

ADMINISTRATIVE PANEL DECISION

ABG Juicy Couture, LLC v. Yaogua Jiang

Case No. D2023-0862

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 Yaogua Jiang, China.

2. The Domain Name and Registrar

The disputed domain name <wearjuicycouture.com> 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 disputed domain name. On March 1, 2023, 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 (John Doe) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 2, 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 2, 2023.

The Center verified that the Complaint together with the amendment to 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 March 3, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 23, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 24, 2023.

The Center appointed Anne-Virginie La Spada as the sole panelist in this matter on April 4, 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 active in the fashion industry and is the owner of the JUICY COUTURE brand. It sells apparel and accessories under this brand in over 30 countries.

Among other registrations, the Complainant owns the United States trademark registration JUICY COUTURE No. 2348674 registered on May 9, 2000 in class 25.

The Complainant has also registered the domain name <juicycouture.com>.

The disputed domain name was registered on February 1, 2023. At the time of filing of the Complaint, the disputed domain name was connected to a commercial website offering for sale clothing items presented as JUICY COUTURE products. Furthermore, the website displayed the JUICY COUTURE logo of the Complainant.

5. Parties' Contentions

A. Complainant

According to the Complainant, the disputed domain name is confusingly similar to its JUICY COUTURE registered trademark as it captures the entirety of its trademark with the mere adjunction of the descriptive term "wear".

Further, the Complainant argues that the Respondent has not been licensed, contracted or otherwise permitted by the Complainant in any way to use the JUICY COUTURE marks or any domain name incorporating JUICY COUTURE. The Complainant also claims that the Respondent is not commonly known by the disputed domain name. There is furthermore no evidence of any Respondent's use of, or demonstrable preparations to use, the disputed domain name in connection with any *bona fide* offering of goods or services. On the contrary, according to the Complainant, the Respondent has been actively using the JUICY COUTURE trademark for illegitimate commercial gains and tricked consumers into erroneously believing that the Complainant is somehow affiliated with the Respondent or endorsing its commercial activities, while in fact, no such relationship exists.

Finally, the Complainant contends that the Respondent has used and registered the disputed domain name in bad faith. According to the Complainant, given the well-known character of its trademark, the Respondent was well aware of the Complainant's trademark at the time the Respondent registered the disputed domain name. According to the Complainant, the Respondent is trying to pass off the website connected to the disputed domain name as the Complainant's website to sell competing and unauthorized goods. Consequently, the Complainant is of the view that the Respondent is using the disputed domain name to intentionally attempt to attract Internet users to its website for commercial gain, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation or endorsement of its website.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, a complainant must assert and prove each of the following:

- (i) 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) the respondent has no rights or legitimate interests in respect of the domain name; and
- (iii) the domain name registered by the respondent has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The disputed domain name reproduces the Complainant's trademark JUICY COUTURE in its entirety with no alteration, and combines this trademark with the term "wear".

UDRP panels consider that where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity under the first element of paragraph 4(a) of the Policy (see section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

In the present case, the trademark JUICY COUTURE is clearly recognizable in the disputed domain name. The mere addition of the term "wear" does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark.

UDRP panels accept that a generic Top-Level Domain ("gTLD"), such as ".com", may be disregarded when assessing whether a domain name is identical or confusing similar to a trademark (see [WIPO Overview 3.0](#), section 1.11.1).

The Complainant has satisfied the condition set forth in paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Based on the information submitted by the Complainant, the Complainant did not grant the Respondent any authorization to use the disputed domain name. Moreover, there is no evidence indicating that the Respondent is commonly known by the disputed domain name.

According to UDRP panels, a respondent's use of a domain name is not be considered "fair" if it falsely suggests affiliation with the trademark owner. Where the respondent's domain name consists of the complainant's trademark plus an additional term, panels have assessed whether the additional term suggests sponsorship or endorsement by the trademark owner. Where the additional term indicates services related to the brand, a further examination of the facts and circumstances of the case (including in particular the associated website's content) may be required to assess the risk of implied affiliation (see section 2.5.1 of the [WIPO Overview 3.0](#)).

In the present case, the disputed domain name incorporates the Complainant's trademark in its entirety with the addition of the term "wear", a term correlated to the Complainant's goods (namely clothes).

The Respondent appears to be using the disputed domain name in connection with a commercial website offering for sale JUICY COUTURE branded products.

UDRP panels have recognized that resellers, distributors, or service providers using a domain name containing the complainant's trademark to undertake sales or repairs related to the complainant's goods or services may be making a *bona fide* offering of goods and services and thus have a legitimate interest in

such domain name (section 2.8 of the [WIPO Overview 3.0](#)). Outlined in the “Oki Data test” (*Oki Data Americas Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#)), the following cumulative requirements will be applied in the specific conditions of a UDRP case:

- (i) the respondent must actually be offering the goods or services at issue;
- (ii) the respondent must use the site to sell only the trademarked goods or services;
- (iii) the site must accurately and prominently disclose the registrant’s relationship with the trademark holder; and
- (iv) the respondent must not try to “corner the market” in domain names that reflect the trademark.

In the present case, the Complainant contends that the disputed domain name is used to sell “competing and unauthorized products” but there is no evidence on the record that goods of other brands are offered on the website operated under the disputed domain name. This being said, the screenshots of the landing page of the website to which the disputed domain name resolves do not feature any disclaimer concerning the relationship between the Respondent and the Complainant. In the Respondent’s website, the JUICY COUTURE logo of the Complainant is displayed in the top of the page, creating the impression of an official website, operated or at least endorsed by the Complainant.

By failing to accurately disclose the relationship, or rather lack thereof with the Complainant, the Respondent conveyed the false impression that the Respondent is the Complainant itself, or an authorized retailer of the Complainant, where such is not the case.

The Panel finds accordingly that the requirements of the “Oki Data test” are not satisfied in the present case.

In view of the above, the Panel finds that the disputed domain name, which incorporates the Complainant’s trademark in its entirety with the addition of the term “wear”, without meeting the conditions of the “Oki Data test”, falsely suggests affiliation with the Complainant, such that the Respondent’s use of the disputed domain name may not be considered fair.

Finally, the Panel may draw from the lack of a Response the inferences that it considers appropriate, according to the Rules, paragraph 14(b). The Panel finds that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Panel finds that the Respondent’s silence corroborates the Complainant’s *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name.

The Complainant has thus satisfied the condition set out in paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Given that the trademark JUICY COUTURE of the Complainant is distinctive and has been widely used before the registration of the disputed domain name, and that the Respondent used the Complainant’s logo on the website operated under the disputed domain name, the Panel accepts that the Respondent was aware of the existence of the Complainant and of its JUICY COUTURE trademark at the time of the registration of the disputed domain name.

The Respondent is using prominently the logo of the Complainant on its website without any indication regarding its relationship to the Complainant. Such use is apt to create the false impression that the website is operated or endorsed by the Complainant, thus misleading, for commercial gain, consumers looking for the Complainant’s website. Accordingly, the Panel finds it likely that the Respondent intentionally created a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of its website. This is a circumstance of use of a domain name in bad faith according to paragraph 4(b) of the Policy.

For the reasons set out above, the Panel finds that the Respondent has registered and used the disputed domain name in bad faith, and that the Complainant has satisfied the condition set forth in paragraph 4(a)(iii) of the Policy.

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 <wearjuicycouture.com> be transferred to the Complainant.

/Anne-Virginie La Spada/

Anne-Virginie La Spada

Sole Panelist

Date: April 18, 2023