

ADMINISTRATIVE PANEL DECISION

GNC Holdings, LLC v. pan zhjao

Case No. D2025-0642

1. The Parties

The Complainant is GNC Holdings, LLC, United States of America (“United States”), represented by The Webb Law Firm, United States.

The Respondent is pan zhjao, China.

2. The Domain Name and Registrar

The disputed domain name <beyond-raw.com> is registered with Name.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 18, 2025. On February 19, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 20, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 21, 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 amendment to the Complaint on February 21, 2025.

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 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 Mar 24, 2025.

The Center appointed Marilena Comanescu 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 one of the largest global speciality retailer of dietary and nutritional products, including vitamin, mineral, herbal, and other speciality supplements and sports nutrition, diet, and energy products.

The Complainant holds worldwide registrations for or including BEYOND RAW mark, such as the following:

- United States trademark registration number 3946340 for BEYOND RAW (word), filed on October 8, 2010, and registered on April 12, 2011, for goods in International classes 5 and 29; and

- European Union trademark registration number 010326131 for BEYOND RAW (word), filed on October 10, 2011, and registered on March 1, 2012, for goods in International classes 5 and 29;

The disputed domain name was registered on June 3, 2024, and, at the time of filing of the Complaint, it was used in connection with a commercial website, offering for sale purported BEYOND RAW branded products, also attempting to impersonate the Complainant by using unauthorized copies of the Complainant's official branding, text, and product images. Also, on the website under the disputed domain name, the Respondent claimed copyright protection, and did not provide accurate contact information on the disputed domain name holder.

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, for over fifty years, it has established a portfolio of trademarks that is used by the Complainant and its affiliates, franchisees, and licensees in conducting its business; it has been using the mark BEYOND RAW since at least 2010 in the United States, and internationally, in both, physical and online stores; the disputed domain name is identical and/or confusingly similar to the Complainant's trademark; the Respondent has no rights or legitimate interests in the disputed domain name; the Respondent is using the disputed domain name in order to divert Internet users to its commercial website and to misrepresent itself as sports nutrition brand called "Beyond Raw", also advertising the Complainant's nutritional supplements and products; the disputed domain name does not provide any indication that it is not an official site of the Complainant, the Internet users are provided with no warning or disclaimer, and the disputed domain name (without any modification or qualifier) masquerades as an official domain name and site of the Complainant; the Respondent registered and is using the disputed domain name in bad faith, since the Respondent had actual or constructive knowledge of the BEYOND RAW trademarks, particularly since the disputed domain name was registered more than thirteen years after the registration of the BEYOND RAW trademark and because the disputed domain name is used in connection with a website displaying branding, text, and images exactly from the Complainant's website, and thus creates confusion and tarnishes the Complainant's trademarks, associated goodwill, and disrupts the Complainant's business.

B. Respondent

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

6. Discussion and Findings

Under the Policy, the Complainant is required to prove on the balance of probabilities that:

- (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 the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

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 BEYOND RAW mark is reproduced within the disputed domain name, with a hyphen separating the words composing the mark. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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 non-exhaustive 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.

According to the evidence, the Respondent has used the disputed domain name in connection with a website purportedly promoting and offering for sale goods of the Complainant, displaying the Complainant's trademark, and official product description and images, without providing any accurate and prominent disclaimer regarding the relationship between the Respondent and the Complainant. Panels have held that the use of a domain name for illegal activity (such as, the sale of apparently counterfeit 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.

Further, the composition of the disputed domain name, which reproduces the Complainant's trademark (with a hyphen), suggests an affiliation with the trademark owner. Panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. [WIPO Overview 3.0](#), section 2.5.1.

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 finds that the Respondent registered the disputed domain name in bad faith noting the BEYOND RAW mark has been registered thirteen years before the disputed domain name was created. Further, the use of the disputed domain name to effectively impersonate the Complainant enforces such finding.

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.

Paragraph 4(b)(iv) of the Policy provides that the use of a domain name to intentionally attempt "to attract, for commercial gain, Internet users to [the respondent's] web site 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] web site or location or of a product or service on [the respondent's] web site or location" is evidence of registration and use in bad faith.

Given that the disputed domain name reproduces the Complainant's trademark (with an additional hyphen), the website operated under the disputed domain name displays the Complainant's trademarks, official product images and description text, claims copyright protection, and has no disclaimer, indeed in this Panel's view, the Respondent has intended to attract Internet users accessing the website corresponding to the disputed domain name who may be confused and believe that the website is held, or controlled by the Complainant, or somehow affiliated with or related to the Complainant, for the Respondent's commercial gain. This activity may also disrupt the Complainant's business and tarnish its trademark.

Further, the Respondent failed to provide a response to the Complainant's allegations, including that the physical address listed in the Whois was inaccurate or incomplete. Along with other circumstances in this case, such facts constitute further signs of 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 <beyond-raw.com> be transferred to the Complainant.

/Marilena Comanescu/

Marilena Comanescu

Sole Panelist

Date: April 4, 2025