

ADMINISTRATIVE PANEL DECISION

Rabbitsvault Corp v. Boris Ntui

Case No. D2024-5239

1. The Parties

The Complainant is Rabbitsvault Corp, United States of America ("United States"), represented internally.

The Respondent is Boris Ntui, United States.

2. The Domain Name and Registrar

The disputed domain name <plugplaycars.com> is registered with NameSilo, LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on December 20, 2024. On December 20, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 20, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 December 30, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 19, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Parties of the Respondent's default on January 27, 2025.

The Center appointed Ingrida Kariņa-Bērziņa as the sole panelist in this matter on January 29, 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

The Complainant operates an online retail store marketing products related to smoking and vaping under the PLUGPLAY mark, for which it has registered the following trademarks:

- United States Trademark Registration No. 7296663 for PLUGPLAY (word mark), registered on February 6, 2024 for services in class 35;
- United States Trademark Registration No. 7296664 for P (device mark), registered on February 6, 2024 for services in class 35.

The Complainant operates its primary business website at the domain name <plugplay.com>.

The disputed domain name was registered on February 21, 2024. It resolves to a website stating “Official Plug Play Carts Website” purporting to offer for sale products related to smoking and vaping. The website displays the Complainant’s PLUGPLAY mark and stylized P mark.

No further information is available about the Respondent.

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 contains its PLUGPLAY mark in its entirety together with the descriptive term “carts.” The Complainant first used this mark in 2018, well before the registration of the disputed domain name. The Respondent’s website displays the Complainant’s marks without authorization. The Respondent offers counterfeit versions of the Complainant’s products. The Complainant is licensed to offer its cannabis products in the State of California, which the Respondent is not. The Respondent is therefore marketing these products unlawfully.

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

Paragraph 4(a) of the UDRP requires the Complainant to make out all three of the following:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the Respondent has registered and is using the disputed domain name in bad faith.

Under paragraph 15(a) of the Rules, “[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”.

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 Complainant's PLUGPLAY 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 terms (here, "carts") may bear on assessment of the second and third elements, the Panel finds the addition of such a 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.

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.

The Panel notes that the composition of the disputed domain name, which reflects the Complainant's PLUGPLAY mark followed by the term "carts", which appears to refer to a type of product related to the Complainant's business. Therefore, the Panel finds that the nature of the disputed domain name carries a risk of implied affiliation to the Complainant that cannot constitute fair use. [WIPO Overview 3.0](#), section 2.5.1.

The Respondent has not put forward any rights or legitimate interests. There is no evidence that the Respondent is commonly known by the disputed domain name, or that there are any circumstances or activities that would establish the Respondent's rights therein. Rather, the disputed domain name resolves to a website stating that it is the "Official Plug Play Carts Website," thereby asserting a connection with the Complainant. Under these circumstances, such use cannot establish rights or legitimate interests. See [WIPO Overview 3.0](#), section 2.5.2, and cases cited thereunder.

Panels have held that the use of a domain name for illegal activity (here, claimed sale of counterfeit and/or unlawful goods, impersonation/passing off, or other types of fraud) 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 has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark. The disputed domain name was registered 15 days after the Complainant registered its PLUGPLAY mark and its P device mark. The composition of the disputed domain name reflects the Complainant's PLUGPLAY mark together with the term "carts," referring to products related to the Complainant. Such composition indicates that the Respondent sought to create the appearance of an association with the Complainant.

The Panel notes that the Respondent's website states that it is the "Official Plug Play Carts Website," it displays the Complainant's PLUGPLAY mark and stylized P device mark and contains images and visual elements that resemble those on the Complainant's own website. The evidence available indicates that the Respondent's registration and use of the disputed domain name targets the Complainant. Panels have held that the use of a domain name for illegal activity (here, claimed sale of counterfeit and/or unlawful goods, impersonation/passing off, or other types of fraud) 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 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 <plugplaycarts.com> be transferred to the Complainant.

/Ingrīda Kariņa-Bērziņa/

Ingrīda Kariņa-Bērziņa

Sole Panelist

Date: February 14, 2025