

## **ADMINISTRATIVE PANEL DECISION**

The Faucet Boyz LLC v. Frank Morgan, cf, Mark Morgan,  
ALLTRANSGLOBACOURIER  
Case No. D2024-1893

### **1. The Parties**

The Complainant is The Faucet Boyz LLC, United States of America ("United States"), represented by The Plus IP Firm, United States.

The Respondents are Frank Morgan, cf, United States, and Mark Morgan, ALLTRANSGLOBACOURIER, United States.

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

The disputed domain names <microbardisposable.com> and <microbarvape.com> are registered with Hosting Concepts B.V. d/b/a Registrar.eu. (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on May 3, 2024. On May 6, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On May 7, 2024, 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 (Micro Bar Vape) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 7, 2024 with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting the Complainant to either file separate complaint(s) for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all domain names are under common control. The Respondent sent an email to the Complainant on May 7, 2024. The Complainant filed an amended Complaint on May 11, 2024. <sup>1</sup>

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<sup>1</sup>The Complainant removed two domain names from the proceeding upon receipt of the Center's email of multiple underlying registrants.

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 Respondents of the Complaint, and the proceedings commenced on May 21, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 10, 2024. The Respondents did not submit any formal response. Accordingly, the Center notified the Commencement of Panel Appointment Process on June 11, 2024.

The Center appointed Evan D. Brown as the sole panelist in this matter on June 25, 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 provides a variety of goods and services, including smokers' articles and an extensive array of online content related to cannabis, cannabis extracts, and vaping products. It owns the trademark MICRO BAR and enjoys the benefits of registration of that mark in the State of Washington, United States. The state registration certifies that the mark was first used on September 29, 2022. The Complainant's application to register the mark with the United States Patent and Trademark Office (Serial No. 98312289) lists a date of first use of November 1, 2022, and the trademark was registered on July 9, 2024 (Registration No. 7443773). The Complainant asserts that it has engaged in “consistent” and “widespread” use of its mark in a number of states, which has solidified its presence in the marketplace and developed goodwill in the mark.

The disputed domain name <microbardisposable.com> was registered on October 6, 2023 and the disputed domain name <microbarvape.com> was registered on October 9, 2023. The Respondents have used the disputed domain names to set up websites imitating the Complainant, providing information and imagery relating to goods and services identical to those that the Complainant provides, and going so far as to copy the Complainant's stylized version of its MICRO BAR mark.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant contends that the disputed domain names are identical or confusingly similar to the Complainant's trademarks; that the Respondents have no rights or legitimate interests in respect of the disputed domain names; and that the disputed domain names were registered and are being used in bad faith.

##### **B. Respondent**

The Respondents did not formally reply to the Complainant's contentions. The Respondent Frank Morgan, cf sent an email from [...]@microbarvape.com to the Complainant stating that “[y]ou can proceed with this domain microbardisposable.com”.

#### **6. Discussion and Findings**

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (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 has been registered and is being used in bad faith. The Panel finds that all three of these elements have been met in this case.

#### **A. Consolidation: Multiple Respondents**

There are two named Respondents (two underlying registrants disclosed by the Registrar) – one for each of the disputed domain names. The Complainant requests that both be consolidated into this matter. Consolidation is proper, so the Complainant's request for consolidation is granted.

Paragraph 10(e) of the Rules states that a “[p]anel shall decide a request by a Party to consolidate multiple domain name disputes in accordance with the Policy and these Rules”. Paragraph 10(c) of the Rules provides, in relevant part, that “the [p]anel shall ensure that the administrative proceeding takes place with due expedition”. Section 4.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”) summarizes the consensus view of UDRP panels on the consolidation of multiple respondents and provides that where a complaint is filed against multiple respondents, panels consider whether the domain names or corresponding websites are subject to common control, and whether the consolidation would be fair and equitable to all parties.

The record indicates the disputed domain names are under common control. Both disputed domain names were registered with similar contact information – the same phone number, same street address (with the same apparent misspelling - “los angerlos”) and same email address. They both target the Complainant's MICRO BAR mark. And both disputed domain names were registered relatively close together in time - <microbardisposable.com> was registered on October 6, 2023 and <microbarvape.com> was registered on October 9, 2023.

The Respondents have not presented any arguments as to why consolidation would be unfair or inequitable. Accordingly, conditions for proper consolidation of the disputed domain names into one matter are present here.

#### **B. Identical or Confusingly Similar**

This element requires the Panel to consider two issues: first, whether the Complainant has rights in a relevant mark; and second, whether the disputed domain names are identical or confusingly similar to that mark. This element under the Policy functions primarily as a standing requirement. [WIPO Overview 3.0](#), section 1.7.

Having reviewed the available records, the Panel notes the common law rights have been established, as the Complainant has asserted in its mark based on use in commerce. The Respondents have not provided any basis to discount the Complainant's account of its common law rights in the MICRO BAR mark. [WIPO Overview 3.0](#), section 1.3.

Furthermore, at the time of the decision, the Complainant owns a registered mark No. 7443773 in the United States, registered on July 9, 2024 (which lists a date of first use of November 1, 2022).

Both of the disputed domains name incorporate the MICRO BAR mark in its entirety with the additional terms “disposable” and “vape”, which do not prevent a finding of confusing similarity between the disputed domain names and the Complainant's MICRO BAR mark. See [WIPO Overview 3.0](#), section 1.8. The MICRO BAR mark remains recognizable for a showing of confusing similarity under the Policy.

The Panel finds that the Complainant has established this first element under the Policy.

### C. Rights or Legitimate Interests

The Panel evaluates this element of the Policy by first looking to see whether the Complainant has made a prima facie showing that the Respondents lack rights or legitimate interests in respect of the disputed domain names. If the Complainant makes that showing, the burden of production of demonstrating rights or legitimate interests shifts to the Respondents (with the burden of proof always remaining with the Complainant).

On this point, the Complainant asserts, among other things, that (1) the Complainant has not consented to the Respondents' use of the MICRO BAR mark, (2) the Respondents are not making a fair use of the mark within the disputed domain name, and (3) that the Respondents are not using the disputed domain name in connection with a bona fide offering of goods. Instead, the Complainant asserts that the Respondents are seeking to misleadingly divert customers for commercial gain.

The Panel finds that the Complainant has made the required prima facie showing. The Respondents have not presented evidence to overcome this prima facie showing. Nothing in the record otherwise tilts the balance in the Respondents' favor. Furthermore, the Panel notes the composition of the disputed domain names carries a risk of implied affiliation with the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

Accordingly, the Panel finds that the Complainant has established this second element under the Policy.

### D. Registered and Used in Bad Faith

The Policy requires a complainant to establish that the disputed domain name was registered and is being used in bad faith. The Policy describes several non-exhaustive circumstances demonstrating a respondent's bad faith registration and use. Under paragraph 4(b)(iv) of the Policy, a panel may find bad faith when a respondent "[uses] the domain name to intentionally attempt to attract, for commercial gain, Internet users to [respondent's] website or other online location, by creating a likelihood of confusion with complainant's mark as to the source, sponsorship, affiliation, or endorsement of [respondent's] website or location or a product or service on [the respondent's] website or location".

Under these circumstances, it is implausible to believe that the Respondents were not aware of the Complainant and its MICRO BAR mark when it registered the disputed domain names. The Respondents used the disputed domain names – comprising the Complainant's mark – to set up websites that copy the Complainant's branding elements, likely in an attempt to divert legitimate consumers of the Complainant's goods and services. See *JB IP, LLC v. Barney Bash*, WIPO Case No. [D2023-1863](#) ("Given that the Respondent set up a website that copies and displays the Complainant's [...] mark and purports to offer the very same kinds of products for sale that the Complainant sells, it is implausible to believe that the Respondent was not aware of the Complainant and its mark when it registered the disputed domain name.") In the circumstances of this case, such a showing is sufficient to establish bad faith registration of the disputed domain name.

Bad faith use is clear from the same facts. The Respondents' activities of using the disputed domain names to create websites that imitate the Complainant – the same marks, similar images, the same kinds of products, the same color scheme, and more – is a clear example of the bad faith use that the Policy contemplates. A finding of bad faith on these facts is consistent with how panels have addressed similar facts. See, e.g., *JB IP, LLC v. Barney Bash*, supra., WIPO Case No. [D2023-1863](#); *SundaeSwap Labs, Inc. v. solana art*, WIPO Case No. [D2022-0231](#) (bad faith use found where the respondent therein used the disputed domain name to post a copy of the complainant's website).

Accordingly, the Panel finds that the Complainant has established this third element under 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 names <microbardisposable.com> and <microbarvape.com> be transferred to the Complainant.

*/Evan D. Brown/*

**Evan D. Brown**

Sole Panelist

Date: July 10, 2024