

ADMINISTRATIVE PANEL DECISION

Keirton Inc. v. Nadiah Reiley

Case No. D2025-1548

1. The Parties

The Complainant is Keirton Inc., Canada, represented internally.

The Respondent is Nadiah Reiley, United States of America ("United States").

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 15, 2025. On April 17, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 17, 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 (Unknown Respondent (identity redacted in public WhoIs) / Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 25, 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 the first and second amended Complaints on April 25, 2025, and May 5, 2025, respectively.

The Center verified that the Complaint together with the amended Complaints 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 May 6, 2025. In accordance with the Rules, paragraph 5, the due date for Response was May 26, 2025. The early Response was filed with the Center on April 29, 2025. In addition, the Respondent sent email communications to the Center on May 14, 2025, and May 22, 2025.

The Center appointed Warwick A. Rothnie as the sole panelist in this matter on June 3, 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 parties are competing suppliers of equipment for the cultivation and curing of cannabis products. The Complainant is a Canadian company; the Respondent is based in the United States.

The Complainant is the owner of United States Registered Trademark No 7,750,303, CURE PUCK, which was registered on April 8, 2025, in the Principal Register in respect of an environmental control apparatus – namely a device that automatically vents herb and spice curing containers of gases based on temperature and humidity conditions detected by the device – in International Class 11.

The Complainant is promoting its product for sale now from a website at “www.curepuck.io”. The Complainant, however, began promoting this product under the trademark CURE PUCK in about October 2022 on Instagram and at (at least) one trade show on December 15, 2022.

On December 16, 2022, according to the Whois Report the disputed domain name was registered.

According to the Response, the Respondent is involved in a business which, amongst other things, has been supplying these types of products under the trademark CURETUBE since 2017.

When the Respondent became aware of the Complainant’s promotion of its product under the trademark CURE PUCK at the trade show on December 15, 2022, the Respondent registered the disputed domain name. Following this, the disputed domain name was then redirected to the Respondent’s website at “www.thecuretube.com”.

The Respondent has started proceedings against the Complainant in the United States District Court for the Southern District of California, Case No. 3:25-cv-00799-JO-SBC alleging patent infringement, trademark infringement, trade dress infringement and unfair competition. That is, the Respondent has commenced these proceedings more than two years after the Respondent first learned of the Complainant’s use of CURE PUCK.

5. Discussion and Findings

First, the Respondent seeks the dismissal of the Complaint in light of the pending court proceedings.

Pursuant to paragraph 18 of the Rules, the Panel has discretion whether to suspend or terminate the proceeding or to proceed to a decision.

As summarized in WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (“[WIPO Overview 3.0](#)”), section 4.14.2, however, panels generally issue a decision on the merits – section 4.14.3 even describes a decision to terminate as a “somewhat exceptional event”.

The Panel is conscious that there are before the Panel only sketchy details of the issues in United States court proceedings. Nonetheless, it appears that the parties are the same or at least involved in both these proceedings and the United States court proceeding. The information before the Panel also indicates the Respondent has asserted claims of trademark infringement (amongst other things) against the Complainant. On the other hand, the issue raised in these proceedings is the Respondent’s entitlement to the disputed domain name. Moreover, as set out in paragraph 4(k) of the Policy, a decision in these proceedings is without prejudice to either party’s rights to bring, or continue, proceedings in a court of appropriate

jurisdiction. Such a court is of course not bound by a decision under the Policy and may very well have very different evidence before it.

Although the circumstances in this case are not the same as those in *SDT International limited company v. Telepathy, Inc.* WIPO Case No. [D2014-1870](#), like the dissenting panelist in that decision the Panel considers it appropriate to render a decision on the merits on the basis of the material before the Panel.

Accordingly, paragraph 4(a) of the Policy provides that in order to divest the Respondent of a disputed domain name, the Complainant must demonstrate each 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 disputed domain name has been registered and is being used in bad faith.

Paragraph 15(a) of the Rules directs the Panel to decide the 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

The first element that the Complainant must establish is that the disputed domain name is identical with, or confusingly similar to, the Complainant's trademark rights.

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 3.0](#), section 1.7.

The Complainant has proven ownership of the trademark registered in the United States for CURE PUCK.

The comparison of the disputed domain name to the Complainant's trademark simply requires a visual and aural comparison of the disputed domain name to the proven trademarks. This test is narrower than and thus different to the question of "likelihood of confusion" under trademark law. Therefore, questions such as the scope of the trademark rights, the geographical location of the respective parties, the date they were acquired and other considerations that may be relevant to an assessment of infringement under trademark law are not relevant at this stage. Such matters, if relevant, may fall for consideration under the other elements of the Policy. See e.g., [WIPO Overview 3.0](#), section 1.7.

In undertaking that comparison, it is permissible in the present circumstances to disregard the generic Top-Level Domain ("gTLD") component as a functional aspect of the domain name system. [WIPO Overview 3.0](#), section 1.11.

Disregarding the ".com" gTLD, the disputed domain name consists of the Complainant's registered trademark. Accordingly, the Panel finds that the Complainant has established that the disputed domain name is identical with the Complainant's trademark and the requirement under the first limb of the Policy is satisfied.

B. Rights or Legitimate Interests

The second requirement the Complainant must prove is that the Respondent has no rights or legitimate interests in the disputed domain name.

Paragraph 4(c) of the Policy provides that the following circumstances can be situations in which the Respondent has rights or legitimate interests in a disputed domain name:

- (i) before any notice to [the Respondent] of the dispute, [the Respondent's] use of, or demonstrable preparations 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; or
- (ii) [the Respondent] (as an individual, business, or other organization) has been 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 [disputed] domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

These are illustrative only and are not an exhaustive listing of the situations in which a respondent can show rights or legitimate interests in a domain name.

While 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 often impossible 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. 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.

There is no dispute between the Parties that:

- (1) The Respondent is not affiliated with the Complainant;
- (2) The Complainant has not otherwise authorised the Respondent to use the disputed domain name;
- (3) The disputed domain name is not derived from the Respondent's name.

The Respondent registered the disputed domain name before the Complainant registered its trademark. However, as the Respondent admits, the Respondent registered the disputed domain name knowing that it matched the Complainant's trademark.

Subject to consideration of the next point, therefore, the registration of the disputed domain name with knowledge that the Complainant was using CURE PUCK as an unregistered trademark does not provide a basis to claim rights or legitimate interests. See [WIPO Overview 3.0](#), section 3.8.2 (in the context of “bad faith”).

The Respondent justifies her registration of the disputed domain name, however, on the basis of her use since 2017 of the trademark CURETUBE. The Respondent contends she registered the disputed domain name “as a defensive measure”.

According to the Respondent, her business became a pioneer in the post-harvest curing industry in 2017. Since then, the trademark “CURETUBE” has become a trusted and recognized name through consistent trade show participation, marketing and customer loyalty. Further, according to the Respondent, the Complainant's booth at the trade show in December 2022 and promotional materials closely mirrored the look, feel and branding of the Respondent's established trade dress including the Respondent's distinctive use of fibre drums mounted on custom racks to demonstrate curing technology. The Respondent alleges that the Complainant adopted the distinctive colour scheme of the Respondent's “CureTube” brand – black, white, green and grey – and, at least in the launch week of the “Cure Puck” product, the Respondent's

registered slogan “Curing Made Simple”. Until the Complainant launched the “Cure Puck” product, according to the Respondent the Complainant was traditionally known for trimming equipment (the Panel assumes under a different trademark).

Therefore, the Respondent says she registered the disputed domain name to protect the “CURETUBE” brand, prevent further consumer confusion and safeguard the goodwill that has been developed over five years.

On the record in these proceedings, these are bare allegations unsupported by evidence of the kind that would be expected if the Respondent were trying to establish rights in an unregistered trademark. See e.g., [WIPO Overview 3.0](#), section 1.3. It is also not clear to the Panel where or when the Respondent registered its slogan. (The Panel was unable to find a registration of the slogan in the Respondent’s name on the United States Patent and Trademark Office trademark search.)

The Panel did consider issuing a Panel Order to afford the Respondent an opportunity to address these deficiencies and the Complainant to respond. As there are already Court proceedings on foot, however, putting the parties to further expense and delay in these proceedings is undesirable.

Even taking the Respondent’s allegations at face value, the Panel has considerable difficulty accepting that the Respondent’s conduct in knowingly registering the Complainant’s trademark as the disputed domain name and redirecting it to her own, competing website is conduct that confers rights or legitimate interests under the Policy.

First, the Complainant does in fact have a registered trademark in the United States for CURE PUCK.

Secondly, that trademark has in common with the Respondent’s unregistered trademark the word “cure”. In the context of products for curing herbs and spices, that term has obvious descriptive connotations. It is arguably not as directly descriptive as the word “cola” in the well-known trademarks “Coca Cola” and “Pepsi Cola” and, unlike those trademarks, the common element is the first element of both the Complainant’s and the Respondent’s trademarks. Recognising that it is ultimately a matter for the United States Court whether under United States law:

- (a) the Complainant has engaged in unfair competition with the Respondent or trademark infringement; or
- (b) the other matters alleged by the Respondent (if proved) disentitle the Complainant to its registered trademark,

however, at this point in time the Complainant does have a registered trademark for CURE PUCK and, ordinarily, that registration would likely preclude someone else, including the Respondent, from using the identical sign in respect of the same goods.

The Panel would not expect the Complainant’s registered trademark could prevent the Respondent from using “CureTube” where the Respondent adopted and was using that sign before the Complainant adopted and began using CURE PUCK, noting also the term “cure” is disclaimed in the Complainant’s United States trademark registration. But that is a different question to the issue arising in these proceedings which is whether or not the Respondent has rights or legitimate interests in using CURE PUCK knowing it was already in use by the Complainant.

In the circumstances outlined above, the Panel does not consider the Respondent’s claimed rights in “Cure Tube” give her rights or legitimate interests in the disputed domain name in the face of the Complainant’s registered trademark.

Accordingly, the Panel finds the Complainant has established the second requirement under the Policy also.

C. Registered and Used in Bad Faith

Under the third requirement of the Policy, the Complainant must establish that the disputed domain name has been both registered and used in bad faith by the Respondent. These are conjunctive requirements; both must be satisfied for a successful complaint: see e.g., *Group One Holdings Pte Ltd v. Steven Hafto* WIPO Case No. [D2017-0183](#).

As the Respondent admits, she registered the disputed domain name directly as a result of becoming aware that the Complainant had adopted and was using the trademark CURE PUCK.

It is clear that the Respondent's intention was and is to divert persons looking for CURE PUCK to her own website at "www.thecuretube.com". Pending the United States Court's determination that the Complainant's conduct disentitles it to its registered trademark, the intention and effect of the Respondent's registration and use of the disputed domain name is to divert people looking for the Complainant's product to the Respondent's site, albeit under the guise of seeking to protect the Respondent's own goodwill. The Panel considers this conduct falls squarely within the type of conduct identified in paragraph 4(b)(iii) and (iv) of the Policy as examples of registration and use in bad faith:

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

(iv) by using the [disputed] domain name, [the Respondent has] intentionally attempted 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] website or location or of a product or service on [the Respondent's] web site or location."

While the Respondent describes this as a defensive measure to prevent confusion and to protect her goodwill in her trademark, "CURETUBE" is nonetheless a different trademark to CURE PUCK and CURE PUCK is a registered trademark for the relevant goods.

On the materials before the Panel, therefore, the Panel finds the Respondent has registered and used the disputed domain name in bad faith.

Accordingly, the Complainant has established all three requirements under the Policy.

6. 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 <curepuck.com> be transferred to the Complainant.

/Warwick A. Rothnie/

Warwick A. Rothnie

Sole Panelist

Date: June 17, 2025