

ADMINISTRATIVE PANEL DECISION

Chewy, Inc. v. Youth Masti, Amir
Case No. D2023-4192

1. The Parties

The Complainant is Chewy, Inc., United States of America (“United States” or “US”), represented by Winterfeldt IP Group PLLC, United States.

The Respondent is Youth Masti, Amir, Pakistan.

2. The Domain Name and Registrar

The disputed domain name <chewy.wiki> (the “Disputed Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 9, 2023. On October 10, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On October 10, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 11, 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 October 16, 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 October 18, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 7, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 9, 2023.

The Center appointed Nick J. Gardner as the sole panelist in this matter on November 13, 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 an American online retailer of pet food and other pet-related products founded in 2011 and headquartered in the US. The Complainant employs over 20,000 people and had sales of over USD 8 billion in 2021 with over 20 million active customers.

The Complainant operates its official web shop from the website at the domain name <chewy.com> where Internet users can purchase products from more than 3,500 brands. The Complainant provides pet supplies and pet wellness-related services through its online retail store, including pet food, treats, supplies, and veterinary pharmaceutical products. The Complainant has registered various trademarks for the word CHEWY, such as the United States trademark no. 5028009 registered on August 23, 2016, and the European Union Trade Mark no. 016605834 registered on August 10, 2017. These trademarks are referred to as the “CHEWY trademark” in this decision.

The Disputed Domain Name was registered on February 3, 2023, and at the date of this decision does not resolve to an active website. According to evidence submitted with the Complaint, the Disputed Domain Name previously resolved to a website (the “Respondent’s Website”) entitled “chewy.wiki” featuring animal-related articles, including articles about wild animals and endangered species. The Respondent’s Website displayed an introductory banner on the homepage which read “All About Pets and Animals, Diseases and Treatments”. The content on several interior webpages on the Respondent’s Website appeared to host “lorem ipsum” placeholder text.

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 content of the Respondent’s website shows that the Respondent is targeting the Complainant, as there is no justification for the use of the term “chewy” in relation to the website content, apart from its connection with the Complainant and its animal and pet related business.

B. Respondent

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

6. Discussion and Findings

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 Selected UDRP Questions, Third Edition, ([“WIPO Overview 3.0”](#)), section 1.7.

The Panel finds 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 Panel finds the entirety of the mark is reproduced within the Disputed Domain Name. Accordingly, the Disputed Domain Name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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.

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.

Having reviewed the 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 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.

The Panel concludes that the Respondent chose to register a name comprising the Complainant’s trademark. The evidence before the Panel does not provide sufficient material for the Panel to reach a conclusion on exactly what the Respondent’s intention was in so doing. It does however seem more likely than not that the Respondent chose the term “chewy” because it corresponded to the Complainant’s trademark given that the Respondent’s Website contains material relating to pets and animals, and there is no other apparent reason why the term “chewy” would be relevant to the content that is displayed. Under paragraph 4(b) of the Policy a non-exhaustive list of factors evidencing registration and use in bad faith comprises:

- (i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or
- (ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

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

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your 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 your web site or location or of a product or service on your web site or location.

In the present circumstances factor (ii) is not applicable but the Panel cannot clearly determine which, if any, of the other factors may apply. However, the Panel notes that in any event this list is non exhaustive and takes the view that the acquisition of the Disputed Domain Name with knowledge of the Complainants' trademark is itself evidence of bad faith – see *The Channel Tunnel Group Ltd v. John Powell*, WIPO Case No. [D2000-0038](#). This is particularly so given that the Respondent has not filed a Response and hence has not availed himself of the opportunity to present any case of good faith that he might have. The Panel infers that none exists.

Accordingly, the Panel finds the third element of the Policy has been established.

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, <chewy.wiki>, be transferred to the Complainant.

/Nick J. Gardner/

Nick J. Gardner

Sole Panelist

Date: November 27, 2023