

ADMINISTRATIVE PANEL DECISION

Chewy, Inc. v. Milen Radumilo
Case No. D2023-5339

1. The Parties

The Complainant is Chewy, Inc., United States of America (“United States”), represented by Winterfeldt IP Group PLLC, United States.

The Respondent is Milen Radumilo, Romania.

2. The Domain Name and Registrar

The disputed domain name <www-chewy.com> is registered with Chipshot Domains LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 22, 2023. On December 26, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 9, 2024, 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 (PERFECT PRIVACY, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 15, 2024, 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 January 19, 2024.

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 January 22, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 11, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 12, 2024.

The Center appointed Nayiri Boghossian as the sole panelist in this matter on February 23, 2024. 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 an online retailer for pet supplies operating under the brand name CHEWY founded in 2011. The Complainant owns trademark registrations incorporating the term “Chewy” such as:

- United States trademark registration No. 4,346,308 for CHEWY.COM, registered on June 4, 2013;
- United States trademark registration No. 5,028,009 for CHEWY, registered on August 23, 2016;
- United States trademark registration No. 5,834,442 for CHEWY, registered on August 13, 2019.

The Complainant owns the domain name <chewy.com>, which is its primary website.

The disputed domain name was registered on November 26, 2023, and redirects to various websites including the Complainant’s official website, and the website with Pay-Per-Click (“PPC”) links for pet products. The Respondent is based in Romania.

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 identical or confusingly similar to a trademark or service mark in which the Complainant has rights. The disputed domain name incorporates the Complainant’s trademark in its entirety. The generic Top-Level Domain (“gTLD”) “.com” does not eliminate confusing similarity nor does the addition of “www”.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not authorized by the Complainant to use its trademark. The disputed domain name was registered long after the Complainant registered its trademark. The disputed domain name does not reflect the Respondent’s common name. The disputed domain name redirects to the Complainant’s website or competing websites. The disputed domain name is offered for sale at an inflated price. There is no bona fide or legitimate noncommercial or fair use.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. The disputed domain name was offered for sale at USD 2,888, which well exceeds out-of-pocket costs. The disputed domain name redirects to the Complainant’s website or to a website with links to competitors of the Complainant. The Respondent is deceiving users into believing that the disputed domain name is the official website of the Complainant and is diverting business. By creating the likelihood of confusion, the Respondent is intentionally redirecting users to the Complainant’s website or third-party sites for commercial gain. The Respondent must have been aware of the Complainant’s trademark. The Respondent has engaged in a pattern of serial cybersquatting against multiple complainants, and the Respondent was found to have registered and used the domain names in bad faith in numerous UDRP proceedings.

B. Respondent

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

6. Discussion and Findings

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.

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 entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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 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 notes that the Respondent was aware of the Complainant's business as the disputed domain name redirects to the Complainant's official website or resolves to a page with PPC links for pet products.

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.

The Panel finds that by using the disputed domain name for redirection to the Complainant's official website or a website with PPC links for pet products, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark, which constitutes bad faith under paragraph 4(b)(iv) of the Policy.

Moreover, the Panel also notes that the disputed domain name is being offered for sale at a third party website for USD 2,888, and the Respondent has been named as a respondent in numerous UDRP proceedings in which the panels found the Respondent's bad faith in registering and using the domain names incorporate third party trademarks. The Panel finds this further supports the finding of the Respondent's bad faith in this case.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

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 <www-chewy.com> be transferred to the Complainant.

/Nayiri Boghossian/

Nayiri Boghossian

Sole Panelist

Date: March 8, 2023