

ADMINISTRATIVE PANEL DECISION

Heaven Hill Distilleries, Inc. v. Lloyd List
Case No. D2024-2816

1. The Parties

Complainant is Heaven Hill Distilleries, Inc., United States of America (“United States”), represented by Wyatt, Tarrant & Combs, United States.

Respondent is Lloyd List, United States.

2. The Domain Name and Registrar

The disputed domain name <heavenhilldistilleries.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 July 10, 2024. On July 11, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 11, 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 (Registration Private, Domains by Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to Complainant on July 12, 2024, 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 July 16, 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 July 23, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 12, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on August 13, 2024.

The Center appointed Timothy D. Casey as the sole panelist in this matter on August 19, 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 bourbon distiller and distributor that was founded in 1935. Complainant is now the fifth-largest spirit supplier in the United States producing whiskeys, liqueurs, vodkas, rums and other spirits.

Complainant has registrations for trademarks including “Heaven Hill”, as an element of the marks, in the United States (the “HEAVEN HILL Marks”) as follows:

Mark	Jurisdiction	Class(es)	Registration No.	Registration Date
HEAVEN HILL BRANDS Design	United States	33	4,770,439	July 7, 2015
HEAVEN HILL DISTILLERY Design	United States	33	5,934,138	December 10, 2019
HEAVEN HILL	United States	33	693,986	March 1, 1960

Complainant’s legal name is Heaven Hill Distilleries, Inc. Complainant is the owner of the domain <heaven-hill.com> since October 11, 1999.

The disputed domain name was registered March 29, 2001. At the time of filing the Complaint, the disputed domain name redirected to <estatesatturtlerun.info> and did not resolve to an active website.

5. Parties’ Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, Complainant contends that it has rights in the HEAVEN HILL Marks, as evidenced herein, which it has used since 1935, and that the disputed domain name is confusingly similar to the HEAVEN HILL Marks because the disputed domain name wholly incorporates the HEAVEN HILL Marks.

Complainant contends that Respondent is not using the disputed domain name in connection with a bona fide offering of goods or services and is not commonly known by the disputed domain name. Complainant has not authorized any party to register the disputed domain name. Complainant contends that Respondent has not made a legitimate noncommercial or fair use of the disputed domain name and is instead using the disputed domain name to pass itself off to third parties as Complainant.

Complainant contends that Respondent’s registration of the disputed domain name intentionally targets Complainant’s business structure, thereby suggesting that Respondent was very likely aware of Complainant’s HEAVEN HILL Marks at the time of registration.

Complainant contends that the fact that the disputed domain name redirects to another domain name and does not resolve to an active website is evidence of Respondent’s bad faith use of the disputed domain name.

B. Respondent

Respondent did not reply to 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 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.

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 at least one of the HEAVEN HILL Marks 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 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 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 Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Respondent has not rebutted 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 Respondent was likely aware of the HEAVEN HILL Marks well in advance of registration of the disputed domain name and that Respondent's redirection of the dispute domain name to a different domain name, essentially a form of passive holding, evidence Respondent's attempt to pass itself off as being associated with Complainant.

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.

Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness or reputation of Complainant's trademark, and the composition of the disputed domain name (which reproduces almost entirely Complainant's legal name, Heaven Hill Distilleries, Inc.), and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

The Panel finds that 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 <heavenhilldistilleries.com> be transferred to Complainant.

/Timothy D. Casey/

Timothy D. Casey

Sole Panelist

Date: September 2, 2024