

ADMINISTRATIVE PANEL DECISION

Munster Simms Engineering Limited v. Johnni Jensen
Case No. D2026-3433

1. The Parties

The Complainant is Munster Simms Engineering Limited, United Kingdom, represented by Nelson Mullins Riley & Scarborough LLP, United States of America (“United States”).

The Respondent is Johnni Jensen, United States.

2. The Domain Name and Registrar

The disputed domain name <whalepumping.com> is registered with Gname.com Pte. Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 3, 2026. On August 4, 2026, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 5, 2026, 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 (Owner of Whalepumping.com) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 11, 2026, 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 August 11, 2026.

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 August 24, 2026. In accordance with the Rules, paragraph 5, the due date for Response was September 13, 2026. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 14, 2026.

The Center appointed Petra Pecar as the sole panelist in this matter on September 17, 2026. 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 company incorporated in the United Kingdom. The Complainant manufactures pumps, plumbing, water and heating systems for marine, caravan, motorhome and industrial use, which it offers under the WHALE trademark. The WHALE trademark has been used for pumps since 1945, initially by the Complainant's predecessor.

The Complainant is the owner of the following WHALE trademark registrations:

- United States Trademark Registration No. 661357 for figurative trademark **WHALE** registered on May 6, 1958, for goods in International Class 7; and
- United States Trademark Registration No. 3112168 for the word trademark WHALE, registered on July 4, 2006, for goods in International Classes 7, 8 and 11.

The disputed domain name was registered on May 16, 2025, and at the time of filing of the Complaint, it resolved to a website headed "Whale Plumbing Products & Water Pumps| Whale Shop", offering the Complainant's products for sale at discounted prices.

On April 2, 2026, the Complainant's representative sent a cease-and-desist letter to the address indicated on the website at the disputed domain name. The Respondent did not provide any response.

The Respondent is an individual located in the United States.

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 is confusingly similar to its WHALE trademark, as it incorporates the WHALE trademark in its entirety. The additional term "pumping" does not prevent a finding of confusing similarity. Since the Complainant sells pumps under the WHALE trademark, the term "pumping" increases the likelihood of confusion.

The Complainant further contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is not commonly known by the disputed domain name, is not affiliated with the Complainant, and has not been licensed or otherwise authorized to use the WHALE trademark. The disputed domain name presents a high risk of affiliation with the Complainant. The Respondent used the disputed domain name for a website that imitates the Complainant's website, reproduces the Complainant's WHALE trademark, copyright-protected images, and presents itself as a discount website operated by the Complainant. Such use is neither a bona fide offering of goods or services nor a legitimate noncommercial or fair use.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. The Respondent used the disputed domain name to attract Internet users to its website by passing itself off as the Complainant and offering the Complainant's products at discounted prices. The Respondent continued this use after the Complainant's representative sent a takedown notice to the Registrar and a cease-and-desist letter to the Respondent.

B. Respondent

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

6. Discussion and Findings

Although the Respondent did not submit a response to the Complainant's contentions, the Panel shall consider the issues present in the case based on the statements and documents submitted by the Complainant. "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", as indicated in paragraph 15(a) of the Rules.

Under paragraph 4(a) of the Policy, the Complainant is required to prove each of the following three elements:

- (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 by the Respondent 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 Select UDRP Questions ("[WIPO Overview 3.1](#)"), section 1.7.

The Complainant has shown rights in respect of a trademark for the purposes of the Policy. [WIPO Overview 3.1](#), section 1.2.1.

The entirety of the 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 3.1](#), section 1.7.

Although the addition of other terms, here "pumping", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy.

Furthermore, it is well established in prior panel decisions that the generic Top-Level Domain ("gTLD"), including ".com", is generally disregarded when assessing whether a disputed domain name is identical or confusingly similar to a complainant's trademark. [WIPO Overview 3.1](#), section 1.11.1. Accordingly, the Panel finds it appropriate to disregard the applicable gTLD when assessing the confusing similarity of the disputed domain name for the purposes of the first element of the Policy.

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 that 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 3.1](#), 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 Complainant has not licensed or otherwise authorized the Respondent to use the WHALE trademark, and there is no relationship between the Parties. The Respondent did not provide any evidence that it is commonly known by the disputed domain name. [WIPO Overview 3.1](#), section 2.3.

The disputed domain name consists of the Complainant’s WHALE trademark and the term “pumping”, which describes the Complainant’s business activity. Noting the use to which the disputed domain name has been put, such composition signals the Respondent’s intention of taking unfair advantage of the likelihood of confusion between the disputed domain name and the Complainant as to the origin or affiliation of the website.

The website at the disputed domain name offers WHALE products for sale at discounted prices under the name “Whale Shop”, without any disclosure of the Respondent’s lack of relationship with the Complainant. Even if the products offered on the website were genuine, such use does not constitute a bona fide offering of goods, since the website does not accurately and prominently disclose the Respondent’s relationship with the trademark holder. [WIPO Overview 3.1](#), section 2.8.1.

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 Complainant’s WHALE trademark was registered in the United States on May 6, 1958, more than 67 years before the registration of the disputed domain name on May 16, 2025. A simple Internet search would have revealed the existence of the Complainant’s rights in the WHALE trademark. The website at the disputed domain name offers the Complainant’s WHALE products and what seems to be other products in the same field in which the Complainant operates. Therefore, on the balance of probabilities, it is more likely than not that the Respondent knew of the Complainant and its WHALE trademark at the time of registration of the disputed domain name and registered it to target the Complainant. [WIPO Overview 3.1](#), section 3.2.2.

The Respondent uses the disputed domain name for a website offering WHALE products at discounted prices under the name “Whale Shop”, without any indication of its lack of relationship with the Complainant. By such use, the Respondent intentionally attempts to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant’s trademark as to the source, sponsorship, affiliation, or endorsement of its website and of the products offered on it, within the meaning of paragraph 4(b)(iv) of the Policy. [WIPO Overview 3.1](#), section 3.1.4.

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 3.1](#), section 3.2.1.

The Respondent did not reply to the cease-and-desist letter and to the Complaint. The Panel finds that these circumstances further support a finding of bad faith.

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 <whalepumping.com> be transferred to the Complainant.

/Petra Pecar/

Petra Pecar

Sole Panelist

Date: October 1, 2026