

## **ADMINISTRATIVE PANEL DECISION**

Awareness Corporation v. AJ Singh, AJ  
Case No. D2024-1320

### **1. The Parties**

The Complainant is Awareness Corporation, United States of America (“United States”), internally represented.

The Respondent is AJ Singh, AJ, United States.

### **2. The Domain Name and Registrar**

The disputed domain name <puretrimm.com> is registered with GoDaddy.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 27, 2024. On March 28, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name that differed from the named Respondent (Registration Private, Domain By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 4, 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 the same day.

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 April 5, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 25, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 29, 2024.

The Center appointed Steven Auvil as the sole panelist in this matter on May 3, 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**

According to the Complaint, the Complainant, Awareness Corporation doing business as PureTrim, is a corporation in the dietary, food, and herbal supplement industry, located in Arizona, in the United States.

According to the Complaint, the Complainant owns trademarks in connection with the PURETRIM brand, including, United States Registration No. 2878718 (registered August 31, 2004) and Canadian Registration No. TMA621665 (registered October 5, 2004). The Complainant also owns the domain name <puretrim.com>.

The disputed domain name was registered on December 6, 2023. According to the Complaint, the disputed domain name resolves to a website that purports to offer dietary supplements for sale that mirror those sold by the Complainant, including packaging that contains the PURETRIM mark.

#### **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 PURETRIM mark because the disputed domain name incorporates the entirety of the Complainant's PURETRIM mark with the only difference being the addition of the character "m" at the end of the name (i.e., puretrim versus puretrimm).

The Complainant also asserts that the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant contends that the Respondent has not been commonly known by the disputed domain name or any name corresponding to the disputed domain name. The Complainant further states that the Respondent has positioned itself to make financial and or commercial gain by attempting to divert customers away from Complainant and/or tarnish the Complainant's PURETRIM mark.

The Complainant also alleges that the Respondent registered the disputed domain name in bad faith as the disputed domain name mirrors the Complainant's PURETRIM brand and domain name <puretrim.com>, attempting to cause confusion from consumers who, in error, type "puretrimm.com", a practice commonly referred to "typosquatting". The Complainant further contends that the Respondent has registered the disputed domain name primarily for the purpose of disrupting the business of the Complainant.

According to the Complainant, the disputed domain name resolves to a website that appears strikingly similar to the products offered by the Complainant. The Complainant further claims that the Respondent intentionally attempted to attract for commercial gain, Internet users to the Respondent's website by causing a likelihood of confusion with the Complainant's PURETRIM mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website and or of a product on the Respondent's website.

The Complainant alleges that the disputed domain name resolves to a website that offers several options for consumers to contact the manufacturer of the product, including a phone number and email address. Complainant alleges that the telephone number was not in service, and the email address returns an undeliverable error message. The Complainant contends that if a consumer is injured by the products offered by the Respondent, the consumer cannot inform the manufacturer who, as a dietary supplement manufacturer, would be required to take swift and specific actions pursuant to regulations promulgated by the United States Food and Drug Administration.

The Complainant requests that the disputed domain name be transferred to the Complainant.

## **B. Respondent**

The Respondent did not file a Response to the Complainant's contentions.

## **6. Discussion and Findings**

According to paragraph 15(a) of the Rules: “[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable.” Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following to obtain relief:

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

In view of the Respondent's failure to submit a Response, the Panel is entitled to accept as true the allegations set forth in the Complaint (unless the evidence is clearly contradictory), and to derive reasonable inferences from the evidence presented. See *Talk City, Inc. v. Michael Robertson*, WIPO Case No. [D2000-0009](#).

Based on the foregoing guidance, the Panel makes the following findings and conclusions based on the allegations and evidence contained in the Complaint and reasonable inferences drawn from the evidence presented.

### **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 evidence submitted by the Complainant supports the conclusion that the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy as the Complainant owns several United States and Canadian trademarks for PURETRIM, the earliest of those registered in 2004. [WIPO Overview 3.0](#), section 1.2.1.

As set forth in [WIPO Overview 3.0](#), section 1.7, when the entirety of a mark is reproduced within the disputed domain name, or “at least a dominant feature of the relevant mark is recognizable in the domain name,” the disputed domain name is deemed confusingly similar to the mark for the purposes of the Policy. Further, section 1.8 of [WIPO Overview 3.0](#) states that “[w]here the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element.”

Here, the entirety of the mark is reproduced within the disputed domain name with the additional letter “m” and the generic Top-Level Domain (“gTLD”) “.com”. The Panel finds the mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark under the Policy. [WIPO Overview 3.0](#), section 1.7. Further, the additional letter “m” 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 1.9; see also *Fendi S.r.l. v. Wenxin Huang, Online Store Co., Ltd*, WIPO Case

No. [D2018-2877](#).

Additionally, as set forth in section 1.11.1 of [WIPO Overview 3.0](#), the applicable gTLD (e.g., “.com”, “.site”, “.info”, “.shop”) is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. As such, the use of “.com” in the disputed domain name has no bearing on establishing identity or confusing similarity here. See *Calzaturificio Casadei S.p.A. v. Nancy Salvaggio*, WIPO Case No. [D2019-2329](#); *Ally Financial Inc. v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2020-2037](#).

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. More specifically, the Complainant has not licensed or otherwise authorized the Respondent’s use of the PURETRIM mark as a domain name, nor does the Respondent have any affiliation, association, sponsorship, or connection with the Complainant. The Respondent has not rebutted the Complainant’s prima facie showing as it 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.

Further, panels have held that the use of a domain name for illegal activity, such as the sale of counterfeit goods or illegal pharmaceuticals and or impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. Here, the Respondent has used the disputed domain name in an attempt to pass off dietary supplements as those of the Complainant. *Small Pharma Limited v. Jerry Menez, KITTENCARECENTER*, WIPO Case No. [DCO2022-0098](#).

The Panel finds the second element of the Policy has been established.

## **C. Registered and Used 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. Section 3.2.1 of [WIPO Overview 3.0](#) provides that “[p]articular circumstances panels may take into account in assessing whether the respondent’s registration of a domain name is in bad faith include: (i) the nature of the domain name (e.g., a typo of a widely-known mark, or a domain name incorporating the complainant’s mark plus an additional term such as a descriptive or geographic term, or one that corresponds to the complainant’s area of activity or natural zone of expansion) [...] (vi) a clear absence of rights or legitimate interests coupled with no credible explanation for the respondent’s choice of the domain name, or (viii) other indicia generally suggesting that the respondent had somehow targeted the complainant.”

In the present case, the Panel concludes that Respondent registered and used the disputed domain name in bad faith. For starters, the Respondent copied the Complainant's PURETRIM mark in the disputed domain name, and it lacks any rights or legitimate interests in the disputed domain name. Moreover, the evidence reflects that the Respondent has engaged in illegal acts associated with the disputed domain name, including using the disputed domain name to mislead consumers into thinking they are purchasing authentic products from the Complainant. Panels have also held that the use of a domain name for illegal activity, such as impersonation/passing off, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Under the circumstances, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy. See *Actavis Group PTC ehf, Actavis Holdco US, INC. v. Domain Admin, Privacy Protect, LLC (PrivacyProtect.org) / Vladimir Jonnas*, WIPO Case No. [D2021-1729](#).

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 <puretrimm.com> be transferred to the Complainant.

*/Steven Auvil/*

**Steven Auvil**

Sole Panelist

Date: May 18, 2024