

ADMINISTRATIVE PANEL DECISION

J-B Weld Company, LLC v. Goldwin678, Goldwin Jaya
Case No. D2023-3829

1. The Parties

The Complainant is J-B Weld Company, LLC, United States of America (“United States” or “US”), represented by Nelson Mullins Riley & Scarborough, L.L.P., United States.

The Respondent is Goldwin678, Goldwin Jaya, Cambodia.

2. The Domain Name and Registrar

The disputed domain name <jbweld.net> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 13, 2023. On September 14, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 14, 2023, 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, PrivacyGuardian.org LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 18, 2023, 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 amended Complaint on September 19, 2023.

The Center verified that the Complaint together with the amended 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 September 20, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 10, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 13, 2023.

The Center appointed Tobias Malte Müller as the sole panelist in this matter on October 26, 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 international company that produces epoxy products. It has been founded in 1969 and uses the J-B WELD trademark in connection with epoxy products since then. Today, Complainant's epoxy products are distributed across the United States at more than 50,000 retail locations and in addition in Canada, Mexico, and more than 30 other countries around the world.

It results from the Complainant's documented allegations, which remained undisputed, that it owns several trademarks consisting of or containing the verbal elements J-B WELD, including verbal US trademark registration for J-B WELD, No. 1008265 filed on December 10, 1973 and registered on April 8, 1975, for goods in class 1. This mark has been duly renewed and is in force.

The disputed domain name was created on April 22, 1999. The language of the Registration Agreement is English.

The Complainant has provided – undisputed – evidence demonstrating that the disputed domain name automatically redirects to AIDSINAFRICA.NET which resolves to an active website for online gambling.

5. Parties' Contentions

A. Complainant

Firstly, the Complainant contends that the disputed domain name is confusingly similar to the Complainant's mark since it incorporates the entirety of the J-B WELD Mark, with the sole difference being the omission of the hyphen between the letters "j" and "b".

Secondly, the Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. In particular, it is more than reasonable to conclude that Respondent has never been commonly known by the disputed domain name. Furthermore, domain names identical/confusingly similar to a complainant's trademark carry a risk of implied affiliation. In addition, using the disputed domain name to redirect visitors to the website which features links to various online gambling options does not support a claim to rights or legitimate interests. In particular, such use is not a bona fide offering of goods or services.

Finally, the Respondent's registration and use of the disputed domain names constitutes – in the Complainant's view – bad faith. In fact, according to the Complainant, the J-B Weld Mark is widely known and has resulted from Complainant's fifty-four years of exclusive use. This is sufficient to create a presumption of bad faith registration of the disputed domain name, and one that Respondent is unlikely to refute based on Respondent's current use of the disputed domain name. Furthermore, redirecting a domain name to third-party websites, and the absence of any conceivable good faith use, supports a finding that a respondent has registered a domain name to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the complainant's mark, and thus registered the domain name in bad faith.

For all of the above reasons, the Complainant requests the transfer of the disputed domain name.

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 4(a) of the Policy requires the Complainant to prove each of the following three elements in order to obtain an order that the disputed domain name should 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 and is being used in bad faith.

The Panel is satisfied that the registrant of record for the disputed domain name is the Respondent and will, therefore, proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied.

A. Identical or Confusingly Similar

Pursuant to paragraph 4(a)(i) of the Policy, the Complainant must establish rights in a trademark or service mark and secondly establish that the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights.

It results from the evidence provided that the Complainant is the registered owner of US trademark registration J-B WELD, registration no.1008265 filed on December 10, 1975.

While each case is judged on its own merits, in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing (see section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). This Panel shares the same view and notes that the disputed domain name contains the Complainant's registered trademark J-B WELD almost identically. In fact, only the hyphen between the letters "j" and "b" and the space between the "b" and "weld" have been omitted. The Panel has therefore no doubts that in a side-by-side comparison of the disputed domain name and the relevant trademark J-B WELD, the latter mark remains clearly recognizable within the disputed domain name.

Finally, the generic Top-Level Domain ("gTLD") ".net" of the disputed domain name may be disregarded under the first element confusing similarity test (see section 1.11.1 of the [WIPO Overview 3.0](#)).

In the light of the above, the Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(a)(ii) of the Policy, the Complainant must secondly establish that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

Paragraph 4(c) of the Policy contains a non-exhaustive list of circumstances which, if found by the Panel to be proved, shall demonstrate the Respondent's rights or legitimate interests in the disputed domain name. In the Panel's view, based on the un rebutted allegations stated above, the Complainant has made a prima facie case that none of these circumstances are found in the case at hand and, therefore, that the Respondent lacks rights or legitimate interests in the disputed domain name.

The disputed domain name automatically redirects to the website "www.aidsinafrice.net" which resolves to an active website for online gambling. Such use for commercial online gambling services can neither be considered a bona fide offering of goods or services nor a legitimate noncommercial or fair use of the disputed domain name in the sense of paragraphs 4(c)(i) and (iii) of the Policy. In addition, this Panel finds it most likely that the Respondent selected the disputed domain name with the intention to take advantage of the Complainant's registered trademarks J-B WELD by registering a domain name consisting almost identically of that trademark with the intent to attract Internet users for commercial gain to a gambling website.

Finally, the Panel does not dispose of any elements that could lead the Panel to the conclusion that the Respondent is commonly known by the disputed domain name or that it has acquired trademark rights pursuant to paragraph 4(c)(ii) of the Policy.

It is acknowledged that once the Panel finds such *prima facie* case is made, the burden of production shifts to the Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name. Since the Respondent in the case at hand failed to come forward with any allegations or evidence in this regard, this Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

The Complainant is therefore deemed to have satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Pursuant to paragraph 4(a)(iii) of the Policy, the Complainant must thirdly establish that the disputed domain name has been registered and is being used in bad faith. The Policy indicates that certain circumstances specified in paragraph 4(b) of the Policy may, "in particular but without limitation", be evidence of the disputed domain name's registration and use 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 4(b)(iv) of the Policy).

It is the view of this Panel that these circumstances are met in the case at hand. The Complainant's trademarks have existed for decades. Therefore, this Panel has no doubt that the Respondent positively knew of the Complainant and its trademarks when it registered the disputed domain name. Registration of the disputed domain name by the Respondent in awareness of a third party's mark and in the absence of rights or legitimate interests in this case amounts to registration in bad faith.

Finally, 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 (see [WIPO Overview 3.0](#), section 3.2.1):

- (i) the nature of the disputed domain name incorporating the Complainant's distinctive mark almost identically;
- (ii) the content of the website to which the disputed domain name redirects and which offers gambling services;
- (iii) a clear absence of rights or legitimate interests coupled with no credible explanation for the Respondent's choice of the disputed domain name;

In the light of the above, the Panel finds that the disputed domain name has been registered and is being used in bad faith. The Complainant is therefore deemed to also have satisfied the third element, paragraph 4(a)(iii) 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 <jbweld.net> be transferred to the Complainant.

/Tobias Malte Müller/

Tobias Malte Müller

Sole Panelist

Date: November 9, 2023