

ADMINISTRATIVE PANEL DECISION

Nudie Jeans Co AB v. Client Care, Web Commerce Communications Limited,
Ceaau Aufmann, Milene Rafia Faridi
Case No. D2023-4365

1. The Parties

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

The Respondents are Client Care, Web Commerce Communications Limited, Malaysia; Ceaau Aufmann, Germany; and Milene Rafia Faridi, United States of America ("U.S.A."). Collectively, the Respondents are hereinafter referred to as the "Respondent".

2. The Domain Names and Registrar

The disputed domain names <nudiejeansaustralia.com>, <nudiejeansbelgium.com>, <nudiejeansbrasil.com>, <nudiejeanscanada.com>, <nudiejeansdenmark.com>, <nudiejeansdeutschland.com>, <nudiejeansespana.com>, <nudiejeansfactoryoutlet.com>, <nudiejeansfrance.com>, <nudiejeansgreece.com>, <nudiejeansindia.com>, <nudiejeansindonesia.com>, <nudiejeansireland.com>, <nudiejeansisrael.com>, <nudiejeansitalia.com>, <nudiejeansjapan.com>, <nudiejeansmalaysia.com>, <nudiejeansmexico.com>, <nudiejeansnederland.com>, <nudiejeansnorge.com>, <nudiejeansnyc.com>, <nudiejeansnz.com>, <nudiejeansosterreich.com>, <nudiejeansphilippines.com>, <nudiejeanspolska.com>, <nudiejeansportugal.com>, <nudiejeanspraha.com>, <nudiejeansschweiz.com>, <nudiejeanssingapore.com>, <nudiejeanssouthafrica.com>, <nudiejeanssuomi.com>, <nudiejeanssverige.com>, <nudiejeansthailand.com>, <nudiejeansturkiye.com>, <nudiejeansuae.com>, and <nudiejeanuk.com> are registered with Alibaba.com Singapore E-Commerce Private Limited (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on October 20, 2023. On October 23, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On October 24, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Unknown) and contact information in the Complaint.

The Center sent an email communication to the Complainant on October 24, 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 October 26, 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 the Respondent of the Complaint, and the proceedings commenced on October 27, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 16, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on November 20, 2023.

The Center appointed Andrea Mondini as the sole panelist in this matter on November 23, 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 was founded in 2001, is headquartered in Gothenburg, Sweden and specializes in jeans, jackets, dresses, and accessories. The Complainant has 29 shops in 24 cities around the world, eight repair partners, and produces the clothing and accessories in eight countries.

The Complainant holds more than 70 domain names containing the terms "nudie" and "jeans", among them <nudiejeans.com> which hosts its main website.

The Complainant owns numerous trademark registrations in several jurisdictions, including:

TRADEMARK	JURISDICTION	REGISTRATION NUMBER	REGISTRATION DATE	INTERNATIONAL CLASS
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	U.S.A.	3730005	December 22, 2009	25
NUDIE JEANS CO	International Registration	762178	January 16, 2001	25
Nudie JEANS CO	European Union	005286059	August 10, 2007	18, 25

Mainly, because it did not file a Response, nothing is known about the Respondent.

All disputed domain names were registered on the same date, August 9, 2023.

According to the evidence submitted with the Complaint, some of the disputed domain names resolved to websites displaying the Complainant's logo and images of the Complainant's products. The other disputed domain names resolved to inactive / error pages.

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 names.

Notably, the Complainant contends as follows:

The disputed domain names are confusingly similar to the NUDIE JEANS trademark in which the Complainant has rights, because they incorporate this trademark in its entirety, and the addition of the generic and/or geographically descriptive terms and/or minor misspellings (such as the missing "s" in <nudiejeanuk.com>) are not sufficient to avoid confusing similarity.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The trademark NUDIE JEANS has been extensively used to identify the Complainant and its products. The Respondent has not been authorized by the Complainant to use this trademark, is not commonly known by the disputed domain name, and there is no evidence of the Respondent's use, or demonstrable preparation to use, the disputed domain name in connection with a *bona fide* offering of goods and services.

The disputed domain name was registered in bad faith because it is obvious that the Respondent had knowledge of both the Complainant and its well-known trademark NUDIE JEANS at the time it registered the disputed domain name.

The Respondent used some of the disputed domain names in bad faith, by impersonating the Complainant and hosting websites featuring the Complainant's NUDIE JEANS CO logo whilst allegedly offering for sale NUDIE JEANS branded items. The Complainant assumes that the Respondent intends to engage in phishing activities or the sale of counterfeit goods. The sheer number of infringing domain names registered by the Respondent demonstrates that the Respondent is engaging in a pattern of cybersquatting, which is evidence of bad faith registration and use. While some of the disputed domain names resolve to inactive sites, passively holding a domain name does not prevent a finding of bad faith and given the number of bad faith registrations at issue, bad faith should be found.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, in order to succeed, a complainant must establish each of the following elements:

- (i) the disputed domain name is identical or confusingly similar to the trademark or service mark in which the complainant has rights;
- (ii) the respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

6.1 Consolidation: Multiple Respondents

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are the same entity or mere alter egos of each other, or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The disputed domain name registrants did not comment on the Complainant's request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2.

As regards common control, the Panel notes that (i) all disputed domain names were registered on the same date, August 9, 2023, and with the same registrar, (ii) all disputed domain names follow the same pattern, combining the Complainant's NUDIE JEANS trademark (or a one-letter misspelling of it) followed by a geographical and/or generic term, and (iii) 22 of the disputed domain names resolved to almost identical websites impersonating the Complainant. Lastly, with regards the actual disclosed registrants, the Panel notes that the addresses disclosed for both "Milene Rafia Faridi" and "Ceaau Aaufmann" appear to be incomplete or false, given the courier's inability to deliver the Center's written communications. Further, the Panel notes that the registrant, "Client Care, Web Commerce Communications Limited" has been subject to multiple consolidation proceedings involving allegedly distinct registrants whose details appeared to be incomplete or false, reinforcing the notion that such registrants are likely aliases used for purposes of trying to frustrate such proceedings. See, for example, *Manduka LLC v. Bach Johanna, Beike Dieter, Brandt Uta, Wexler Mathias, Kalb Benjamin, and Client Care, Web Commerce Communications Limited*, WIPO Case No. [D2023-3098](#), *Autumnpaper Ltd v. Sylvia Baer, Monika Nussbaum, Jessica Decker, Client Care, Web Commerce Communications Limited, Max Werner, Krzysztof Lobacz*, WIPO Case No. [D2023-3339](#). These circumstances indicate that the disputed domain names are subject to common control.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to herein as "the Respondent") in a single proceeding.

6.2 Substantive issues

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 for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the mark is reproduced within each of the disputed domain names, with the exception of <nudiejeanuk.com>. The omission of the letter "s" in <nudiejeanuk.com> does not prevent confusing similarity.

In one disputed domain names, the Complainant's mark is followed by the term "factoryoutlet". In all other disputed domain names, the mark is followed by the name or acronym of a country or another geographical indication (such as "nyc" for New York city).

Although the addition of geographical or of other descriptive terms may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing

similarity between the disputed domain names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). 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 available record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain names.

The Complainant has shown that the Respondent posted websites under the disputed domain names <nudiejeansbrasil.com>, <nudiejeansdenmark.com>, <nudiejeansfactoryoutlet.com>, <nudiejeansfrance.com>, <nudiejeansgreece.com>, <nudiejeansindia.com>, <nudiejeansindonesia.com>, <nudiejeansireland.com>, <nudiejeansisrael.com>, <nudiejeansjapan.com>, <nudiejeansmalaysia.com>, <nudiejeansnorge.com>, <nudiejeansnyc.com>, <nudiejeansphilippines.com>, <nudiejeanspolska.com>, <nudiejeanspraha.com>, <nudiejeanssouthafrica.com>, <nudiejeanssuomi.com>, <nudiejeansthailand.com>, <nudiejeansturkiye.com>, <nudiejeansuae.com>, and <nudiejeanuk.com> that impersonate the Complainant by displaying the Complainant’s logo and pictures of its products and including registration and login portals, thus creating a risk of phishing attacks and/or the sale of counterfeit products. The Respondent’s use of these disputed domain names clearly does not meet the “Ok! Data Test”, because these sites do not disclose the lack of relationship between the Respondent and the Complainant, and because by registering 36 domain names, the Respondent has tried to corner the market in domain names that reflect the trademark in combination with geographic names. [WIPO Overview 3.0](#), section 2.8.

While the remaining 14 disputed domain names, <nudiejeansaustralia.com>, <nudiejeansbelgium.com>, <nudiejeanscanada.com>, <nudiejeansdeutschland.com>, <nudiejeansespana.com>, <nudiejeansitalia.com>, <nudiejeansmexico.com>, <nudiejeansnederland.com>, <nudiejeansnz.com>, <nudiejeansosterreich.com>, <nudiejeansportugal.com>, <nudiejeansschweiz.com>, <nudiejeanssingapore.com>, and <nudiejeanssverige.com>, do not resolve to active websites, such passive holding clearly does not constitute a *bona fide* offering and given their composition (and their intended likely use given the other 22 disputed domain names) there is a risk of implied affiliation that cannot constitute fair use under the circumstances of this proceeding.

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 names such as those enumerated in the Policy or otherwise.

Panels have held that the use of a domain name for illegal activity such as impersonating the complainant, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

In the view of the Panel, noting that that the Complainant's trademark predates the registration of the disputed domain names and considering that several disputed domain names resolve to websites featuring the Complainant's logo and depictions of its products, it is inconceivable that the Respondent could have registered the disputed domain names without knowledge of the Complainant's well-known trademark. In the circumstances of this case, this is evidence of registration in bad faith.

The disputed domain names <nudiejeansbrasil.com>, <nudiejeansdenmark.com>, <nudiejeansfactoryoutlet.com>, <nudiejeansfrance.com>, <nudiejeansgreece.com>, <nudiejeansindia.com>, <nudiejeansindonesia.com>, <nudiejeansireland.com>, <nudiejeansisrael.com>, <nudiejeansjapan.com>, <nudiejeansmalaysia.com>, <nudiejeansnorge.com>, <nudiejeansnyc.com>, <nudiejeansphilippines.com>, <nudiejeanspolska.com>, <nudiejeanspraha.com>, <nudiejeanssouthafrica.com>, <nudiejeanssuomi.com>, <nudiejeansthailand.com>, <nudiejeansturkiye.com>, <nudiejeansuae.com>, and <nudiejeanuk.com> resolve to allegedly geo-restricted websites that are only accessible from the geographic location indicated in the disputed domain name. These websites impersonate the Complainant and display the Complainant's logo and images of NUDIE JEANS branded clothing. The impression given by these websites would cause consumers to believe that the Respondent is somehow associated with the Complainant when, in fact, it is not. The Panel holds that by using these disputed domain names, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its websites, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website in the sense of Policy, paragraph 4(b)(iv).

Moreover, Panels have held that the use of a domain name for illegal activity such as in the present case impersonation / passing off constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of these disputed domain names constitutes bad faith under the Policy.

All the disputed domain names appear to currently resolve to inactive sites. The Panel notes that the Complainant alleges that the previously impersonating disputed domain names were "geo-restricted", meaning such impersonating content would only be accessible from said geographic locations. Regardless, even if some of the disputed domain names do still resolve to such active websites, the Panel's analysis above would clearly apply. Nevertheless, the Panel notes that there were always 14 disputed domain names that have not resolved to any active website.

Panels have found that the non-use of a domain name (including a blank page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain names does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness and reputation of the Complainant's trademark, the failure of the Respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and the Respondent's use of false contact details as evidenced by the inability of the courier to deliver the Center's written communication to two of the addresses disclosed by

the Registrar for the Respondent. Therefore, the Panel finds that in the circumstances of this case the passive holding of these disputed domain names does not prevent a finding of bad faith under the Policy.

Based on the available record, the Panel finds that the Complainant has established the third element of the Policy with regard to all of the disputed domain names.

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 names <nudiejeansaustralia.com>, <nudiejeansbelgium.com>, <nudiejeansbrasil.com>, <nudiejeanscanada.com>, <nudiejeansdenmark.com>, <nudiejeansdeutschland.com>, <nudiejeansespana.com>, <nudiejeansfactoryoutlet.com>, <nudiejeansfrance.com>, <nudiejeansgreece.com>, <nudiejeansindia.com>, <nudiejeansindonesia.com>, <nudiejeansireland.com>, <nudiejeansisrael.com>, <nudiejeansitalia.com>, <nudiejeansjapan.com>, <nudiejeansmalaysia.com>, <nudiejeansmexico.com>, <nudiejeansnederland.com>, <nudiejeansnorge.com>, <nudiejeansnyc.com>, <nudiejeansnz.com>, <nudiejeansosterreich.com>, <nudiejeansphilippines.com>, <nudiejeanspolska.com>, <nudiejeansportugal.com>, <nudiejeanspraha.com>, <nudiejeansschweiz.com>, <nudiejeanssingapore.com>, <nudiejeanssouthafrica.com>, <nudiejeanssuomi.com>, <nudiejeanssverige.com>, <nudiejeansthailand.com>, <nudiejeansturkiye.com>, <nudiejeansuae.com>, and <nudiejeanuk.com> be transferred to the Complainant.

/Andrea Mondini/

Andrea Mondini

Sole Panelist

Date: December 1, 2023