

## **ADMINISTRATIVE PANEL DECISION**

### **Trulieve Cannabis Corp. v. Samuel Violet and Leonard Rotich Case No. D2023-0103**

#### **1. The Parties**

The Complainant is Trulieve Cannabis Corp., United States of America (“United States”), represented by CSC Digital Brand Services Group AB, Sweden.

The Respondents are Samuel Violet and Leonard Rotich, Kenya.

#### **2. The Domain Names and Registrars**

The disputed domain names <truelieveonline.com> and <trulieveonline.com> are registered with NameSilo, LLC (the “Registrar”).

#### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 10, 2023. On January 10, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 10, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondents are listed as the registrants 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 January 11, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 31, 2023. The Respondents did not submit any response. Accordingly, the Center notified the Respondents’ default on February 1, 2023.

The Center appointed Knud Wallberg as the sole panelist in this matter on February 9, 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 a vertically integrated cannabis company and multi-state operator headquartered in Florida, United States. The Complainant is the market leader for medical cannabis products and services in Florida and has market leading retail operations in Arizona and Pennsylvania. The Complainant employs over 9,000 people.

The Complainant, along with its subsidiary Trulieve, Inc., is the owner of trademark registrations across various jurisdictions including United States Trademark No, 6312449, TRULIEVE registered on April 6, 2021, for goods and services in international classes 18, 25, 41, and 44 and United States Trademark No, 6312450, TRULIEVE (logo) registered on April 6, 2021, goods and services in international classes 18, 25, 41, and 44. In addition, the Complainant has a strong internet presence through its website “www.trulieve.com” and its social media accounts in Facebook, Twitter, and Instagram.

The disputed domain name <trulieveonline.com> was registered on May 15, 2022, and resolves to an inactive website.

The disputed domain name <truelieveonline.com> was registered on May 16, 2022. The disputed domain name previously resolved to an active website featuring the Complainant’s logo while offering or attempting to offer products that directly competed with the Complainant’s products, but it now resolves to an inactive website.

#### **5. Parties’ Contentions**

##### **A. Complainant**

The Complainant submits that a consolidation of the Complaint, which is filed against multiple Respondents, is appropriate in this case since

- The two disputed domain names use identical registrant, administrative and technical street, postal code, country, phone number and email address.
- The two disputed domain names were registered on subsequent days with NameSilo, LLC as the registrar.
- The composition of the two disputed domain names are almost identical with each other.
- The two disputed domain names use the same name servers.

As far as the substantive matters are concerned the Complainant submits that the disputed domain names are confusingly similar to the trademarks in which it has rights. The disputed domain name <trulieveonline.com> thus incorporates the Complainant’s TRULIEVE trademarks in its entire, while the disputed domain name <truelieveonline.com> incorporates a variant of the Complainant’s TRULIEVE trademarks that is visually and aurally similar as the Respondent has simply added the letter “e” between “tru” and “lieve”. The term “online” is closely linked and associated with the Complainant’s brands and trademarks so the addition of this term to the disputed domain names only serves to underscore and increase the confusing similarity between the disputed domain names and the Complainant’s trademark.

The Complainant further submits that the Respondent has no rights or legitimate interests in the disputed domain names. The Respondent is not a licensee of the Complainant, nor is the Respondent commonly known by the disputed domain names within the meaning of paragraph 4(c)(ii) of the Policy, nor has or is the Respondent currently making legitimate noncommercial or fair use of the disputed domain names within the meaning of paragraph 4(c)(iii) of the Policy.

Finally, the Complainant submits that the disputed domain names were registered and are being used in bad faith. By registering the disputed domain names the Respondent has thus demonstrated a knowledge of and familiarity with the Complainant’s brands and its business. The Respondent’s historical use of the disputed domain name <truelieveonline.com> for an active website that featured the Complainant’s logo while offering

or attempting to offer products that directly competed with the Complainant's products, constituted a disruption of the Complainant's business and therefore qualified as bad faith use under the Policy. The fact that this disputed domain name now resolves to an inactive website and that the disputed domain name <trulieveonline.com> has resolved to an inactive website since it's registration still constitutes bad faith use, since the word bad faith "use" in the context of the Policy does not require a positive act on the part of the Respondent.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **6.1. Preliminary Matter: Consolidation**

Before addressing the three elements of the Policy, the Panel must first address a procedural issue, namely whether to accept in the present procedure that the Complaint against the two distinct Respondents, may be consolidated.

As it is stated in the first paragraph of section 4.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") that "Where a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario". Paragraph two of the section then lists several factors that UDRP panels have considered in determining whether a consolidation is appropriate.

Applying the abovementioned principles to the facts that the Complainant has provided, and in the absence of any response from the Respondents, the Panel finds that the Complainant has established more likely than not that the Respondents are either one and the same person, or are somehow connected to each other, and that the disputed domain names are therefore subject to common ownership or control.

The Panel further finds that consolidation would be fair and equitable to all parties and procedurally efficient.

The Panel therefore allows the consolidation as requested by the Complainant pursuant to paragraph 10(e) of the Rules. Hereinafter, the Respondents will be referred to collectively as the "Respondent" unless otherwise indicated.

### **6.2. Substantive Matters of the Complaint**

According to paragraph 15(a) of the Rules the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

Paragraph 4(a) of the Policy directs that a complainant must prove each of the following:

- (i) that the domain name registered by the respondent is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- (ii) that the respondent has no rights or legitimate interests in respect of the domain name; and
- (iii) that the domain name has been registered and is being used in bad faith.

Paragraph 4(a) of the Policy states that the burden of proving that all these elements are present lies with the Complainant. At the same time, in accordance with paragraph 14(b) of the Rules, if a party, in the absence of exceptional circumstances, does not comply with any provision of, or requirement under, the Rules, or any request from the Panel, the Panel shall draw such inferences therefrom as it considers appropriate.

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

The Panel finds that the disputed domain names are both confusingly similar (in the sense of the Policy) to the Complainant's registered trademark TRULIEVE.

The disputed domain name <trulieveonline.com> comprises the Complainant's TRULIEVE trademark in its entirety together with the term "online". The addition of such a term does not prevent a finding of confusing similarity, see section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The disputed domain name <truelieveonline.com> comprise a close variation of the Complainant's TRULIEVE trademark, but neither the addition of the letter "e" nor the addition of the term "online" prevents a finding of confusing similarity. See section 1.8 and 1.9 of the [WIPO Overview 3.0](#).

The generic Top-Level Domains ("gTLDs") ".com" is a standard registration requirement and as such generally disregarded under the first element confusing similarity test. See section 1.11.1 of the [WIPO Overview 3.0](#).

The Panel finds that the conditions in paragraph 4(a)(i) of the Policy are therefore fulfilled in relation to both the disputed domain names.

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

It is clear from the facts of the case that the Complainant has not licensed or otherwise permitted the Respondent to use its trademark and given the circumstances of this case, the Panel finds that the Complainant has established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain names.

The Respondent has not produced, and there is no evidence of the types of circumstances set out in paragraph 4(c) of the Policy that might give rise to rights or legitimate interests in the disputed domain names on the part of the Respondent in these proceedings. Rather, the evidence has shown that the Respondent has previously used the disputed domain name <truelieveonline.com> for an active website that featured the Complainant's logo while offering or attempting to offer products that directly competed with the Complainant's products, which does not confer rights or legitimate interests upon the Respondent. While the disputed domain name <trulieveonline.com> does not resolve to an active website, the composition of the disputed domain name falsely carries a risk of implied affiliation to the Complainant, being the Respondent's intent given the impersonating nature of the content featured on the other disputed domain name.

Consequently, the Panel finds that the condition in paragraph 4(a)(ii) of the Policy is also fulfilled.

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

Paragraph 4(a)(iii) of the Policy requires the Complainant to prove both registration and use of the disputed domain name in bad faith. Paragraph 4(b) of the Policy provides examples of circumstances which shall be evidence of registration and use in bad faith:

- (i) circumstances indicating that the holder has registered or has 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 the holder's documented out-of-pocket costs directly related to the domain name; or
- (ii) the holder has 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 the holder has engaged in a pattern of such conduct; or
- (iii) the holder has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

- (iv) by using the domain name, the holder has intentionally attempted to attract, for commercial gain, Internet users to the holder's 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 the holder's website or location or of a product or service on the holder's website or location.

Accordingly, for the Complainant to succeed, the Panel must be satisfied that the disputed domain names have been registered and are being used in bad faith.

Given the circumstances of the case, in particular the distinctive nature and the extent of use of the Complainant's trademark TRULIEVE, and the fact that the Respondent has registered two domain names that are confusingly similar to the Complainant's mark, the Panel finds that the Respondent has registered the disputed domain names with prior knowledge of the Complainant and the Complainant's marks.

The Panel therefore finds that the disputed domain names were registered in bad faith.

The Panel further finds that the Complainant has submitted sufficient evidence to support the Complainant's claim that all the disputed domain names have been used in bad faith, see 3.1 of the [WIPO Overview 3.0](#)

The disputed domain name <truelievonline.com> was previously used for a website which by reproducing the Complainant's logo and by offering or attempting to offer products that directly competed with the Complainant's products, which gave Internet users the impression that the website was an official website of the Complainant or its licensee and that the Respondent was an authorised reseller of the Complainant's products. Since this is not the case, this use of the disputed domain name was clearly bad faith use since it intentionally created a likelihood of confusion as to the source, sponsorship, affiliation or endorsement of the disputed domain name with the purpose of attracting Internet users to the website for commercial gain as per paragraph 4(b)(iv) of the Policy.

The fact that the disputed domain name <truelievonline.com> is not used for an active websites and the fact that disputed domain name <trulievonline.com> has never been used for and active website does not prevent a finding of bad faith use, in a case like this where the disputed domain names both incorporate a well-known trademark, that no response has been filed, that there appears to be no conceivable good faith use that could be made by the Respondent of the disputed domain names, and the Respondent appears to have furnished false or incomplete registration details in light of the courier's inability to deliver the Center's written communications to the Respondent. See section 3.3 of the [WIPO Overview 3.0](#).

Based on the above findings and considering all the facts and evidence, the Panel finds that the requirements of paragraph 4(a)(iii) of the Policy are also fulfilled in this case.

## 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 names <truelievonline.com> and <trulieveonline.com> be transferred to the Complainant.

*/Knud Wallberg/*

**Knud Wallberg**

Sole Panelist

Date: February 23, 2023