

ADMINISTRATIVE PANEL DECISION

Nudie Jeans Co AB v. Qian Liang
Case No. D2023-4032

1. The Parties

The Complainant is Nudie Jeans Co AB, Sweden, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Qian Liang, China.

2. The Domain Name and Registrar

The disputed domain name <nudiejeans-us.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 September 26, 2023. On September 27, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 28, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant 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 October 5, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 25, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 26, 2023.

The Center appointed Reyes Campello Estebarez as the sole panelist in this matter on November 7, 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 operates in the fashion and clothing industry since 2001 under the brands NUDIE, NUDIE JEANS, and NUDIE JEANS CO. The Complainant produces and commercializes quality denim (jeans, jackets, dresses), as well as accessories, and offers free repair services to its clients, in order to extend the life of its clothing and reduce environmental impact. Per the Complaint, the Complainant's products are sold internationally through 29 "Nudie Jeans Repair Shops" in 24 cities across eight countries, as well as online, and via third-party resellers. The Complainant is active on social media,¹ and it has been rewarded for its commitment and dedication to sustainability with the Fair Wear Foundation (FWF) Best Practice Award 2014.

The Complainant owns various trademark registrations for its brands, including:

TRADEMARK	JURISDICTION/ TRADEMARK OFFICE	REGISTRATION NUMBER	REGISTRATION DATE	CLASS
NUDIE	United Kingdom	902256998	December 18, 2002	18, 25
NUDIE	European Union	002256998	December 18, 2002	18, 25
NUDIE JEANS	Australia	916964	October 18, 2004	25
NUDIE JEANS	Canada	TMA674071	October 3, 2006	18, 25
NUDIE JEANS CO	International Registration	762178	January 16, 2001	25
	United Kingdom	00905286059	August 10, 2007	18, 25
	European Union	005286059	August 10, 2007	18, 25

The aforementioned trademark registrations will collectively be referred to as the "NUDIE JEANS marks", and, individually, as the "NUDIE mark", the "NUDIE JEANS mark", the "NUDIE JEANS CO mark", and the "NUDIE JEANS CO figurative mark", respectively.

The Complainant further owns more than 70 domain names corresponding to its brands, including <nudiejeans.us> (registered on March 28, 2007), currently apparently inactive, and <nudiejeans.com> (registered on January 29, 2001), which resolves to its corporate main website.²

The disputed domain name was registered on July 8, 2022, and it resolves to a website in English language that includes the NUDIE JEANS CO figurative mark at its heading and purportedly commercializes clothing and accessories of the Complainant's brands. This website includes numerous photographs of clothing and accessories products for men and women, all with discounted prices up to less than half their indicated normal price, including a sale sign in all photographs. In the "About Us" and "Terms and Conditions" sections, the owner of this site identifies itself as "Nudie Jeans Sales". The "About Us" section further indicates that this company was founded in 2018 with a special concern for the environment and sustainability. The "Contact Us" section includes an address in the United States of America ("United States"), and a contact form. There is no indication in this website regarding its relationship or lack of relationship with the Complainant and its trademarks.

According to the evidence provided by the Complainant, the disputed domain name has apparently been temporarily inactive resolving to an Internet browser error message before the filing of the Complaint.

¹ The Complainant's social media pages have more than 260,000 followers (on Facebook), more than 270,000 followers (on Instagram), and 21,400 followers on Twitter.

² The Complainant's main corporate website at "www.nudiejeans.com" had an average of 486.33 visits per month during the period ranging June 2023 to August 2023, and it ranks 89,190th globally and 1,117th within the fashion and apparel category.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is confusingly similar to its NUDIE JEANS marks as it incorporates the NUDIE JEANS mark adding the abbreviation for the United States ("us") separated by a hyphen, and the Complainant commercializes its products in numerous locations in this country. The Respondent is not sponsored by or affiliated with the Complainant, has no permission to use the Complainant's brands, and is not commonly known by the disputed domain name.

The disputed domain name is used in connection to a commercial website that offers and attempts to sell products branded with the Complainant's trademarks that may be counterfeits. The Respondent's website copies the Complainant's official website (it features its figurative mark and uses the same general layout and color scheme), in an attempt to pass off the disputed domain name as being affiliated with or being the Complainant itself. The Respondent has demonstrated a knowledge of and familiarity with the Complainant's brands. The disputed domain name was registered and is being used in bad faith, possibly for phishing purposes, as the Respondent's attempts to gather personal information from visitors to its website, and to cause consumer confusion to increase the traffic to the Respondent's website. The Respondent's use of the disputed domain name constitutes a disruption of the Complainant's business.

The Respondent is engaged in a pattern of cybersquatting/typosquatting, and currently holds various domain names that misappropriate other third parties' brands.³

B. Respondent

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

6. Discussion and Findings

The Complainant has made the relevant assertions as required by the Policy and the dispute is properly within the scope of the Policy. The Panel has authority to decide the dispute examining the three elements in paragraph 4(a) of the Policy, taking into consideration all of the relevant evidence, annexed material and allegations, and performing some limited independent research under the general powers of the Panel articulated, *inter alia*, in paragraph 10 of the Rules.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the NUDIE JEANS mark is reproduced within the disputed domain name, and the added element (the term "us" separated by a hyphen) does not avoid the recognizability of this mark in the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the Complainant's trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

³ The Complainant cites the following domain names: <kaweco-shop.com>, <nkuku-shop.com>, and <studioroof-shop.com>.

While the addition of other terms, here the term “us” separated by a hyphen, may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the NUDIE JEANS mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Therefore, based on the available record, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The Panel has corroborated that, according to the evidence provided by the Complainant, the disputed domain name resolves to a website that reproduces the Complainant’s figurative mark at its heading and purportedly commercializes clothing and accessories of the Complainant’s brands at reduced prices (in more than half of their normal price).

The Panel finds that this site does not indicate its lack of relationship with the Complainant and its trademark. On the contrary, it generates the impression of being affiliated with or owned by the Complainant. In this respect, the Panel notes that this website reproduces a similar design and general look and feel as the Complainant’s official website, and includes various texts that allude to its compromise with sustainability, which is a feature that characterizes the Complainant’s business philosophy for what it has been rewarded.

The Panel further notes that the Respondent uses a company name that includes the NUDIE JEANS mark, and gives the impression of being associated to the Complainant and its business. The term “Nudie Jeans Sales” generates confusion and affiliation with the Complainant’s and its business, when in fact the Parties are not related.

Additionally, the Panel finds that the inclusion of the abbreviation of the United States (“us”) in the disputed domain name contributes to the generated affiliation and confusion, as this country is one of the territories where the Complainant operates. The Panel further notes that, according to the Registrar verification, the Respondent is located in China and not in the United States.

These circumstances cannot confer rights or legitimate interests to the Respondent under the Policy. Panels have recognized that resellers or distributors using a domain name containing the complainant’s trademark to undertake sales may be making a *bona fide* offering of goods and services and thus have a legitimate interest in such domain name only when certain cumulative requirements outlined in the “Ok! Data test” are met, which do not concur here. [WIPO Overview 3.0](#), section 2.8.

The Panel further finds that, in a balance of probabilities, the circumstances of this case indicate that the goods commercialized in the Respondent's website may be counterfeits, particularly taking into account the considerable reduced prices, and the lack of relationship of the Parties. In this respect, panels have held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Therefore, based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel finds that the Respondent has intentionally attempted to attract, for commercial gain, Internet users by generating a likelihood of confusion with the Complainant and its trademarks.

All circumstances of this case indicate, in a balance of probabilities, that the Respondent targeted the Complainant and its trademarks in the registration and the use of the disputed domain name, in bad faith, in an attempt to increase the traffic to an illegal business in connection with the commercialization of potentially counterfeit versions of the Complainant's products.

Panels have held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

Furthermore, according to the evidence provided by the Complainant, the Respondent owns other domain names that include third parties' brands, and the Panel has corroborated that the Respondent operates similar online shops for the respective branded goods that are offered at discounted (by more than half) prices, which shows a pattern of abusive domain name registration and use. [WIPO Overview 3.0](#), section 3.1.2.

Therefore, based on the available record, the Panel finds the third element of the Policy has been established.

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 <nudiejeans-us.com> be transferred to the Complainant.

/Reyes Campello Estebarez/

Reyes Campello Estebarez

Sole Panelist

Date: November 21, 2023