

ADMINISTRATIVE PANEL DECISION

Build-A-Bear Workshop, Inc v. Cynthia Parker
Case No. D2025-0563

1. The Parties

The Complainant is Build-A-Bear Workshop, Inc., United States of America ("United States") represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Cynthia Parker, United States.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on February 12, 2025. On February 13, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 14, 2025, 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 Purposes, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 17, 2025, 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 February 20, 2025.

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 February 24, 2025. In accordance with the Rules, paragraph 5, the due date for Response was March 16, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 17, 2025.

The Center appointed Steven M. Auvil as the sole panelist in this matter on March 26, 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 is a global company that offers a teddy-bear themed retail-entertainment experience. Founded in 1997, the Complainant provides the opportunity to create personalized stuffed animals through interactive bear-making stations. The Complainant operates approximately 359 retail store locations, throughout the globe including the United States, Canada, the United Kingdom, and Ireland.

The Complainant owns through its subsidiary multiple United States trademark registrations for the BUILD-A-BEAR brand, including registration No. 3741249 for BUILD-A-BEAR, registered January 19, 2010, and registration No. 2884223 for BUILDABEAR.COM, registered September 14, 2004. The Complainant also owns Canada registration No. TMA712817 for BUILD-A-BEAR, registered April 25, 2008, in addition to European Union registration No. 004872479 for BUILD-A-BEAR, registered October 10, 2007, and United Kingdom registration No. UK00904872479 for BUILD-A-BEAR, registered October 10, 2007.

The Complainant also owns the domain name <buildabear.com> for its BUILD-A-BEAR brand, along with over 450 other domain names incorporating the BUILD-A-BEAR mark.

The disputed domain name was registered on December 18, 2024. It resolves to a website copying the look and feel and some content of the Complainant's official website, displaying the Complainant's BUILD-A-BEAR mark and a logo substantially similar to the one used on the Complainant's website.

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.

The Complainant first contends that the disputed domain name is confusingly similar to its BUILD-A-BEAR mark. The Complainant alleges that the Respondent has incorporated the entirety of the Complainant's BUILD-A-BEAR mark with the addition of the generic, descriptive term "shop". The Complainant contends that the term "shop" only serves to underscore and increase the confusing similarity between the disputed domain name and the Complainant's BUILD-A-BEAR mark due to the many retail stores the Complainant operates across the world.

The Complainant next contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant contends that the Respondent is not sponsored by or affiliated with the Complainant in any way, nor has the Complainant given the Respondent permission, license, or authorization to use the BUILD-A-BEAR mark in any way including for a domain name. Further the Complainant contends that the Respondent is not commonly known by the disputed domain name.

Finally, the Complainant contends that the Respondent registered and has used the disputed domain name in bad faith. The Complainant alleges that the Respondent is using the disputed domain name to increase traffic to the disputed domain name website for commercial gain and to disrupt the Complainant's business.

The Complainant requests that the disputed domain name be transferred to the Complainant.

B. Respondent

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

6. Discussion and Findings

According to 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." Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following to obtain relief:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or a service mark in which the Complainant has rights;
- (ii) that the 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.

In view of the Respondent's failure to submit a Response, the Panel is entitled to accept as true the allegations set forth in the Complaint (unless the evidence is clearly contradictory), and to derive reasonable inferences from the evidence presented. See *Talk City, Inc. v. Michael Robertson*, WIPO Case No. [D2000-0009](#).

Based on the foregoing guidance, the Panel makes the following findings and reaches the following conclusions based on the allegations and evidence contained in the Complaint and amended Complaint, and reasonable inferences drawn from the evidence presented.

A. Identical or Confusingly Similar

It is well established that the first element of the Policy serves 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 evidence submitted by the Complainant supports the conclusion that the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. The Complainant owns multiple registered trademarks incorporating the term BUILD-A-BEAR. [WIPO Overview 3.0](#), section 1.2.1.

The disputed domain name is confusingly similar to the Complainant's BUILD-A-BEAR mark. As set forth in [WIPO Overview 3.0](#), section 1.7, when the entirety of a mark is reproduced within the disputed domain name, or "at least a dominant feature of the relevant mark is recognizable in the domain name", the disputed domain name is deemed confusingly similar to the mark for the purposes of the Policy. Further, "[w]here the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise)" does not prevent a finding of confusing similarity. [WIPO Overview 3.0](#), section 1.8.

Here, the disputed domain name is confusingly similar to the Complainant's BUILD-A-BEAR mark because the Respondent has incorporated the entirety of the Complainant's BUILD-A-BEAR mark and merely added the term "shop". The Panel further notes that the addition of "shop" does not prevent a finding of confusing similarity. See *Rakuten Group, Inc. v. Masayoshi Utsunomiya, UnendCS*, WIPO Case No. [D2021-3889](#); see also *Build-A-Bear Workshop, Inc. v. Herr Norbert Kurzmeier, KUNO GmbH*, WIPO Case No. [D2023-2515](#). Moreover, as set forth in section 1.11.1 of the [WIPO Overview 3.0](#), the applicable generic Top-Level Domain ("gTLD") (e.g., ".com", ".site", ".info", ".shop") is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity

test. As such, the use of “.com” gTLD in the disputed domain name has no bearing on the confusing similarity analysis.

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. Such circumstances include:

- (i) before any notice of the dispute, the respondent used, or prepared 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;
- (ii) the respondent (as an individual, business, or other organization) is commonly known by the disputed domain name, even if the respondent has acquired no trademark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

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”. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests in a disputed domain name, 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 evidence, the complainant is deemed to have satisfied the second element.

[WIPO Overview 3.0](#), section 2.1.

Having reviewed the evidence and arguments of record, the Panel finds that the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent did not respond to the Complaint to show that any of the circumstances apply with respect to paragraph 4(c) of the Policy. By comparison, in addition to demonstrating confusing similarity between the disputed domain name and the BUILD-A-BEAR mark, the Complainant submitted un rebutted evidence that the Respondent is using the disputed domain name in an attempt to pass itself off or impersonate the Complainant. Panels have held that the use of a domain name for illegitimate activity, such as impersonation/passing off, can never confer rights or legitimate interests on a respondent.

[WIPO Overview 3.0](#), section 2.13.1.

Again, the Respondent has not attempted to rebut the Complainant’s prima facie showing; in fact, the Respondent has not come forward with any evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise. Nor is there evidence of record that the Complainant licensed or otherwise authorized the Respondent’s use of the BUILD-A-BEAR mark, or that the Respondent has any affiliation, association, sponsorship, or connection with the Complainant.

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 non-exclusive circumstances that, if found by the Panel to be present, is evidence of the registration and use of a domain name in bad faith. Such circumstances include, among others, where “the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor”, and where “by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion

with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on the respondent's website or location". [WIPO Overview 3.0](#), section 3.1.

Additionally, section 3.2.1 of the [WIPO Overview 3.0](#) provides that "[p]articular circumstances panels may take into account in assessing whether the respondent's registration of a domain name is in bad faith include: (i) the nature of the domain name (e.g., a domain name incorporating the complainant's mark plus an additional term such as a descriptive or geographic term, or one that corresponds to the complainant's area of activity or natural zone of expansion); [...] (vi) a clear absence of rights or legitimate interests coupled with no credible explanation for the respondent's choice of the domain name, or (vii) other indicia generally suggesting that the respondent had somehow targeted the complainant".

In the present case, the Panel concludes that the Respondent has registered and used the disputed domain name in bad faith. The disputed domain name incorporates the entirety of the Complainant's registered BUILD-A-BEAR mark with an additional term "shop", which falsely suggests that the website at the disputed domain name is operated or endorsed by the Complainant, which is reinforced by the impersonating nature of the content exhibited at the disputed domain name. In this regard, the Panel finds that the Respondent has intentionally used the disputed domain name to impersonate the Complainant and to mislead Internet users into doing business with the Respondent instead of the Complainant.

In sum, the Panel finds that the Respondent knew of the Complainant's BUILD-A-BEAR mark at the time of registering the disputed domain name and endeavored to unfairly capitalize on the mark for commercial gain. The Panel therefore concludes that the disputed domain name was registered and is being used in bad faith.

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 <buildabearshop.com> be transferred to the Complainant.

/Steven M. Auvil/

Steven M. Auvil

Sole Panelist

Date: April 9, 2025