

ADMINISTRATIVE PANEL DECISION

Age International, Inc. dba Blanton Distilling Company v. Domain Administrator, See PrivacyGuardian.org / Allen Smith
Case No. D2022-0027

1. The Parties

Complainant is Age International, Inc. dba Blanton Distilling Company, United States of America (“United States”), represented by Leason Ellis LLP, United States.

Respondent is Domain Administrator, See PrivacyGuardian.org, United States / Allen Smith, United States.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 4, 2022. On January 5, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 5, 2022, 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 and contact information in the Complaint. The Center sent an email communication to Complainant on January 6, 2022 providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on January 11, 2022.

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 Respondent of the Complaint, and the proceedings commenced on January 12, 2022. In accordance with the Rules, paragraph 5, the due date for Response was February 1, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on February 2, 2022.

The Center appointed Sandra J. Franklin as the sole panelist in this matter on February 8, 2022. 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

Complainant is doing business in the United States as Blanton Distilling company, and holds a registration for the BLANTON'S mark with the United States Patent and Trademark Office ("USPTO") (Reg. No. 1699319, registered on July 7, 1992). Complainant is the owner of registrations throughout the world covering its BLANTON and BLANTON'S marks for use with bourbon whiskey.

Respondent registered the disputed domain name on December 22, 2021, and uses it to compete with Complainant by hosting a website purporting to offer discounted Complainant's products using photographs taken from Complainant's website and also offering third-party products.

5. Parties' Contentions

A. Complainant

- (1) The disputed domain name is confusingly similar to Complainant's BLANTON and BLANTON'S marks.
- (2) Respondent does not have any rights or legitimate interests in the disputed domain name.
- (3) Respondent registered and is using the disputed domain name in bad faith.

B. Respondent

Respondent did not reply to 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 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 that Complainant must prove each of the following three elements to obtain an order that a domain name should be cancelled or transferred:

- (1) the domain name registered by Respondent is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (2) Respondent has no rights or legitimate interests in respect of the domain name; and
- (3) the domain name has been registered and is being used in bad faith.

In view of Respondent's failure to submit a Response, the Panel shall decide this administrative proceeding on the basis of Complainant's undisputed representations pursuant to paragraphs 5(f), 14(a) and 15(a) of the Rules and draw such inferences it considers appropriate pursuant to paragraph 14(b) of the Rules. The Panel is entitled to accept all reasonable allegations set forth in a complaint; however, the Panel may deny relief where a complaint contains mere conclusory or unsubstantiated arguments. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.2.

A. Identical or Confusingly Similar

The Panel finds that Complainant has rights in the BLANTON and BLANTON'S marks under Policy paragraph 4(a)(i) through registration with the USPTO and other authorities around the world.

The disputed domain name incorporates Complainant's BLANTON mark in its entirety, and adds the word "bourbon", along with the geographic term "usa" and the generic Top-Level Domain ("gTLD") ".com". These changes are insufficient to prevent a finding of confusing similarity between the disputed domain name and Complainant's BLANTON mark. See *Société Nationale des Chemins v. Miller*, WIPO Case No. [D2009-0891](#); *Société Nationale des Chemins v. Casajuana*, WIPO Case No. [D2008-1593](#); *Red Bull GmbH v. Grey Design*, WIPO Case No. [D2001-1035](#). Therefore, the Panel finds that the disputed domain name is confusingly similar to Complainant's BLANTON mark.

The Panel finds that Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Once Complainant makes a *prima facie* case that Respondent lacks rights and legitimate interests in the disputed domain name under Policy paragraph 4(a)(ii), the burden shifts to Respondent to show it does have rights or legitimate interests. See [WIPO Overview 3.0](#), section 2.1.

The Panel notes that Respondent is not commonly known by the disputed domain name, as the Whois Information on record identifies Respondent as "Domain Administrator, See PrivacyGuardian.org". According to the Registrar's verification response, the underlying registrant is "Allen Smith". Complainant has not authorized or licensed Respondent to use its BLANTON mark. Therefore, the Panel finds that Respondent is not commonly known by the disputed domain name, and thus has no rights or interests under Policy paragraph 4(c)(ii). See *Telstra Corp. v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#) (finding no rights or legitimate interests where the disputed domain name incorporated complainant's registered mark and respondent was not a licensee of complainant).

Complainant also argues that Respondent uses the disputed domain name to compete with Complainant by hosting a website purporting to offer discounted Complainant's products using photographs taken from Complainant's website and also offering third-party products, which is not a *bona fide* offering of goods or services or a legitimate noncommercial or fair use. Complainant provides screenshots of its website and the website at the disputed domain name, showing that Respondent uses the disputed domain name to advertise identical or competing goods to those advertised by Complainant. The Panel finds that this use is not a *bona fide* offering of goods or services or a legitimate noncommercial or fair use, and thus Respondent has no rights or legitimate interests under Policy paragraphs 4(c)(i) or (iii).

The Panel finds that Complainant has satisfied Policy paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

Complainant argues that Respondent's registration and use of the disputed domain name to directly compete with Complainant demonstrates Respondent's bad faith. The Panel agrees and finds bad faith attraction for commercial gain under Policy paragraph 4(b)(iv).

Complainant also argues that it is well known and famous and that it is not possible to conceive of any use of disputed domain name by Respondent that would be legitimate. The Panel agrees and finds that this further demonstrates Respondent's bad faith. See *Telestra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#); see also *Jupiters Limited v. Aaron Hall*, WIPO Case No. [D2000-0574](#); see also *Ladbroke Group Plc v. Sonoma International LDC*, WIPO Case No. [D2002-0131](#).

The Panel finds that Complainant has satisfied Policy paragraph 4(a)(iii).

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, <blantonbourbonusa.com>, be transferred to the Complainant.

/Sandra J. Franklin/

Sandra J. Franklin

Sole Panelist

Date: February 22, 2022