

## **ADMINISTRATIVE PANEL DECISION**

**AEW Capital Management v. yunkook jung, beats 4**  
**Case No. D2022-2755**

### **1. The Parties**

The Complainant is AEW Capital Management, United States of America (“United States”), represented by Inlex IP Expertise, France.

The Respondent is yunkook jung, beats 4, Republic of Korea.

### **2. The Domain Name and Registrar**

The disputed domain name <aewus.com> is registered with DropCatch.com LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 27, 2022. On July 27, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 28, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the 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 August 11, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 31, 2022. The Respondent sent emails to the Center on August 24, 2022, and on September 6, 2022, but did not submit a formal Response. On September 5, 2022, the Center informed the Parties of the commencement of Panel Appointment Process.

The Center appointed Steven A. Maier as the sole panelist in this matter on September 15, 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

The Complainant is a real estate investment manager.

The Complainant is the owner of various trademark registrations comprising or including the term AEW. Those registrations include, for example:

- United States trademark registration number 5310289 for the word mark AEW, registered on October 17, 2017 for goods and services including financial and investment services; and
- International trademark registration number 1348979 for the word mark AEW, registered on March 13, 2017 for goods and services including financial and investment services.

The disputed domain name was registered on June 22, 2022.

According to evidence submitted by the Complainant, the disputed domain name has resolved to a “parking page” website containing what appear to be pay-per-click (“PPC”) advertising links to investment and wealth management services, apparently unrelated to the Complainant.

#### 5. Parties’ Contentions

##### A. Complainant

The Complainant submits that it is one of the world’s largest real estate investment managers, having been in operation for over 40 years. It claims USD 93 billion in assets under management and states that it has 800 clients, 780 employees and 17 offices across the globe. It refers to its website at “www.aew.com” and to the appearance of that website on the first page of a Google search against the term AEW. The Complainant submits that its trademark AEW is well known in North America, Europe and the Asia Pacific region in the field of investment services.

The Complainant submits that the disputed domain name is identical or confusingly similar to its trademark AEW. It states that the disputed domain name incorporates that trademark in full, together with the additional term “us” which is a geographical identifier and does not in any event distinguish the disputed domain name from its trademark.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. It contends that it has never licensed or permitted the Respondent to use its trademark AEW, that the Respondent has not commonly been known by the disputed domain name and that the Respondent is making neither *bona fide* commercial use nor legitimate noncommercial or fair use of the disputed domain name. The Complainant contends that the use of the disputed domain name to redirect to a PPC parking page cannot give rise to such rights or legitimate interests.

The Complainant submits that the disputed domain name was registered and is being used in bad faith. The Complainant contends that its trademark AEW is well known and that the Respondent cannot have registered an otherwise meaningless term merely by coincidence. The Complainant submits that the disputed domain name resolves to parking page including PPC links to financial and investment services which are competitive with those of the Complainant, and that the Respondent is attempting therefore to divert the Complainant’s customers to its website in order to earn revenue from PPC advertising.

The Complainant further submits that the Respondent has configured mail servers in connection with the disputed domain name, which gives rise to a concern that the disputed domain name may be used for fraudulent purposes. The Complainant contends in particular that the Respondent may use email addresses: “[...]@aewus.com” to pretend that such emails have originated from the Complainant.

The Complainant submits that the Respondent has provided an incomplete address to the Registrar in connection with the disputed domain name and exhibits a Google search result labelled “partial results”.

The Complainant contends that the Respondent has engaged in a pattern of bad-faith registration of domain names corresponding to third-party trademarks. It states that there are 227 domain name registrations associated with the Respondent’s email address, including such domain names as <fakebook.com> and <apple-maps.com>. The Complainant also cites the following cases under the UDRP in which it states the Respondent has been found to have registered domain names in bad faith:

- *La Française des Jeux v. Yunkook Jung*, WIPO Case No. [D2019-0902](#);
- *Linatex Limited v. Yunkook Jung*, WIPO Case No. [D2019-1784](#); and
- *Chabe Limousines SAS v. Yunkook Jung, Beats4*, WIPO Case No. [D2020-3435](#).

The Complainant submits that, in the last of these cases, the panel found the Respondent to have engaged in a pattern of cybersquatting activity.

The Complainant requests the transfer of the disputed domain name.

## **B. Respondent**

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

Both of the Respondent’s emails to the Center appear to comprise requests for correspondence to be copied to another email address, with which the Center complied.

## **6. Discussion and Findings**

In order to succeed in the Complaint, the Complainant is required to show that all three of the elements set out under paragraph 4(a) of the Policy are present. Those elements are that:

- (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.

### **A. Identical or Confusingly Similar**

The Complainant has established that it has registered trademark rights for the mark AEW. The disputed domain name incorporates that mark in full, together with the additional term “us”, which does not prevent the Complainant’s trademark from being recognizable within the disputed domain name. The Panel therefore finds that the disputed domain name is confusingly similar to the trademark in which the Complainant has rights.

### **B. Rights or Legitimate Interests**

In the view of the Panel, the Complainant’s submissions set out above give rise to a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. However, the Respondent has failed to file any Response in this proceeding and has not submitted any explanation for its registration and use of the disputed domain name, or evidence of rights or legitimate interests on its part in the disputed domain name, whether in the circumstances contemplated by paragraph 4(c) of the Policy or otherwise. The use of a domain name to generate PPC revenue does not amount to *bona fide* commercial use unless such use is legitimately connected with the (typically “dictionary word”) domain name in question

and does not seek to capitalize on third-party trademark rights (see e.g. sections 2.9 and 2.10 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)")).

The Panel therefore finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

### **C. Registered and Used in Bad Faith**

Based on the evidence submitted by the Complainant, the Panel finds that its trademark AEW is distinctive in nature and has become widely associated with the Complainant and its real estate investment services. The Respondent has provided no explanation for its choice of the disputed domain name, which has been used to resolve to a parking page including PPC links to investment and wealth management services unrelated to, and potentially competitive with, those of the Complainant. The Panel infers in the circumstances that the Respondent registered the disputed domain name with the Complainant's trademark in mind and with the intention of taking unfair commercial advantage of the goodwill associated with that trademark.

The Panel finds further that, by reason of the Respondent's use of the disputed domain name, Internet users are likely to visit the Respondent's website under the mistaken impression that it is owned or operated by, or otherwise legitimately affiliated with, the Complainant. The Panel therefore finds that, by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website or of a product or service on its website (paragraph 4(b)(iv) of the Policy).

The Panel concludes in the circumstances that the disputed domain name has been registered and is being used in bad faith.

### **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, <aewus.com>, be transferred to the Complainant.

*/Steven A. Maier/*

**Steven A. Maier**

Sole Panelist

Date: September 29, 2022