

## **ADMINISTRATIVE PANEL DECISION**

Sniffies, LLC v. John Hope

Case No. D2023-1476

### **1. The Parties**

The Complainant is Sniffies, LLC, United States of America (“United States”), represented by Hanson Bridgett LLP, United States.

The Respondent is John Hope, China.

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

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

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 5, 2023. On April 5, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On April 6, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Data Redacted) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 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 amended Complaint on April 7, 2023. On April 7, 2023, the Respondent sent an informal email communication.

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 the Respondent of the Complaint, and the proceedings commenced on April 13, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 3, 2023. The Respondent did not submit a formal response. Accordingly, the Center notified the Respondent’s default on May 8, 2023.

The Center appointed Jeremy Speres as the sole panelist in this matter on May 11, 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

Since 2017, the Complainant has operated a gay male online dating and social meetup web app branded SNIFFIES via a website at “www.sniffies.com”. The Complainant’s domain name <sniffies.com> was registered in 2015. The Complainant owns trade mark registrations for its SNIFFIES mark in numerous jurisdictions, including United States Trade Mark Registration No. 6820819 SNIFFIES in classes 38, 42 and 45 with registration date August 16, 2021.

The Domain Name was registered on January 29, 2023 and currently resolves to a web hosting control panel notification indicating that the requested website is not available. The Complainant’s evidence establishes that the Domain Name has been used to host websites titled “Sniffies Tube”, “Gay Sniffies Tube”, and “Sniffes Tube – My WordPress Blog” which contained pornographic material, including such material targeted at gay males. The Domain Name has also been used to advertise and redirect to third party platforms that compete directly with the Complainant.

#### 5. Parties’ Contentions

##### A. Complainant

The Complainant contends that the Domain Name is confusingly similar to its well-known SNIFFIES mark as a typosquatting variant, that the Respondent has no rights or legitimate interests in it, and the Domain Name was registered and used in bad faith given that it has been used to impersonate the Complainant for the Respondent’s commercial gain.

##### B. Respondent

The Respondent did not reply to the Complainant’s contentions, but merely sent an informal email communication to the Center briefly stating:

“I don’t understand, I have never submitted any complaints. What’s going on?”

#### 6. Discussion and Findings

##### A. Identical or Confusingly Similar

It is well established that where a domain name consists of a misspelling of a trade mark such that the mark is recognisable, as in this case, the domain name is confusingly similar. See the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”) at section 1.9. The addition of a single letter “t” does not serve to differentiate the overall impression of the Domain Name, which remains aurally and visually nearly identical to the mark. See *e.g. Dollar Bank, Federal Savings Bank v. Dollarabank.com Owner, c/o whoisproxy.com Ltd. / Tulip Trading Company*, WIPO Case No. [D2016-0699](#). The Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

##### B. Rights or Legitimate Interests

The Complainant’s SNIFFIES mark was registered and well-known prior to registration of the Domain Name. The Domain Name is confusingly similar to the Complainant’s mark and the Complainant has certified that the Domain Name is unauthorised by it.

As discussed in the bad faith section below, the clear intention of the Respondent in using the Domain Name for competing platforms, as well as adult content related to the Complainant’s business, was to take advantage of the Complainant’s reputation for the Respondent’s gain. Such usage of the Domain Name cannot represent a *bona fide* offering of goods or services (*TNT Holdings B. V. v. Sylvie Bona*, WIPO Case No. [D2008-1070](#)).

There is no evidence that any of the circumstances set out in paragraph 4(c) of the Policy, nor any others which might confer rights or legitimate interests upon the Respondent, pertain. The Complainant has satisfied paragraph 4(a)(ii) of the Policy by virtue of having made out an un rebutted *prima facie* case ([WIPO Overview 3.0](#) at section 2.1).

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

UDRP panels have consistently found that registration of a domain name that is confusingly similar (particularly domain names comprising typos, as in this case) to a famous or well-known trade mark by an unaffiliated entity can by itself create a presumption of bad faith ([WIPO Overview 3.0](#) at section 3.1.4).

Here the Domain Name has been used for content that competes with the Complainant, including redirections to competing platforms, whilst using marks identical and nearly identical to the Complainant's well-known mark as website titles in the form of "Sniffies Tube", "Gay Sniffies Tube" and "Sniffes Tube – My WordPress Blog". Internet searches for the Complainant's mark indicate that it is unique and highly specific to the Complainant, and it is difficult to conceive of any good faith reason for the Respondent to have used an identical mark for competing services. This is a strong indicator that the Respondent intended to take advantage of the Complainant's well-known mark for its commercial gain, bringing the Respondent's actions squarely within paragraph 4(b)(iv) of the Policy.

The Panel draws an adverse inference from the Respondent's failure to respond to the Complainant's contentions and provide an explanation, which is certainly called for ([WIPO Overview 3.0](#) at section 4.3).

The Complainant has satisfied 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 Domain Name, <sniffiest.com>, be transferred to the Complainant.

*/Jeremy Speres/*  
**Jeremy Speres**  
Sole Panelist  
Date: May 20, 2023