

ADMINISTRATIVE PANEL DECISION

Dreams USA, Inc. v. Jimmy Benavidez, OracleT
Case No. D2024-5206

1. The Parties

Complainant is Dreams USA, Inc., United States of America ("United States"), represented by Hinckley, Allen & Snyder, LLP, United States.

Respondent is Jimmy Benavidez, OracleT, United States.

2. The Domain Name and Registrar

The disputed domain name <sonnyangelofficial.com> (the "Domain Name") is registered with Tucows Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on December 18, 2024. On December 18, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On December 19, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Tucows Domains, Inc. / Contact Privacy Inc. Customer 0172939610) and contact information in the Complaint. The Center sent an email communication to Complainant on December 19, 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 December 23, 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 Respondent of the Complaint, and the proceedings commenced on January 6, 2025. In accordance with the Rules, paragraph 5, the due date for Response was January 26, 2025. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on January 29, 2025.

The Center appointed Kimberley Chen Nobles as the sole panelist in this matter on January 31, 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

Founded in 2009, Complainant is the exclusive North and South American distributor of limited-edition art toys, giftware, and lifestyle accessories created by parent company Dreams Inc. of Japan. Its products can be found online at <Dreams6USA.com> and at select retailers throughout the Americas. Among its items is a line of collectible figurines called SONNY ANGEL dolls.

Complainant owns United States trademark registration No. 6,663,607 for the SONNY ANGEL word mark, registered on March 8, 2022, with a first use date of January 1, 2004.

The Domain Name was registered on October 25, 2024. At the time of the filing of the Complaint, the Domain Name resolved to a web page that purportedly offered for sale “Sonny Angel” dolls under the SONNY ANGEL mark, which Complainant contends are unauthorized and likely counterfeit or gray market goods.

5. Parties’ Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name. Complainant contends that (i) the Domain Name is confusingly similar to Complainant’s trademark; (ii) Respondent has no rights or legitimate interests in the Domain Name; and (iii) Respondent registered and is using the Domain Name in bad faith.

In particular, Complainant contends that it has a trademark registration and rights for the SONNY ANGEL mark that Respondent registered and is using the Domain Name with the intention to confuse Internet users looking for bona fide and well-known SONNY ANGEL products and services.

Complainant notes that it has no affiliation with Respondent, nor authorized Respondent to register or use a domain name, which includes Complainant’s trademark, and that Respondent has no rights or legitimate interests in the registration and use of the Domain Name. Rather, Complainant contends that Respondent has acted in bad faith in acquiring and setting up the Domain Name, when Respondent clearly knew of Complainant’s rights.

B. Respondent

Respondent did not reply to Complainant’s contentions.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel that:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name was registered and is being used in bad faith.

Section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)) states that failure to respond to the complainant’s contentions would not by itself mean that the complainant is deemed to have prevailed; a respondent’s default is not necessarily an admission that the complainant’s claims are true.

Thus, although in this case Respondent has failed to respond to the Complaint, the burden remains with Complainant to establish the three elements of paragraph 4(a) of the Policy by a preponderance of the evidence.

A. Identical or Confusingly Similar

Complainant has submitted evidence attesting to its ownership of the SONNY ANGEL trademark, as noted above in Section 4. Complainant has also submitted evidence which supports that the SONNY ANGEL trademark is widely known and a distinctive identifier of Complainant’s products and services. Complainant has therefore proven that it has the requisite rights in the SONNY ANGEL trademark.

With Complainant’s rights in the SONNY ANGEL trademark established, the remaining question under the first element of the Policy is whether the Domain Name, typically disregarding the Top- Level Domain (“TLD”) in which it is registered (in this case, “.com”), is identical or confusingly similar to Complainant’s trademark. See, e.g., *B & H Foto & Electronics Corp. v. Domains by Proxy, Inc. / Joseph Gross*, WIPO Case No. [D2010-0842](#).

Here, the Domain Name is confusingly similar to Complainant’s SONNY ANGEL trademark. The SONNY ANGEL trademark is recognizable in the Domain Name.

In particular, the Domain Name’s inclusion of Complainant’s SONNY ANGEL trademark in its entirety, with an addition of the term “official”, does not prevent a finding of confusing similarity between the Domain Name and the SONNY ANGEL trademark. See section 1.8 of the [WIPO Overview 3.0](#).

Thus, the Panel finds that Complainant has satisfied the first element of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, a complainant must make a prima facie showing that a respondent possesses no rights or legitimate interests in a disputed domain name. See, e.g., *Malayan Banking Berhad v. Beauty, Success & Truth International*, WIPO Case No. [D2008-1393](#). Once a complainant makes such a prima facie showing, the burden of production shifts to the respondent, though the burden of proof always remains on the complainant. If the respondent fails to come forward with relevant evidence showing rights or legitimate interests, the complainant will have sustained its burden under the second element of the UDRP.

From the record in this case, it is evident that Respondent was, and is, aware of Complainant and its SONNY ANGEL trademark, and does not have any rights or legitimate interests in the Domain Name. Complainant has confirmed that Respondent is not affiliated with Complainant, or otherwise authorized or licensed to use the SONNY ANGEL trademark or to seek registration of any domain name incorporating this trademark. Respondent is also not known to be associated with the SONNY ANGEL trademark and there is no evidence showing that Respondent has been commonly known by the Domain Name.

In addition, Respondent has not used the Domain Name in connection with a bona fide offering of goods or services or a legitimate noncommercial or fair use. Rather, at the time of the filing of the Complaint, the Domain Name resolved to a web page which purportedly offered “Sonny Angel” dolls for sale, which Complainant alleged are unauthorized and likely counterfeit or gray market goods.

In particular, this website prominently displayed the SONNY ANGEL trademark, with images of the SONNY ANGEL dolls, along with a heading “HIPPER SALE/20% OFF SITEWIDE”. The website’s “About Us” page

also presented Respondent as “Sonny Angel” – i.e., Complainant, stating that: “At Sonny Angel we believe [...]” and “We created Sonny Angel so we can source the best toys.” It also featured a copyright ownership of the content as belonging to “SonnyAngelUSA”. The website appeared to pose as the actual website of Complainant, purporting to offer Complainant’s branded products, featuring Complainant’s trademark, without any disclaiming statement as to the lack of relationship with Complainant.

Such use does not constitute a bona fide offering of goods or services nor a legitimate noncommercial or fair use and cannot under the circumstances confer on Respondent any rights or legitimate interests in the Domain Name. See, e.g., *Intesa Sanpaolo S.p.A. v. Charles Duke / Oneandone Private Registration*, WIPO Case No. [D2013-0875](#).

Accordingly, Complainant has provided evidence supporting its prima facie claim that Respondent lacks any rights or legitimate interests in the Domain Name. Respondent has failed to produce countervailing evidence of any rights or legitimate interests in the Domain Name. Thus, the Panel concludes that Respondent does not have any rights or legitimate interests in the Domain Name and Complainant has met their burden under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that Respondent’s actions indicate that Respondent registered and is using the Domain Name in bad faith.

Paragraph 4(b) of the Policy provides a non-exhaustive list of circumstances indicating bad faith registration and use on the part of a respondent, namely:

“(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you 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 complainant’s mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location.”

The Panel finds that Complainant has provided ample evidence to show that registration and use of the SONNY ANGEL trademark predate the registration of the Domain Name. Complainant is also well established and known. Indeed, the record shows that Complainant’s SONNY ANGEL trademark and related products and services are widely known and recognized. Therefore, and also noting the competing use to which the Domain Name were put, Respondent was aware of the SONNY ANGEL trademark when it registered the Domain Name. See section 3.2.2 of the [WIPO Overview 3.0](#); see also *TTT Moneycorp Limited v. Privacy Gods / Privacy Gods Limited*, WIPO Case No. [D2016-1973](#).

Moreover, the Domain Name’s inclusion of Complainant’s SONNY ANGEL trademark in its entirety, with an addition of the term “official” as noted above, in relation to the products associated with Complainant’s trademark, reflects the inherently misleading nature of the Domain Name, and Respondent’s awareness of Complainant’s trademark at the time of registration.

The Panel therefore finds that Respondent's awareness of Complainant's trademark rights at the time of registration suggests bad faith. See *Red Bull GmbH v. Credit du Léman SA, Jean-Denis Deletraz*, WIPO Case No. [D2011-2209](#); *Nintendo of America Inc v. Marco Beijen, Beijen Consulting, Pokemon Fan Clubs Org., and Pokemon Fans Unite*, WIPO Case No. [D2001-1070](#); and *BellSouth Intellectual Property Corporation v. Serena, Axel*, WIPO Case No. [D2006-0007](#).

The website also appeared to pose as the actual website of Complainant, purporting to offer Complainant's branded products, using trademarks representing Complainant's products and trademark. Such use of Complainant's trademark at the time of registration of the Domain Name is evident of Respondent's awareness of Complainant's trademark and its effort to opportunistically capitalize on the registration and use of the Domain Name.

Such use of the Domain Name is also disruptive to Complainant's business and potentially damaging to Complainant's reputation and goodwill, particularly because its use is in the same business and industry as Complainant's, for activities for which Complainant's trademark is well-known, and is evidence of bad faith. See *Lennar Pacific Properties Management, Inc., Lennar Corporation v. Registration Private, Domains By Proxy, LLC / IAutomation Contractors*, WIPO Case No. [D2022-1768](#).

Further, the Panel also notes the failure of Respondent to submit a response, or to provide any evidence of actual or contemplated good-faith use, and the implausibility of any good-faith use to which the Domain Name may be put.

Accordingly, the Panel finds that Respondent registered and is using the Domain Name in bad faith and Complainant succeed under the third element of paragraph 4(a) 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 Domain Name <sonnyangelofficial.com> be transferred to Complainant.

/Kimberley Chen Nobles/

Kimberley Chen Nobles

Sole Panelist

Date: February 13, 2025