

ADMINISTRATIVE PANEL DECISION

Deckers Outdoor Corporation v. Doman Manager (Domain Manager) Case No. D2024-1282

1. The Parties

The Complainant is Deckers Outdoor Corporation, United States of America (“United States”), represented by Markmonitor, United States.

The Respondent is Doman Manager (Domain Manager), Brazil.

2. The Domain Name and Registrar

The disputed domain name <ahnu.com> is registered with Sea Wasp, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 25, 2024. On March 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 27, 2024, 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 (Jewella Privacy - 7ffc8, Jewella Privacy LLC Privacy ID# 1265481) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 2, 2024, 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 April 5, 2024.

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 April 8, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 28, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 2, 2024.

The Center appointed Nick J. Gardner as the sole panelist in this matter on May 7, 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.

On May 23, 2024, the Panel issued a Procedural Order (the "Procedural Order") which provided as follows:

"Background

The domain name at issue is <ahnu.com>. According to the Complaint, the Complainant acquired the AHNU brand in 2009 and "the brand was redesigned in 2024". The Complainant provides snapshots of its website at the <ahnu.com> domain name, the last one being dated September 30, 2016, and claims to have inadvertently let lapse the registration of the <ahnu.com> domain name sometime in 2021 following 15 years of continuous use, at which point the Respondent registered the <ahnu.com> domain name.

From the available record, it is unclear what activities the Complainant was carrying out in relation to the AHNU brand when the Respondent registered <ahnu.com> in June 2021 and whether there was, or is, any residual goodwill associated with the AHNU brand as connected to the Complainant.

Therefore, the Panel has carried out limited factual research (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions,^[1] Third Edition ("[WIPO Overview 3.0](#)") section 4.8) with the following results:

- 1) it appears that the Complainant may have discontinued use of the AHNU brand in 2018 - see <https://footwearnews.com/business/business-news/deckers-launches-ahnu-sneaker-brand-release-info-1203598526>.
- 2) searches on archive.org would appear to indicate that in 2020 and up to April 16, 2021 (the date of the last available snapshot prior to the Respondent's registration of the domain name at issue), the domain name <ahnu.com> continued to be used, but by means of redirecting to a website promoting footwear brands of the Complainant other than the AHNU brand.

The Panel intends to rely upon the above information in its decision.

Order

In accordance with the procedure suggested in [WIPO Overview 3.0](#) at section 4.8 the Panel offers the Parties the opportunity to comment on the above material. Any comments should be by way of a further filing accompanied by appropriate evidence. Such filings should be sent to the Center by June 7, 2024, copying the other Party.

The due date for the Panel's decision is extended to June 14, 2024".

On June 7, 2024, the Complainant filed a submission pursuant to the Procedural Order. Nothing was filed by the Respondent.

4. Factual Background

The Complainant was founded in 1973 and is a footwear designer and distributor based in California, United States. The Complainant has a large portfolio of footwear brands that includes UGG, Teva, AHNU, Sanuk, Hoka, and Koolaburra.

The Complainant purchased the AHNU brand in 2009. It was a well-known outdoor footwear brand. In 2018 the Complainant discontinued production of AHNU branded footwear. In 2024 the brand was relaunched by the Complainant having been redesigned as a brand relating to what the Complainant describes as a "super sneaker brand that transcends functionality".

The Complainant owns a number of trademarks AHNU – see for example United States Trademark No. 3390215, AHNU, registered on February 26, 2008, these trademarks are referred to as the “AHNU trademark” in this decision.

The Disputed Domain Name was owned by the Complainant but it allowed it to lapse in 2021. The Respondent registered it on June 8, 2021 and it redirects to a website which indicates it is for sale. The evidence shows that a price of USD 10,000 was indicated.

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. Insofar as it discontinued production of AHNU branded footwear in 2018 it says such footwear continued to be sold. The Complainant has pursuant to the Procedural Order provided evidence as to the value of sales but says the figures concerned are confidential. The Panel will deal with this information as follows.

Sales in 2015 were very substantial and commensurate with a major international business. Sales in subsequent years declined to near zero in 2019 to 2021. The Panel infers these sales in 2019 and 2020 are “run off” of remaining stock.

The Complainant says that in view of its sales and the continuous goodwill associated with the popularity of Complainant’s AHNU brand among consumers, it is clear that Respondent registered the Disputed Domain Name with the Complainant in mind. The Complainant cites a large number of previous UDRP cases in support of its contentions. Where relevant these are discussed below.

The Complainant also says that Respondent’s other conduct since the filing of the Complaint reinforces this bad faith intent. It says that Respondent’s email address is also used for registration of the domain name <paylesshoestore.com> (which the Complainant says is targeting another trademark owner from the footwear industry – Payless ShoeSource Worldwide, Inc.– the owner of the PAYLESS SHOES trademark). The Complainant says that after the Complainant raised a serial cybersquatting argument in the Complaint, the Respondent deleted the domain name <paylesshoestore.com>. Given that the expiration date of the domain name <paylesshoestore.com> is September 3, 2024, there is no reason for Respondent to take such action other than in an attempt to cover up wrongdoing. The Complainant says this fact also reinforces that Respondent knew about the Complaint and choose not to respond.

The Complainant says it inadvertently allowed the Disputed Domain Name to lapse in 2021.

B. Respondent

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

6. Discussion and Findings

Procedural Matters

The Panel notes that no communication has been received from the Respondent. However, given the Complaint and Written Notice were sent to the relevant addresses disclosed by the Registrar, then the Panel considers that this satisfies the requirement in paragraph 2(a) of the UDRP Rules to “employ reasonably available means calculated to achieve actual notice”. Accordingly, the Panel considers it is able to proceed to determine this Complaint and to draw inferences from the Respondent’s failure to file any Response. While the Respondent’s failure to file a Response does not automatically result in a decision in favour of the

Complainant, the Panel may draw appropriate inferences from the Respondent's default (see, e.g., *Verner Panton Design v. Fontana di Luce Corp*, WIPO Case No. [D2012-1909](#)).

Substantive Matters

To succeed, in accordance with paragraph 4(a) of the Policy, the Complainant must satisfy the Panel that:

- (i) the Disputed Domain Name is identical with 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;
- (iii) the Disputed Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has rights in the AHNU trademark. The Disputed Domain Name is identical to that trademark. It is well established that the generic Top-Level Domain ("gTLD"), in this case ".com", is not generally taken into account for the purpose of determining whether a domain name is identical or confusingly similar – see for example *Rollerblade, Inc. v. Chris McCrady*, WIPO Case No. [D2000-0429](#). See also WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.11.

Accordingly, the Panel finds that the Disputed Domain Name is identical to the Complainant's trademark and hence the first condition of paragraph 4(a) of the Policy has been fulfilled.

B. Rights or Legitimate Interests

In view of the Panel's finding in relation to bad faith (below) it is not necessary to determine this issue.

C. Registered and Used in Bad Faith

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.

The Complainant in effect alleges (i) and (ii) apply.

The Panel does not regard the present case as straightforward. Given the lack of Response the Panel does not know what the Respondent has to say. It is however generally known that four letter domain names in the “.com” gTLD are inherently valuable and that all such names (there are 456,976 variations) are registered. It follows that when this type of domain name lapses and becomes available it may well be inherently valuable irrespective of what its previous usage may have been. “Ahnu” is simply four letters of the alphabet. Those letters when conjoined in this way do not form an immediately recognizable word - but they can be an acronym. Commonly when a domain name lapses it becomes available for reregistration and it is common practice for details of names that are likely to become available to be publicized beforehand, often in connection with some form of auction or competitive bidding process. The Panel would not be surprised by a lapsed four letter domain name being acquired immediately when it became available almost irrespective of whatever its previous usage may have been.

The fact that in a lapsed domain name case there will likely have been previous usage is however a specific factor relevant to each case scenario. In this regard, see *Supermac’s (Holdings) Limited v. Domain Administrator, DomainMarket.com*, WIPO Case No. [D2018-0540](#) where the Panel stated as follows: “The Panel emphasizes that critical to its reasoning and its conclusion in this case is that the Respondent acquired the disputed domain name through drop-catching. Registration of a domain name in that circumstance is not the same as ‘ordinary’ registration of a domain name (i.e., registration of a domain name which is not held by another person immediately prior to registration). Where registration occurs through drop-catching, the registrant is objectively aware that another person held the registration immediately prior. This, in effect, puts the registrant on notice that another person (the immediately prior registrant) may have rights in a trademark to which the domain name is identical or confusingly similar. Where, as in this case, the drop-catching registrant fails to take any steps to determine if such rights exist, then the registrant is taking the risk that such rights do exist. Where such rights do exist, where the value of the domain name derives primarily from those rights, and where the registrant’s only meaningful use of the domain name is to offer it for sale, then the registrant is liable to be considered as having registered the domain name primarily for the purpose of selling it to the person who has those rights.”

Where a lapsed domain name is registered by a third party the analysis is straightforward if the domain name can only sensibly relate to the previous registrant. See for example *Safe Securities Inc., Formerly Lucideus Inc v. Tmotius Michael*, WIPO Case No. [D2021-3236](#) ; *Herr Foods Inc. v. virken irawan* ,WIPO Case No. [D2023-0810](#); *James Patrick Duffy v. Nie Nie*, WIPO Case No. [D2021-0713](#) ; *Haringey London Borough Council v. Host Master, 1337 Services LLC*, WIPO Case No. [D2023-1321](#); *Hiten Vyas v. fla cheya*, WIPO Case No. [D2024-0303](#) .

The present case is not as straightforward because the Disputed Domain Name is likely to have inherent value. Further even if the Respondent had taken steps at the time he registered the Disputed Domain Name to enquire as to the previous registrant’s position the result may or may not have led him to the conclusion that the Complainant had an ongoing interest in the term “ahnu”. In this regard see *DSPA B.V. v. Bill Patterson, Reserved Media LLC*, WIPO Case No. [D2020-1449](#) where the three person Panel stated: “As stated above, the Panel concludes that the Respondent registered the four-letter Disputed Domain Name because of its inherent value, and not because of the Complainant or the Trade Mark (see *Instrumentation Northwest, Inc. v. INW.COM c/o Telepathy, Inc.*, WIPO Case No. [D2012-0454](#)). In such circumstances, it is difficult for the Complainant to demonstrate bad faith registration by the Respondent”.

The Complainant says the Respondent must have had the Complainant in mind. It says as follows “Supposing that the Respondent was not aware of the possibility of searching trademarks online before registering the disputed domain name, a simple search via Google or any other search engine using the keyword ‘AHNU’ demonstrates that the results on the first page relate to the Complainant and its AHNU products”. The Complainant produces as an exhibit the Google search in question. However, this search appears to have been carried out on March 16, 2024 (i.e., after the Complainant had relaunched its AHNU brand) and the Panel infers was likely carried out in the United States. It does not assist in determining what results the Respondent would have obtained had he carried out such a search in 2021 (i.e., three years after the Complainant had discontinued manufacture of AHNU branded footwear), and the search was carried out in Brazil where the Respondent appears to be located.

As indicated above if any such searching had been carried out and had identified the Complainant and its ANHU brand, the Panel thinks it likely it may have revealed the Complainant had ceased production of AHNU branded footwear.

The Panel also in passing notes that the Complainant's search shows a third party using AHNU as a brand in relation to perfume.

In the case as presented by the Complainant there is no evidence of the Respondent targeting the Complainant. It appears he has offered the Disputed Domain Name for sale generally.

The Complainant also relies on what it says is the Respondent's conduct in relation to another domain name <paylesshoestore.com>. It says this domain name was also registered by the Respondent as its contact details as shown in its WHOIS data contain the same email address as that used by the Respondent in its registration of the Disputed Domain Name. The Panel does not think this evidence is sufficiently clear to allow a conclusion adverse to the Respondent to be drawn. The email address is the same in both cases but that is the only similarity. In the present case the registrant identity was behind a privacy service and the registrars seem to be different. Registrar confirmation identified the Respondent who is (or appears to be) an individual with an address in Brazil. In the case of <paylesshoestore.com> no privacy service was employed and the registrant was a company called Corek LLC with a PO Box address in Fort Lauderdale, Florida, USA. Corek LLC would appear to be a domain name investment company – see www.corekllc.com. Whilst the Panel cannot account for the same email address being shown for both domain names, further evidence and explanation would be required before reaching a definitive conclusion on this issue.

The Panel will also consider the specific arguments advanced by the Complainant on relevant issues. The Complainant says the Disputed Domain Name has been offered for sale. That is correct. It also says the Disputed Domain Name has at one point redirected to a parking page with sponsored links. The evidence on this is not clear – the relevant material (the Complainant's exhibit 8) shows the outline of a parking page but it displays no links.

The Complainant says that bad faith can be found “where a domain name is so obviously connected with a well-known trademark that its very use by someone with no connection to the trademark suggests opportunistic bad faith” and cites *Veuve Clicquot Ponsardin, Maison Fondée en 1772 v. The Polygenix Group Co.*, WIPO Case No. [D2000-0163](#). But the domain name in that case was <veuvecliquot.org> which could not sensibly relate to anyone other than the complainant. It also cites *Sanofi-Aventis v. Nevis Domains LLC*, WIPO Case No. [D2006-0303](#). The domain name in that case was <plavix.com> which directly related to the Complainant's PLAVIX trademark. These principles may in some specific circumstances apply to a four letter acronym – there may be some four letter domain names where the corresponding brand is so well known that the principles apply – DIOR or LEGO for example, but the Panel is not persuaded that the same principle applies to four letter acronyms generally, and does not consider it applies here.

The Complainant says that the registration by a respondent of an expired domain name, in particular, a recently-expired domain name, which incorporates a distinctive mark, can serve as evidence of bad faith and refers to by way of example *Reduxio Systems Ltd. (Now doing business as Ionir Systems) v. Ron Peleg*, WIPO Case No. [D2023-2165](#) and *Eli Lilly and Company v. Domain Magic, LLC*, WIPO Case No. [D2007-0144](#). The first case concerned <reduxio.com> which on its face only related to the previous registrant, Reduxio Systems Ltd. The second case concerned the domain name <pulmotilac.com> which only sensibly related to the Complainant's trademark PULMOTIL AC. Again, the Panel is not persuaded these principles apply to a domain name which is a four letter acronym.

The Complainant also says that it is likely that the Respondent registered the Disputed Domain Name to prevent the Complainant from registering the domain name corresponding to its trademark within the “.com” gTLD. It says this is of additional relevance when it is taken into account that the Respondent has registered the Disputed Domain Name as soon as the Complainant has lost it due to inadvertent renewal failure and refers to *L'oreal v. Chenxiangsheng*, WIPO Case No. [D2009-0242](#). The Panel does not follow the

Complainant's argument here as this case does not concern a lapsed domain name – rather it is a straightforward case of a respondent registering a domain name which comprised a famous trademark combined with a geographic term.

Taking all of the above into account, the Panel is not satisfied that the Complainant has established that the Disputed Domain Name was registered and used in bad faith.

The Panel notes that this decision is not such a case as *Food and Wine Travel Pty Ltd v. Michael Keriakos, Keriakos Media Ventures*, WIPO Case No. [D2016-1953](#) where the panel said in reference to a lapsed domain name there would be a remedy only “where it can be shown that such a mistake has been capitalized on by a respondent who has acted in bad faith.”

7. Decision

For the foregoing reasons, the Complaint is denied.

/Nick J. Gardner/

Nick J. Gardner

Sole Panelist

Date: June 14, 2024