attempt to divert legitimate consumers of the Complainant’s goods and services.
- This blatant replication of the Complainant’s products, coupled with the awareness of the Complainant’s legal rights, as evidenced by the widespread international registrations and the patent, clearly indicates bad faith registration and use of the domain names. This behaviour seeks to capitalize on the reputation and goodwill of the Complainant, misleading consumers and siphoning off business under false pretenses, which are quintessential elements of bad faith under the UDRP guidelines.
- Despite the cease-and-desist letter sent by Complainant on November 13, 2024, the Respondent continues to use the disputed domain name and marks in bad faith because the Respondent knowingly impersonates the Complainant
- Moreover, if the products sold on the Respondent’s website are of inferior quality or counterfeit, it can severely damage the reputation and goodwill that the Complainant has built over the years. Customers who receive substandard products may lose trust in the HAPPY NAPPERS brand, leading to a decline in future sales and a tarnished market image.
- By leveraging the HAPPY NAPPERS Marks in their domain name and mimicking the Complainant’s branding elements, the Respondent is engaging in deceptive practices that unfairly benefit from the Complainant’s marketing efforts and established customer base, which undermines the Complainant’s business, disrupts its market presence, and constitutes clear evidence of bad faith.

- The Respondent's disputed domain name profits off the Complainant's goodwill and reputation because the Respondent has intentionally copied and reproduced the HAPPY NAPPERS marks to pass itself off as the Complainant and to sell products that imitate those of the Complainant.

B. Respondent

Although procedurally summoned, 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.

Moreover, the Panel finds the Complainant has also established unregistered trademark or service mark rights for the purposes of the Policy, through extensive and continuous use in commerce of the HAPPY NAPPERS marks since at least June 2010. Over the years, the Complainant has expended substantial resources in developing, marketing, and promoting the HAPPY NAPPERS brand. This investment includes significant advertising expenditures, product development costs, and efforts to establish a strong market presence. The HAPPY NAPPERS mark has become recognized and associated with high-quality plush toys, pillows, and sleeping bags. [WIPO Overview 3.0](#), section 1.3.

The disputed domain, is confusingly similar to the HAPPY NAPPERS marks, as it incorporates the HAPPY NAPPERS mark in its entirety, with only minor alterations that do not significantly differentiate it from the trademark. 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 terms as "bag" in this case 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 mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Further, the Panel notes that it is well established that the addition of gTLDs such as ".com" and ".me" does not detract from the association likely to be made with the Complainant's HAPPY NAPPERS mark.

Consequently, 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.

According to the Complainant, there are no rights or legitimate interests that the Respondent may have in the disputed domain name, it is the Complainant who is the prior user of the trademark since at least June 2010 and it has not granted any permission or consent to the Respondent to use the HAPPY NAPPERS marks in any capacity.

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.

The disputed domain name is composed of the Complainant's HAPPY NAPPERS trademark along with the term "bag" that is descriptive of a key product sold under the Complainant's trademark, thus such composition carries a risk of implied affiliation. Moreover, the Panel notes that the Respondent's use of the marks on the disputed domain name closely mimics the Complainant's use of the HAPPY NAPPERS marks, as both the Complainant's and Respondent's logos feature the same distinctive stylized text and playful design elements, which further reinforces the likelihood of confusion among consumers. Specifically, both logos feature multi-colored bubble letter fonts consisting of an additional outlining of each letter. By replicating these key elements, the Respondent creates an overall look and feel that is almost indistinguishable from the Complainant's official branding. The Panel finds that such use of the Complainant's mark cannot be considered bona fide offering of goods or services and can never confer rights or legitimate interests on the Respondent.

Prior panels have held that the use of a domain name for illegal activity, here claimed as impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Consequently, 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) 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.

In this case, the Panel notes the following circumstances indicative of bad faith registration and use:

- The Respondent has provided misleading contact information for both Morocco and Florida, which appears to be purposefully designed to deceive Internet users into believing the website has a physical presence in the United States, thereby exploiting the market influence of the HAPPY NAPPERS brand. Such use of multiple customer service email addresses on the website, distinct from the email provided to the Registrar, demonstrates a calculated effort by the Respondent to obscure its identity and complicate contact.

- The use of the disputed domain name – comprising the Complainant's HAPPY NAPPERS mark – to set up a website that copies the Complainant's branding elements appears to point out an attempt to divert Internet users from the Complainant's goods and services and also demonstrates that the Respondent was aware of the Complainant and its marks when it registered the disputed domain name.

- The goods sold on the Respondent's websites are identical to or imitations of the Complainant's products, further appears to demonstrate the Respondent's awareness of the Complainant's mark and its intention to deceive Internet users.

- Despite the cease-and-desist letter sent by the Complainant on November 13, 2024, the Respondent continued to use the disputed domain name and marks in bad faith because the Respondent knowingly impersonates the Complainant

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy to profit off the Complainant's goodwill and reputation.

Consequently, 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 <happynappersbag.com> be transferred to the Complainant.

/Dr. Beatrice Onica Jarka/

Dr. Beatrice Onica Jarka

Sole Panelist

Date: January 7, 2025