

ADMINISTRATIVE PANEL DECISION

JB IP, LLC v. Dove Smith
Case No. D2023-2876

1. The Parties

The Complainant is JB IP, LLC, United States of America (“United States”), represented by Valauskas Corder LLC, United States.

The Respondent is Dove Smith, United States.

2. The Domain Name and Registrar

The disputed domain name <420jungleboys.com> (the “Disputed Domain Name”) is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 5, 2023. On July 6, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On July 6, 2023, the Registrar transmitted by email to the Center its verification response, confirming that the Respondent is listed as the registrant and its contact details.

The Center verified that 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 July 26, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 15, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 25, 2023.

The Center appointed Lynda M. Braun as the sole panelist in this matter on September 7, 2023. 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 Delaware limited liability company whose business is to cultivate and sell clean, potent cannabis. The Complainant has been continuously using the JUNGLE BOYS trademark in the cannabis industry since 2009. Complainant operates under the JUNGLE BOYS trademark on its websites at “www.jungleboys.com” and “www.jungleboysclothing.com”, among others, which include a display of Complainant’s trademarks, text, artwork, photographs, and other copyrightable content. The Complainant also operates retail stores in California and Florida, United States.

The Complainant owns California State Trademark JUNGLE BOYS, Registration No. 02001302, with a date of first use and a date of first use in commerce of April 20, 2009, in international classes 5 and 34.

The Complainant also owns JUNGLE BOYS, United States Trademark Registration No. 7134110, filed on October 5, 2020 and registered on August 8, 2023, in international classes 16, 21 and 34.

The aforementioned trademarks will hereinafter be referred to as the “JUNGLE BOYS Mark”.

The Disputed Domain Name was registered on November 1, 2020 and resolves to a website that impersonates the Complainant’s website, including displaying the Complainant’s JUNGLE BOYS Mark, products, and images of the Complainant’s retail stores.

5. Parties’ Contentions

A. Complainant

The following are the Complainant’s contentions:

- the Disputed Domain Name is confusingly similar to the Complainant’s JUNGLE BOYS Mark.
- the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name.
- the Disputed Domain Name was registered and is being used in bad faith.
- the Complainant seeks the transfer of the Disputed Domain Name from the Respondent in accordance with paragraph 4(i) of the Policy.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy requires that the Complainant prove the following three elements in order to prevail in this proceeding:

- (i) the Disputed Domain Name is identical or confusingly similar to trademarks or service marks 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 was registered and is being used in bad faith.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires a two-fold inquiry: a threshold investigation into whether a complainant has rights in a trademark, followed by an assessment of whether the disputed domain name is identical or confusingly similar to that trademark. The Panel concludes that in the present case, the Disputed Domain Name <420jungleboys.com> is confusingly similar to the JUNGLE BOYS Mark.

The Complainant has a California State trademark with a date of first use in commerce of April 20, 2009. The Complainant also has the United States federal trademark registration for the JUNGLE BOYS Mark.

The Disputed Domain Name consists of the JUNGLE BOYS Mark in its entirety preceded by the number “420” and followed by the generic Top-Level Domain (“gTLD”) “.com”. It is well established that a domain name that wholly incorporates a trademark may be deemed confusingly similar to that trademark for purposes of the Policy despite the addition of other terms. As stated in section 1.8 of the [WIPO Overview 3.0](#), “where the relevant trademark is recognizable within the disputed domain name, the addition of other terms . . . would not prevent a finding of confusing similarity under the first element”. See *e.g., Government Employees Insurance Company v. Domain Admin, Whois Privacy Corp.*, WIPO Case No. [D2021-1401](#) (finding confusing similarity for <1geico.com> with GEICO, stating that “[t]he addition of a number to a trademark does not prevent the confusing similarity that exists between the disputed domain name and the Complainant’s trademark”).

Finally, the addition of a gTLD such as “.com” in a domain name is a technical requirement. Thus, it is well established that such element may typically be disregarded when assessing whether a disputed domain name is identical or confusingly similar to a trademark. See *Proactiva Medio Ambiente, S.A. v. Proactiva*, WIPO Case No. [D2012-0182](#) and [WIPO Overview 3.0](#), section 1.11.1. Thus, the Panel concludes that the Disputed Domain Name is confusingly similar to the Complainant’s JUNGLE BOYS Mark.

Accordingly, the Panel finds that the first element of paragraph 4(a) of the Policy has been met by the Complainant.

B. Rights or Legitimate Interests

Under the Policy, a complainant has to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name. Once such a *prima facie* case is made, the respondent carries the burden of production of evidence that demonstrates rights or legitimate interests in the disputed domain name. If the respondent fails to do so, the complainant may be deemed to have satisfied paragraph 4(a)(ii) of the Policy. See [WIPO Overview 3.0](#), section 2.1.

In this case, given the facts as set out above, the Panel finds that the Complainant has made out a *prima facie* case. The Respondent has not submitted any arguments or evidence to rebut the Complainant’s *prima facie* case. Furthermore, the Complainant has not authorized, licensed or otherwise permitted the Respondent to use its JUNGLE BOYS Mark. Nor does the Complainant have any type of business relationship with the Respondent. There is also no evidence that the Respondent is commonly known by the Disputed Domain Name or by any similar name, nor any evidence that the Respondent was using or making demonstrable preparations to use the Disputed Domain Name in connection with a *bona fide* offering of goods or services. See Policy, paragraph 4(c).

When Internet users arrive at the Disputed Domain Name, they are directed to a website hosted by the Respondent at “www.420jungleboys.com”, where the Respondent offers cannabis-related products to customers, which products compete with those offered by the Complainant on its website. The Respondent is not making a legitimate noncommercial or fair use of the Disputed Domain Name, but rather is using the Disputed Domain Name for commercial gain with the intent to mislead the Complainant’s customers into thinking that they had arrived at the Complainant’s website.

Moreover, the Respondent's unauthorized registration and use of the Disputed Domain Name to create a website replicating the Complainant's website and bearing the JUNGLE BOYS Mark does not constitute a *bona fide* offering of goods or services or noncommercial fair use under the Policy. The Respondent also copied the Complainant's storefront images on its website. The images displayed on the Respondent's website are similar, if not identical, to the Complainant's retail stores in California and Florida, United States. As such, the Respondent was not making a legitimate noncommercial or fair use of the Disputed Domain Name.

Finally, the composition of the Disputed Domain Name, comprising the entirety of the JUNGLE BOYS Mark, carries a risk of implied affiliation and cannot constitute fair use here, as it effectively infringes and suggests sponsorship or endorsement by the Complainant. See [WIPO Overview 3.0](#), section 2.5.1.

Accordingly, the Panel finds that the second element of paragraph 4(a) of the Policy has been met by the Complainant.

C. Registered and Used in Bad Faith

The Panel finds that, based on the record, the Complainant has demonstrated the existence of the Respondent's bad faith pursuant to paragraph 4(b) of the Policy as set forth below.

First, based on the circumstances here, the Panel concludes that the Respondent registered and is using the Disputed Domain Name in bad faith in an attempt to attract Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's JUNGLE BOYS Mark as to the source, sponsorship, affiliation or endorsement of the Disputed Domain Name. The Respondent's registration and use of the Disputed Domain Name indicate that such registration and use has been done for the specific purpose of trading on and targeting the name and reputation of the Complainant. See *Madonna Ciccone, p/k/a Madonna v. Dan Parisi and "Madonna.com"*, WIPO Case No. [D2000-0847](#) ("[t]he only plausible explanation for Respondent's actions appears to be an intentional effort to trade upon the fame of Complainant's name and mark for commercial gain").

Second, the Panel finds that the Respondent knew that the Complainant had rights in the JUNGLE BOYS Mark when registering the Disputed Domain Name. The Respondent registered the Disputed Domain Name several years after the Complainant first used the JUNGLE BOYS Mark in 2009, and after the Complainant's California State Trademark JUNGLE BOYS was registered in 2019. Further, the Respondent mimicked the Complainant's website, using the Complainant's JUNGLE BOYS Mark and photographs of the Complainant's products on its resolving website, making clear that the Respondent was well aware of the Complainant and its JUNGLE BOYS Mark, demonstrating bad faith. Therefore, it strains credulity to believe that the Respondent had not known of the Complainant or its JUNGLE BOYS Mark when registering the Disputed Domain Name. See *Myer Stores Limited v. Mr. David John Singh*, WIPO Case No. [D2001-0763](#) ("a finding of bad faith may be made where the respondent "knew or should have known" of the registration and/or use of the trademark prior to registering the domain name"). In sum, the Panel finds it likely that the Respondent had the Complainant's JUNGLE BOYS Mark in mind when registering the Disputed Domain Name.

Moreover, the Respondent's registration of the Disputed Domain Name was an attempt to disrupt the Complainant's business by diverting Internet users who were searching for the Complainant's cannabis products from its official website as well as to prevent the Complainant from registering the Disputed Domain Name. See *Banco Bradesco S.A. v. Fernando Camacho Bohm*, WIPO Case No. [D2010-1552](#). The Panel thus concludes that the Respondent registered and is using the Disputed Domain Name in bad faith.

Finally, UDRP panels have consistently found that the mere registration of a disputed domain name that reproduces a well-known trademark in its entirety (being identical or confusingly similar to such trademark) plus a descriptive term, can by itself create a presumption of bad faith. See [WIPO Overview 3.0](#), section 3.1.4. The Disputed Domain Name <420jungleboys.com> is confusingly similar to the Complainant's domain

name <jungleboys.com>, save for the addition of the number “420” preceding the JUNGLE BOYS Mark in the Disputed Domain Name.

Accordingly, the Panel finds that the third element of paragraph 4(a) of the Policy has been met by the Complainant.

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 <420jungleboys.com> be transferred to the Complainant.

/Lynda M. Braun/

Lynda M. Braun

Sole Panelist

Date: September 21, 2023