

ADMINISTRATIVE PANEL DECISION

Peet's Coffee, Inc. v. Steven Dabkowski
Case No. D2023-4576

1. The Parties

The Complainant is Peet's Coffee, Inc., United States ("United States"), represented by Valauskas Corder LLC, United States.

The Respondent is Steven Dabkowski, United States.

2. The Domain Name and Registrar

The disputed domain name <peetsshop.com> is registered with NameSilo, LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on November 3, 2023. On November 6, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 6, 2023, the Registrar transmitted by email to the Center its verification response disclosing the registrant and contact information for the disputed domain name which differed from the named Respondent (PrivacyGuardian.org llc) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 9, 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 November 14, 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 November 15, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 5, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 12, 2023.

The Center appointed William F. Hamilton as the sole panelist in this matter on December 20, 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 well-known in the United States and in numerous international markets for its coffee and related products and services. The Complainant currently utilizes the trademarks PEET'S and PEET'S COFFEE. The Complainant has continuously employed the PEET'S mark (hereinafter referred to as the "Mark") in commercial activities since April 1, 1966. The Complainant's original registration for the Mark is the United States Patent and Trademark Office ("USPTO") Registration No. 955,284, dated March 13, 1973. The Complainant also holds numerous foreign trademark registrations for the Mark issued by various jurisdictions, including but not limited to European Union, Kuwait, China, and Canada. The Complainant also owns domain names that incorporate the Mark. The domain name <peets.com> has been registered since 1995. It is the Complainant's principal website.

The disputed domain name was registered on April 1, 2023. The disputed domain name resolves to a website that features images, including the Mark, of the Complainant's branded products for sale. The Respondent's website does not have a disclaimer regarding any relationship with the Complainant.

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. The Complainant asserts the disputed domain name is confusingly similar to the Mark because the disputed domain name is composed by entirely adopting the Mark and adding the word "shop." The Complainant asserts that the Complainant never authorized the Respondent to use the disputed domain name, that the Respondent is not generally known by the disputed domain name, never operated a business under the disputed domain name, has not advertised the disputed domain name, and never engaged in any *bona fide* commercial activity in connection with the disputed domain name. The Complainant asserts that the Respondent obviously knew of the Mark and has used the disputed domain name in bad faith to attract unsuspecting Internet users to its website for commercial benefit to sell the Complainant's branded products or to collect consumer information.

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, to succeed the Complainant must satisfy the Panel that:

- (i) the disputed domain name is identical or confusingly similar to a 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 was registered and is being used in bad faith.

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 Mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. The addition of the term "shop" in the disputed domain name does not prevent a finding of confusing similarity between the disputed domain name 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 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 Respondent's offering for sale of the Complainant's branded products does not establish rights or legitimate interests in the disputed domain name.

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 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 Respondent has knowingly registered the disputed domain name fully cognizant of the Complainant's Mark with the apparent goal of attracting unsuspecting Internet users to the Respondent's website for commercial gain by creating a likelihood of confusion with the Complainant's mark.

Based on the available record, the Panel finds that the Complainant has established the third element 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 <peetsshop.com> be transferred to the Complainant.

/William F. Hamilton/

William F. Hamilton

Sole Panelist

Date: January 3, 2024