

ADMINISTRATIVE PANEL DECISION

ABG Juicy Couture, LLC v. Angel Glidewell

Case No. D2023-0860

1. The Parties

The Complainant is ABG Juicy Couture, LLC, United States of America (“United States”), represented by Authentic Brands Group, United States.

The Respondent is Angel Glidewell, United States.

2. The Domain Name and Registrar

The disputed domain name <cheapjuicyoutlets.com> (the “Domain Name”) is registered with Name.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 24, 2023. On February 27, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. An amended Complaint was filed with the Center on February 28, 2023. On March 1, 2023, the Registrar transmitted by email to the Center its verification response, disclosing registrant and contact information for the Domain Name that differed from the named Respondent (John Doe) and the Respondent identified by reference to Annex 1 to the Complaint (Whois Agent, Domain Protection Services, Inc.), and from contact information in the Complaint. The Center sent an email communication to the Complainant on March 6, 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 amendment to the Complaint on March 6, 2023.

The Center verified that the Complaint, together with the amendment to the Complaint and 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 March 7, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 27, 2023. The Respondent did not submit a response. Accordingly, the Center notified the Respondent’s default on March 29, 2023.

The Center appointed A. Justin Ourso III as the Panelist in this matter on April 6, 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, an American company, sells clothing, footwear, accessories, and other items under its well-known JUICY COUTURE brand, which was established in 1995, in approximately 70 retail stores, shops in department stores, and travel retail locations in over thirty countries throughout North America, Europe, Asia, and the Middle East, and, through a licensee, on the Internet, apparently through a licensee.

The Complainant owns¹ a United States registration, issued on October 12, 1999, No. 2,285,232, for its JUICY mark in Class 25 for various articles of clothing; another issued on June 2, 2009, No. 3,633,187, in Class 25 for footwear; and another issued on September 7, 2004, No. 2,882,279, in Class 18 for various accessory items, including luggage, hand bags, umbrellas, and wallets, among over 500 registrations in the United States and around the world.

The Complainant is the registrant for the domain name <juicycouture.com>, which was registered on November 20, 2000. The website to which this domain name resolves states that it is owned and operated by SureSource LLC d/b/a Juicy Couture, which is apparently a licensee of the Complainant.

The Respondent registered the Domain Name on July 24, 2020, without any authorization from the Complainant. At the filing of the Complaint, and during the preparation of this Decision, it resolved to a website offering goods competitive with those sold by the Complainant, displaying the Complainant's JUICY COUTURE trademark, and displaying clothing bearing the Complainant's JUICY mark.

5. Parties' Contentions

A. Complainant

In addition to facts set forth in the Factual Background in Part 4 above, the Complainant contends the following.

Regarding the element of confusing similarity with a trademark in which it has rights, the Complainant contends that the Domain Name is confusingly similar to its registered, world-famous trademarks JUICY and JUICY COUTURE, because its JUICY trademark is recognizable within the Domain Name, and the inclusion of the descriptive words "cheap" before the mark and "outlets" after the mark enhance the confusing similarity.

Regarding the element of rights or legitimate interests in the Domain Name, the Complainant contends that it has not licensed its mark to the Respondent or otherwise authorized the Respondent to use its mark; no evidence exists that "Juicy" is the name of the Respondent and so the Respondent is not commonly known by the Domain Name; no evidence exists of fair use or of any plans for a *bona fide* offering of goods or services; the Domain Name resolves to a website on which the Respondent offers for sale products under the Complainant's trademarks for illegitimate commercial gain and so the Respondent is not making a legitimate noncommercial or fair use of the Domain Name.

¹ None of the trademark registrations filed with the Complaint show the Complainant as the registrant. However, the United States Patent and Trademark Office Assignments on the Web database shows that the registrations filed with the Complaint have been assigned to the Complainant, so the Complainant is now the owner of the registrations.

Regarding the element of bad faith registration and use of the Domain Name, among other contentions, the Complainant contends that, the Respondent was well aware of the trademark, which is well-known around the world and which the simple use of a search engine would have disclosed, when it registered the Domain Name; the registration of the Domain Name over thirty years after the Complainant established registered trademark rights is further evidence of bad faith; the Respondent is using the Domain Name and the website to which it resolves to pass off competing unauthorized goods; the Respondent is intentionally trying to create a likelihood of confusion with the Complainant's mark as to source, sponsorship, affiliation, or endorsement; and the Respondent used a privacy service to mask its identity to prevent the Complainant from identifying other domain names registered by the Respondent.

The Complainant requested transfer of the Domain Name.

B. Respondent

The Respondent did not submit a response to the Complaint.

6. Discussion and Findings

A. The Effect of the Respondent's Default

If a respondent does not submit a response to a complaint, a panel decides the dispute based upon the complaint. Rules, paragraphs 5(f) and 14(a). Because the Complainant has the burden of proof, Policy, paragraph 4(a), the Complainant must still prove the elements of a claim to obtain the requested relief, notwithstanding the Respondent's default. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.3.

In the absence of exceptional circumstances, a respondent's failure to respond to a complaint requires that a panel draw the inferences from this failure that it considers proper. Rules, paragraph 14(b). The Panel finds that no exceptional circumstances exist for the failure of the Respondent to submit a response. Accordingly, the Panel infers that the Respondent does not deny the facts alleged and the contentions urged by the Complainant based upon these facts and will draw all reasonable inferences that are proper from the evidence and the facts found by the Panel. *Id.*

Although the Panel may draw negative inferences from the Respondent's default, the Complainant may not rely on conclusory allegations and must support its allegations with evidence to prove the three elements. *Id.*

B. Elements of a Claim

A complainant must prove three elements to obtain relief: (i) the domain name is identical or confusingly similar to a trademark in which the complainant has rights; (ii) the respondent has no rights or legitimate interests in the domain name; and (iii) the respondent registered and is using the domain name in bad faith. Policy, paragraph 4(a).

(i) Identical or Confusingly Similar

On the first element, the Complainant must prove that (1) it has rights in a trademark, and (2) the Domain Name is identical or confusingly similar to this trademark. Policy, paragraph 4(a)(i).

The Panel finds that the Domain Name is confusingly similar to the Complainant's JUICY trademark. The Domain Name incorporates the entire trademark, and the trademark is readily recognizable within the Domain Name, notwithstanding the addition of the words (1) "cheap" before the trademark and (2) "outlets" after. [WIPO Overview 3.0](#), sections 1.7 and 1.8.

Accordingly, the Panel concludes that the Complainant has proven the first element: the Domain Name is confusingly similar to a trademark in which it has rights.

(ii) Rights or Legitimate Interests

The Respondent has not claimed the existence of any circumstance under the Policy, paragraph 4(c), that demonstrates that a respondent has rights to, or legitimate interests in, a domain name. The Complainant, on the other hand, has made a *prima facie* showing that the Respondent lacks any rights or legitimate interests in the Domain Name under the Policy, paragraph 4(a)(ii), shifting the burden of production on this second element to the Respondent to come forward with relevant evidence proving rights or legitimate interests in the Domain Name. [WIPO Overview 3.0](#), section 2.1. The Respondent has not submitted any evidence to rebut the *prima facie* showing.

Additionally, the Panel finds that the Complainant's trademark rights precede the registration of the Domain Name; the Respondent masked its identity by using a privacy service; the Registrar identified the Respondent as "Angel Glidewell," a name that does not resemble the Domain Name and provided an email address for the Respondent, neither of which resemble the Domain Name or each other, and which corroborate that the Respondent is not known by the Domain Name; the Respondent is deceptively using the Domain Name to attract Internet users to a competitive website where the Respondent is passing off goods as the Complainant's for commercial gain, which is not a *bona fide* commercial use, a noncommercial use, or a fair use of the Domain Name.

Accordingly, the Panel concludes that the Complainant has proven the second element: the Respondent lacks rights or legitimate interests in the Domain Name.

(iii) Registered and Used in Bad Faith

The Policy provides that the following circumstance is "evidence of the registration and use of a domain name in bad faith: [. . .] by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site . . . , 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". Policy, paragraph 4(b)(iv).

UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a well-known trademark can create a presumption of bad faith registration, which here is un rebutted by the Respondent. [WIPO Overview 3.0](#), section 3.1.4. In addition to incorporating the Complainant's JUICY mark in the Domain Name, the Respondent used the Complainant's JUICY COUTURE trademark on the Respondent's website. The Panel, therefore, finds that the Respondent must have been aware of the Complainant's trademark and of the Complainant's rights in its mark at the time that the Respondent registered the Domain Name and that the Respondent registered the Domain Name in bad faith. Rules, paragraph 14(b); [WIPO Overview 3.0](#), section 3.2.2.

The content of the website, while displaying the Complainant's trademark, fails to state any relationship to the Complainant, which warrants an explanation. The Respondent's failure to respond to the Complaint amplifies the Respondent's failure to explain any relationship on the website. Panels have found a respondent's lack of an explanation, coupled with an absence of rights or legitimate interests, to be a factor tending to show bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Here, in addition to the facts found and recited in Part 6(B)(ii) above, the Panel finds that (1) the Complainant's mark is well-known worldwide and of longstanding registration and use; (2) the elements in the Domain Name in addition to the trademark betray an intent to misleadingly associate the Domain Name with the Complainant's trademark and goods; (3) the Respondent's website displays the Complainant's well-known trademark and offers similar goods for sale, in effect passing off the website as a site associated with the Complainant; and (4) the Respondent's website to which the Domain Name resolves misleadingly and deceptively attracts customers and potential customers of the Complainant for the Respondent's commercial

gain. All of these findings, collectively, compel the Panel to conclude that the Respondent intentionally chose the Domain Name in bad faith to take unfair advantage of the Complainant's trademark and that it is using the Domain Name in bad faith intentionally to attract Internet users to its website for commercial gain, by creating a likelihood of confusion with the Complainant's trademark as to the source of the site or the source of the goods offered on the site, in violation of the Policy, paragraph 4(b)(iv). [WIPO Overview 3.0](#), sections 3.1.4, 3.2.1, and 3.2.2.

Accordingly, the Panel concludes that the Complainant has proven the third element: the Respondent registered and is using the Domain Name 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 Domain Name, <cheapjuicyoutlets.com>, be transferred to the Complainant.

/A. Justin Ourso III/

A. Justin Ourso III

Panelist

Date: April 19, 2023