

ADMINISTRATIVE PANEL DECISION

JUUL Labs, Inc. v. Ismail Emon
Case No. DAE2024-0003

1. The Parties

The Complainant is JUUL Labs, Inc., United States of America, represented by Saba & Co. IP, Lebanon.

The Respondent is Ismail Emon, United Arab Emirates.

2. The Domain Name and Registrar

The disputed domain name <juuluae.ae> is registered with AE Domain Administration (.aeDA).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 2, 2024. On March 4, 2024, the Center transmitted by email to AE Domain Administration (.aeDA) a request for registrant verification in connection with the disputed domain name. On March 5, 2024, AE Domain Administration (.aeDA) 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 UAE Domain Name Dispute Resolution Policy for – UAE DRP approved by .aeDA (the “Policy”), the Rules for UAE Domain Name Dispute Resolution Policy – UAE DRP (the “Rules”), and the Supplemental Rules for UAE Domain Name Dispute Resolution Policy – UAE DRP (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2(a) and 4(a), the Center formally notified the Respondent of the Complaint, and the proceedings commenced on March 6, 2024. In accordance with the Rules, paragraph 5(a), the due date for Response was March 26, 2024. The Respondent did not submit any Response. Accordingly, the Center notified the Respondent’s default on April 16, 2024.

The Center appointed Tobias Malte Muller as the sole panelist in this matter on April 26, 2024. 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

It results from the Complainant's undisputed allegations that the Complainant is an American electronic cigarette company headquartered in San Francisco, California. It commercializes JUUL-branded electronic nicotine delivery systems ("ENDS"), USB charging docks, e-liquid pods with nicotine, and other ENDS-related offerings. It entered the ENDS market in 2015.

The Complainant is the registered owner of many trademarks for JUUL, e.g., registration in the United Arab Emirates no. 303365, registered on December 17, 2018, for goods in class 9; registration in the United Arab Emirates no. 365558, registered on November 28, 2021, for goods in class 5.

In addition, the Complainant uses the following domain names <juul.com>, <juullabs.com>, <juul.ca>, and <juul.co.uk>.

The disputed domain name <juuluuae.ae> was registered on October 21, 2023, and currently redirects to a third party website ("www.podsvibe.ae") where Complainant's products are offered for sale together with competing products. At the bottom of the website the following disclaimer is displayed:

"WWW.PODSVIBE.AE HAVE NO AFFILIATION WITH JUUL OR MYLE VAPE. THIS IS NOT OFFICIAL WEBSITE OF MYLE OR JUUL VAPE. INC."

Finally, the Complainant sent a cease and desist letter to the Respondent in January 2024, without, however, receiving any response from 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 is confusingly similar to the Complainant's trademark since it contains its well-known trademark entirely, merely combined with the geographic term "UAE".

The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain name. According to the Complainant, nothing in the Respondent's Whois information, or website, or the record demonstrates that the Respondent is commonly known by the disputed domain name. The Complainant had not authorized the respondent to use the JUUL mark in any way neither as an organization name nor as a domain name. The JUUL marks are famous and are well known in use for alternative nicotine products such as vapes and electronic cigarettes. The Complainant argues that by using the JUUL marks without the permission of the Complainant, the website creates the impression that it is an authentic JUUL website for the United Arab Emirates, as it includes the term "UAE" in the domain name, when in fact it is not. The Complainant contends that it sent the Respondent a warning letter, however, the latter did not respond to the letter and simply added the following disclaimer on the website after receiving the letter: "WWW.JUULUAE.AE HAVE NO AFFILIATION WITH JUUL OR MYLE VAPE. THIS IS NOT OFFICIAL WEBSITE OF MYLE OR JUUL VAPE. INC."

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. According to the Complainant, without any authorization from the Complainant, and without any legitimate right, the Respondent used the JUUL trademark in its domain name to attract Internet users for commercial gain, especially that this unauthorized use of the mark creates a likelihood of confusion among consumers and misleads them about the business relationship with the Complainant. The Respondent is selling the Complainant's products on the website, which increases the possibility to confuse its business with the Complainant's and clearly proves that the Respondent is aware of the Complainant's trademark.

The Respondent failed to respond to a warning letter asking the Respondent to transfer the domain name to the Complainant and instead of cancelling or transferring the disputed domain name to the Complainant, the Respondent simply added the above mentioned disclaimer which further proves its recognition of the Complainant's JUUL trademark and emphasizes on its bad faith, provided that although it is aware that the Complainant is the rightful owner of the JUUL trademark, it still intends to exploit the same in order to make illicit benefits from such use. Finally, the Complainant noted that Respondent sometimes uses the disputed domain name to divert traffic to a third party website where competing products are sold. This site is hosted at the domain name <podsvibe.ae>. This further proves the Respondent's bad faith as it is trying to use the Complainant's trademark in its domain name to direct web traffic to another website for selling the Complainant's and other competitive products.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs this Panel to "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 6(a) of the Policy requires a complainant to prove each of the following three elements in order to obtain an order that each disputed domain name be transferred or cancelled:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (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 or is being used in bad faith.

The Panel will therefore proceed to analyze whether the three elements of paragraph 6(a) of the Policy are satisfied.

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, compare WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)")¹, 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 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 "uae") 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. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

¹ Noting the similarities between the Uniform Domain Name Dispute Resolution Policy (the "UDRP") and the UAE Domain Name Dispute Resolution Policy, the Panel has referred to prior UDRP cases and the [WIPO Overview 3.0](#), where appropriate.

B. Rights or Legitimate Interests

Paragraph 6(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, compare [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.

Moreover, the Panel notes that the disputed domain name contains the Complainant’s registered trademark and a geographic term (i.e., “uae”, being in English the abbreviation for the United Arab Emirates). The nature of this disputed domain name carries a risk of implied affiliation: in fact, certain geographic terms (e.g., <trademark-usa.com>, or <trademark.nyc>) are seen as tending to suggest 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 or is Being Used in Bad Faith

The Panel notes that, for the purposes of paragraph 6(a)(iii) of the Policy, paragraph 6(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.

One of these circumstances is that the Respondent by using the disputed domain name, has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of its website or location or of a product or service on its website or location (paragraph 6(b)(iv) of the Policy). In the present case, the Panel notes that it results from the Complainant’s documented allegations that the disputed domain name resolved to a website purportedly offering for sale the Complainant’s products and competitive products. For the Panel, it is therefore evident that the Respondent positively knew the Complainant’s mark. Consequently, and in the absence of any evidence to the contrary, the Panel is convinced that the Respondent also knew that the disputed domain name included the Complainant’s trademark when it registered the disputed domain name.

Paragraph 6(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, compare [WIPO Overview 3.0](#), section 3.2.1.

On this regard, the further circumstances surrounding the disputed domain name’s registration and use confirm the findings that the Respondent has registered and is using the disputed domain name in bad faith:

- (i) the nature of the disputed domain name (incorporating the Complainant's mark plus the addition of a geographical term);
- (ii) the content of the website to which the disputed domain name direct, purportedly offering for sale the Complainant's products and competitive products;
- (iii) a clear absence of rights or legitimate interests coupled with no response for the Respondent's choice of the disputed domain name; and
- (iv) the failure to reply to the cease and desist letter.

Finally, concerning the disclaimer placed on the website to which the disputed domain name directs, the Panel notes that the Complainant failed to prove that it was added by the Respondent only after receiving the cease and desist letter. However, it shares the view of previous Panels and underlines that where the overall circumstances of a case point to the respondent's bad faith, as it is the case here, the mere existence of a disclaimer cannot cure such bad faith. In such cases, panels may consider the respondent's use of a disclaimer as an admission by the respondent that users may be confused. [WIPO Overview 3.0](#), section 3.7.

The Panel finds that the Complainant has established the third element of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 6(i) of the Policy and 15 of the Rules, the Panel orders that the domain name <juuluae.ae> be transferred to the Complainant.

/Tobias Malte Müller /

Tobias Malte Müller

Panelist

Date: May 10, 2024