

## ADMINISTRATIVE PANEL DECISION

JB IP, LLC v. 刘小春 (Xiao Chun Liu)

Case No. D2024-2845

### 1. The Parties

The Complainant is JB IP, LLC, United States of America (“United States”), represented by REDROC IP LLC, United States.

The Respondent is 刘小春 (Xiao Chun Liu), China.

### 2. The Domain Name and Registrar

The disputed domain name <verifyjungleboys.com> is registered with Chengdu West Dimension Digital Technology Co., Ltd. (the “Registrar”).

### 3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on July 11, 2024. On July 12, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 15, 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 (Registrar - Chengdu West Dimension Digital Technology Co., Ltd.) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 15, 2024 providing the registrant and contact information disclosed by the Registrar, and requiring the Complainant to submit an amendment to the Complaint.

On July 15, 2024, the Center informed the parties in Chinese and English, that the language of the registration agreement for the disputed domain name is Chinese. On July 16, 2024, the Complainant filed an amended Complaint in Chinese and requested English be the language of proceeding. The Respondent did not submit any comment on the Complainant’s submission.

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 in Chinese and English of the Complaint, and the proceedings commenced on July 22, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 11, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 12, 2024.

The Center appointed Deanna Wong Wai Man as the sole panelist in this matter on August 14, 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 a Delaware, United States, limited liability company which has carried on business in the cannabis industry since at least 2016. It owns and operates a number of retail stores which trade under the name JUNGLE BOYS particularly in California and Florida, United States.

The Complainant also owns domain names incorporating the JUNGLE BOYS mark – these comprise the domain names <jungleboys.com> registered in 2000, <jungleboysclothing.com> registered in 2016, and <jungleboysflorida.com> registered in 2020.

The Respondent is a natural person located in China.

The Complainant provides evidence that it owns an international trademark portfolio for the mark JUNGLE BOYS, including, but not limited to, United States Federal Trademark Registration No. 7134110 for JUNGLE BOYS, registered on August 8, 2023 and International Trademark registration No. 1763500 for JUNGLE BOYS.

The disputed domain name was registered on January 10, 2024 and is therefore of a later date than the Complainant's abovementioned trademark registrations. The Complainant provides evidence that the disputed domain name directed to an active website impersonating the Complainant by prominently displaying the Complainant's JUNGLE BOYS logo and by providing information and verification services for JUNGLE BOYS-branded products. However, the Panel notes that on the date of this Decision, the disputed domain name points to an inactive website.

#### **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 it is the owner of various registered trademarks for JUNGLE BOYS. The Complainant asserts that the disputed domain name is confusingly similar to the abovementioned trademarks since it incorporates such marks in their entirety, adding only the word "verify". The Complainant essentially contends that the Respondent is not affiliated with nor authorized by the Complainant in any way and that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant also contends that the Respondent attempts to impersonate the Complainant with the intent to trade on the Complainant's recognition and goodwill and that by impersonating the Complainant, the Respondent cannot demonstrate a bona fide offering of goods or services. The Complainant also argues that the Respondent's efforts to pass itself off as the Complainant disrupts the Complainant's business and misleads consumers and that by using the disputed domain name, the Respondent intentionally attempts to attract for commercial gain Internet users to the Respondent's website, by creating a likelihood of confusion with the Complainant's mark as to the source of the Respondent's website or of a product on the

Respondent's website. The Complainant alleges that such use made of the disputed domain name does not confer any rights or legitimate interests and that it proves that the Respondent has registered and used the disputed domain name in bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **6.1. Preliminary Issue: Language of the Proceeding**

The language of the Registration Agreement for the disputed domain name is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English and the amended Complaint was subsequently also filed in Chinese. The Complainant nevertheless requested that the language of the proceeding be English, but provided no specific arguments to support this choice.

The Respondent did not make any specific submissions with respect to the language of the proceeding.

Given the provided submissions and circumstances of this case, the Center accepted the Complaint as filed in English together with the amended Complaint in Chinese; provided the Respondent with ample time and opportunities to submit a Response in either English or Chinese; and appointed a Panel familiar with both languages.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see [WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition \("WIPO Overview 3.0"\)](#), section 4.5.1).

Upon review of the available record, the Panel notes that the Respondent has not cooperated in any way in this proceeding (even though it was invited to do so by the Center in Chinese and English multiple times and in a timely way) and has not objected to the use of the English language, and the Panel also notes the fact that the website at the disputed domain name seems to have been exclusively in English. Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

### **6.2. Substantive Issues**

#### **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 3.0](#), section 1.7.

Based on the available record, the Panel finds 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 confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of another term, here the word “verify”, may bear on assessment of the second and third elements, the Panel finds the addition of such term 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 1.8.

Based on the available record, 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 domain names 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 considers that the composition of the disputed domain name carries a risk of implied affiliation with the Complainant. [WIPO Overview 3.0](#), section 2.5.1. Moreover, upon review of the facts and evidence, the Panel notes that the Respondent has not provided any evidence of the use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services. Instead, upon review of the facts and the evidence submitted in this proceeding, the Panel notes that the disputed domain name directed to an active website clearly impersonating the Complainant by prominently displaying the Complainant’s JUNGLE BOYS logo and by providing information and verification services for JUNGLE BOYS-branded products. Panels have consistently held that the use of a domain name for illegal activity, here impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. The Panel also finds that there are no other circumstances apparently conferring any rights or legitimate interests on the Respondent. Given the abovementioned elements, the Panel concludes that the Respondent’s use does not constitute a bona fide offering of goods or services, nor a legitimate noncommercial or fair use of the disputed domain name.

However, the Panel notes that on the date of this Decision, the disputed domain name directs to an inactive or blank webpage. In this regard, the Panel finds that holding a domain name passively, without making any use of it, also does not confer any rights or legitimate interests in the disputed domain name on the Respondent in this case (see in this regard earlier UDRP decisions such as *Bollore SE v. 赵竹飞 (Zhao Zhu Fei)*, WIPO Case No. [D2020-0691](#); and *Vente-Privee.Com and Vente-Privee.com IP S.à.r.l. v. 崔郡 (jun cui)*, WIPO Case No. [D2021-1685](#)).

Based on the available record, 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 has registered a domain name which is confusingly similar to the Complainant's intensely used and distinctive trademarks, see in this regard also previous decisions under the Policy which have recognized the Complainant's rights in its marks, such as *JB IP, LLC v. Swizz Mike, gch ghgh yt u yuc*, WIPO Case No. [D2023-1077](#). The Panel deducts from this fact that by registering the disputed domain name, the Respondent deliberately and consciously targeted the Complainant's prior trademarks for JUNGLE BOYS. This finding is confirmed by the fact that the Respondent clearly attempted to misrepresent itself as the Complainant or as connected to the JUNGLE BOYS brands and products through its use of the website which was previously linked to the disputed domain name. The Panel finds that this creates a presumption of bad faith. The Panel also notes that the Complainant's trademarks in this case predate the registration date of the disputed domain name by several years, and that the Respondent could not have been reasonably unaware of them. Furthermore, the Panel notes that even a cursory Internet search at the time of registration of the disputed domain name would have made it clear to the Respondent that the Complainant owned prior rights in its trademarks for JUNGLE BOYS. In the Panel's view, the above elements clearly indicate bad faith on the part of the Respondent, and the Panel therefore finds that it has been demonstrated that the Respondent registered the disputed domain name in bad faith.

As to use of the disputed domain name in bad faith, the Complainant provides evidence that the disputed domain name, which is inherently misleading, directed to an active website which showed a clear intent on the part of the Respondent to misleadingly pass it off as the Complainant's website. The Panel concludes from these facts that the Respondent is intentionally attracting Internet users for commercial gain to such website, by creating consumer confusion between the website associated with the disputed domain name and the Complainant's trademarks. This constitutes direct evidence of the Respondent's bad faith under paragraph 4(b)(iv) of the Policy. The Panel therefore finds that it has been demonstrated that the Respondent has used and is using the disputed domain name in bad faith.

The Panel notes that on the date of this Decision, the disputed domain name directs to an inactive or blank website. Panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel notes the distinctiveness and intensive use of the Complainant's trademarks, the composition of the disputed domain name, the fact that the Respondent has not replied or otherwise cooperated in this procedure, the Respondent's concealing its identity or use of false contact details since the Written Notice could not be delivered (noted to be in breach of the Registration Agreement), and the previous use of the disputed domain name in relation to an impersonation website. Based on these elements, the Panel finds that, in the circumstances of this case, the current passive holding of the disputed domain name does not prevent a finding of 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 <verifyjungleboys.com> be transferred to the Complainant.

*/Deanna Wong Wai Man/*

**Deanna Wong Wai Man**

Sole Panelist

Date: August 26, 2024