

ADMINISTRATIVE PANEL DECISION

Yakima Products, Inc. v. Jennifer Bennett, Bennett Jennifer
Case No. D2024-0249

1. The Parties

Complainant is Yakima Products, Inc., United States of America (“United States”), represented by Hanson Bridgett LLP, United States.

Respondent is Jennifer Bennett, Bennett Jennifer, United States.

2. The Domain Name and Registrar

The disputed domain name <yakimasus.shop> is registered with Web Commerce Communications Limited dba WebNic.cc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 19, 2024. On January 22, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 23, 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 (Domain Admin, Whoisprotection.cc) and contact information in the Complaint. The Center sent an email communication to Complainant on the same day, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on January 25, 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 Respondent of the Complaint, and the proceedings commenced on January 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 15, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on February 21, 2024.

The Center appointed Lorelei Ritchie as the sole panelist in this matter on February 26, 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

Complainant is a multinational company, based in the United States. For decades prior to the registration of the disputed domain name, Complainant has offered vehicle cargo accessories, including cargo racks, bicycle carriers, and related goods under the YAKIMA mark. Complainant has several registered trademarks for its YAKIMA mark. These include, among others, United States Registration Nos. 1509179 (registered October 18, 1988) and 1508043 (registered October 11, 1988).

Complainant is also the owner of the domain name registration for <yakima.com> (registered February 10, 1995), which Complainant uses to connect with potential consumers online.

The disputed domain name was registered on October 8, 2023. Respondent has used the disputed domain name to resolve to a webpage that appears to mimic an official website of Complainant, with links that request personal and financial information. Complainant has not authorized any activities by Respondent, nor any use of its trademarks thereby.

5. Parties' Contentions

A. Complainant

Complainant contends that the (i) disputed domain name is identical or confusingly similar to Complainant's trademarks; (ii) Respondent has no rights or legitimate interests in the disputed domain name; and (iii) Respondent registered and is using the disputed domain name in bad faith.

In particular, Complainant contends that it has established rights in its "well-known" and "famous" mark YAKIMA. Complainant contends that Respondent has merely added the term "sus" with the Top-Level Domain ".shop," which together could reasonably be understood as referring to "Yakima's US Shop." Complainant asserts that Respondent has no rights or legitimate interest in the registration or use of the disputed domain name. Rather, Complainant contends that Respondent has acted in bad faith in setting up a website meant to impersonate Complainant and to confuse web users. In this regard, Complainant asserts that Respondent has used Complainant's mark in order to obtain personal and financial information from consumers of Complainant for Respondent's own commercial gain.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

This Panel must first determine whether the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights in accordance with paragraph 4(a)(i) of the Policy. The Panel finds that it is. The disputed domain name directly incorporates Complainant's registered YAKIMA mark, with the addition of the letters "sus."

Numerous UDRP panels have agreed that the addition of term or letters to a trademark does not prevent a finding of confusing similarity. See [WIPO Overview 3.0](#), section 1.8. The Panel therefore finds that the disputed domain name is confusingly similar to a trademark in which Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Policy provides some guidance to respondents on how to demonstrate rights or legitimate interests in the domain name at issue in a UDRP dispute. For example, paragraph 4(c) of the Policy gives examples that might show rights or legitimate interests in a domain name. These examples include: (i) use of the domain name "in connection with a bona fide offering of goods or services;" (ii) demonstration that Respondent has been "commonly known by the domain name;" or (iii) "legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue."

Respondent did not submit a reply to Complainant's contentions, and Respondent did not allege or otherwise provide any information that would support a finding that Respondent has rights or legitimate interests in the disputed domain name. Given the composition of the disputed domain name, coupled together with its impersonating use, it is clear that the Respondent sought to mislead unsuspecting Internet users into the false belief they were transacting with the Complainant. Panels have held that the use of a domain name for illegal activity, such as impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. Accordingly, the Panel finds that Complainant has made a prima facie showing of Respondent's lack of rights or legitimate interest in the disputed domain name, which Respondent has not rebutted.

C. Registered and Used in Bad Faith

There are several ways that a complainant can demonstrate that a domain name was registered and used in bad faith. For example, paragraph 4(b)(iv) of the Policy states that bad faith can be shown where "by using the domain name [respondent has] intentionally attempted to attract, for commercial gain, Internet users to [respondent's] web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of [respondent's] website or location or of a product or service on [the] web site or location". As noted in Section 4 of this Panel's decision, Respondent has used the disputed domain name to resolve to a webpage that appears to mimic an official website of Complainant, with links that request personal and financial information. Respondent is thus trading on the goodwill of Complainant's trademarks to attract Internet users, presumably for Respondent's own commercial gain, and with prior knowledge of Complainant's rights in the YAKIMA mark.

The Panel finds that Respondent registered and used the disputed domain name in bad faith for purposes of paragraph 4(a)(iii) of the Policy.

7. Decision

For all 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, <yakimasus.shop>, be transferred to Complainant.

/Lorelei Ritchie/

Lorelei Ritchie

Sole Panelist

Dated: March 11, 2024