

ADMINISTRATIVE PANEL DECISION

JB IP, LLC v. Jungle Boys, Ultimate Systems Case No. D2023-1115

1. The Parties

Complainant is JB IP, LLC, United States of America (“United States” or “US”), represented by Valauskas Corder LLC, United States.

Respondent is Jungle Boys, Ultimate Systems, United States.

2. The Domain Name and Registrar

The disputed domain name <jungleboyoofficial.com> is registered with Web Commerce Communications Limited dba WebNic.cc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 13, 2023 regarding the disputed domain name and additional two domain names. On March 14, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 15, 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 (Redacted for Privacy, c/o Web commerce Communications Limited) and contact information in the Complaint. The Center sent an email communication to Complainant on March 16, 2023, 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 March 21, 2023, along with a request to withdraw two domain names with different underlying registrant details from the Complaint. The partial withdrawal was duly notified on March 22, 2023.

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 March 22, 2023. In accordance with the Rules, paragraph 5, the due date for the Response was April 11, 2023. Respondent did not submit any response. Accordingly, the Center notified the Parties of Respondent’s default on April 12, 2023.

The Center appointed Ingrida Karina-Berzina as the sole panelist in this matter on April 18, 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

Complainant operates online and retail outlets for cannabis products in the United States under the JUNGLE BOYS brand. It is the proprietor of a California State trademark registration and United States federal trademark applications for the JUNGLE BOYS mark.

Complainant has registered the domain names <jungleboys.com> and <jungleboysflorida.com> and uses those domains for its e-commerce businesses.

The disputed domain name was registered on January 22, 2020. It resolves to a website mimicking Complainant's website through which Respondent purports to offer cannabis products under the JUNGLE BOYS mark.

5. Parties' Contentions

A. Complainant

Under the first element, Complainant states it has continuously used the well-known JUNGLE BOYS mark in the cannabis industry since at least as early as 2009. Complainant is the owner of California State Trademark Registration No. 02001302 and US Federal Trademark Registration Applications No. 97253413, 97253477, and 90976393. Complainant owns and operates online retail stores and numerous retail stores in California and Florida under the JUNGLE BOYS mark. Complainant owns domain names incorporating the JUNGLE BOYS mark: <jungleboysclothing.com> registered in 2016, <jungleboys.com> registered in 2000, and <jungleboysflorida.com> registered in 2020. These domain names permit Internet users to find websites featuring detailed information about the goods and services offered by Complainant.

Complainant states that the disputed domain name reflects Complainant's mark in its entirety. Consumers are likely to believe that the disputed domain name is associated with Complainant.

Under the second element, Complainant states that the disputed domain name is used to operate a website that attempts to impersonate Complainant with the intent to trade on Complainant's recognition and goodwill. Complainant did not authorize Respondent to use its trademark JUNGLE BOYS. Respondent's website displays content that is the same if not highly related to that which appears at Complainant's websites.

Under the third element, Complainant states that the disputed domain name utilizes the dominant element of Complainant's mark and resolves to a website claiming to provide the same or highly related goods and services offered and sold by Complainant without Complainant's permission. Respondent is attempting to profit from Complainant's recognized mark. Respondent's efforts to pass itself off as Complainant disrupts Complainant's business and misleads consumers.

Complainant requests transfer of the disputed domain name.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Paragraph 4(a) of the UDRP requires Complainant to make out all three of the following:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) Respondent has registered and is using the disputed domain name in bad faith.

Under paragraph 15(a) of the Rules, “[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”.

A. Identical or Confusingly Similar

The Panel notes that Complainant is relying on a United States state registration and on pending federal trademark applications. Since pending trademark applications do not by themselves establish trademark rights within the meaning of UDRP paragraph 4(a)(i) and United States state registrations are not accorded the same deference as national trademark registrations, as a threshold matter, the Panel must decide whether Complainant has standing to bring a UDRP action based on unregistered trademark rights.

Based on the evidence presented, the Panel finds that Complainant has established its unregistered rights in the JUNGLE BOYS mark. It has provided evidence that its mark has, through use, become a distinctive identifier, which consumers associate with Complainant’s goods and services. The mark does not consist solely of descriptive terms. The Panel finds that Complainant has provided evidence of use of this mark in its domain names and on its websites. Such use predates the registration of the disputed domain name and supports Complainant’s assertion of acquired distinctiveness of an unregistered mark. See, for example, *UITGERVERIJ CRUX v. W. FREDERIC ISLER*, WIPO Case No. [D2000-0575](#). See also WIPO Overview of WIPO Panel Views on selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.3.

Consistent with prior UDRP panel practice, the Panel finds that Respondent has deliberately targeted Complainant’s mark, and this fact supports a finding that Complainant’s mark has achieved significance as a source identifier for purposes of the Policy. See [WIPO Overview 3.0](#), section 1.3.

Complainant thereby satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case.

In comparing Complainant’s JUNGLE BOYS mark with the disputed domain name, the Panel finds that the disputed domain name is confusingly similar to this mark as the dominant part of the mark (“jungle boys”) is clearly recognizable within the disputed domain name, followed by the term “official”. It is the consensus view of UDRP panels that, where a domain name incorporates the entirety of a trademark, the domain name will normally be considered confusingly similar to that mark. Moreover, where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. See [WIPO Overview 3.0](#), sections 1.7 and 1.8.

Accordingly, the Panel finds that Complainant has established the first element under paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

The Panel finds that the evidence submitted by Complainant establishes a *prima facie* case that Respondent has no rights or legitimate interests in the disputed domain name. Respondent is not authorized by

Complainant and has no rights in the JUNGLE BOYS mark. The disputed domain name comprises Complainant's JUNGLE BOYS mark together with the term "official" which is clearly a misrepresentation. Such use cannot confer rights or legitimate interests.

Pursuant to [WIPO Overview 3.0](#), section 2.1, and cases thereunder, where Complainant makes out a *prima facie* case that Respondent lacks rights or legitimate interests, the burden of production on this element shifts to Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name.

Respondent has not provided any rebuttal of Complainant's *prima facie* case and has therefore not proved rights or legitimate interests in the disputed domain name. There is no evidence that Respondent is commonly known by the disputed domain name, or that there are any circumstances or activities that would establish Respondent's rights therein. The disputed domain name consists of Complainant's JUNGLE BOYS mark plus the term "official". Such composition cannot constitute fair use as it impersonates or suggests sponsorship or endorsement by the trademark owner. See [WIPO Overview 3.0](#), section 2.5.1.

The disputed domain name resolves to a website featuring Complainant's mark in connection with sales of cannabis products. The website displays Complainant's JUNGLE BOYS mark and is clearly intended to mislead Internet users into believing that the purported services are offered by Complainant. Such unlawful activity using Complainant's mark cannot confer rights or legitimate interests. See [WIPO Overview 3.0](#), section 2.13.

Furthermore, the Panel notes that the name "Jungleboys" was provided for the registration of the disputed domain name. The Panel further notes that no evidence has been brought forward of the existence of an entity with such a name that would give rise to rights or legitimate interests of Respondent in the disputed domain name.

Accordingly, the Panel finds that Complainant has established the second element under paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that Complainant has demonstrated Respondent's bad faith registration and use of the disputed domain name. Complainant's rights in its JUNGLE BOYS mark predate the registration of the disputed domain name. The disputed domain name reflects Complainant's JUNGLE BOYS mark in its entirety, together with the term "official", which appears intended to create a false appearance of an association with Complainant.

The record shows that Respondent deliberately targeted Complainant in incorporating Complainant's mark in the disputed domain name. The disputed domain name resolves to a website displaying Complainant's mark and logo and purporting to offer "Jungle Boys" cannabis products. The Panel finds that Respondent thereby attempted to impersonate Complainant for commercial gain, indicating bad faith in registration and use of the disputed domain name. See [WIPO Overview 3.0](#), sections 3.1.4 and 3.2.1.

Respondent has provided no evidence of actual or contemplated good-faith use of the disputed domain name and, under the circumstances, the Panel does not find any such use plausible.

The Panel therefore finds that Complainant has established the third element under paragraph 4(a) 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 <jungleboysofficial.com> be transferred to Complainant.

/Ingrida Karina-Berzina/

Ingrida Karina-Berzina

Sole Panelist

Date: May 2, 2023