

## **ADMINISTRATIVE PANEL DECISION**

Chewy, Inc. v. Pengbin Ruilan  
Case No. D2024-2902

### **1. The Parties**

Complainant is Chewy, Inc., United States of America (“United States”), represented by Winterfeldt IP Group PLLC, United States.

Respondent is Pengbin Ruilan, China.

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

The disputed domain name <journeypetfood.com> is registered with Name.com, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 6, 2024. On July 16, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 16, 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 (Redacted For Privacy, Domain Protection Services, Inc.) and contact information in the Complaint. The Center sent an email communication to Complainant on July 17, 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 22, 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 Stephanie G. Hartung as the sole panelist in this matter on August 15, 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 company organized under the laws of the United States which provides pet supplies (including pet food) and pet wellness-related services through its online retail stores.

Complainant has provided evidenced that it is the registered owner of various trademarks relating to its AMERICAN JOURNEY brand, including, but not limited to, the following:

- word mark AMERICAN JOURNEY, United States Patent and Trademark Office (USPTO), registration number: 5,281,428, registration date: September 5, 2017, status: active;
- word mark AMERICAN JOURNEY, China National Intellectual Property Administration (CNIPA), registration number: 23703045, registration date: February 21, 2019, status: active.

Moreover, Complainant has demonstrated to own since 1999 the domain name <americanjourney.com> and since 2004 the domain name <chewy.com> which both resolve to Complainant's primary website at "www.chewy.com", through which Complainant operates its online retail stores in the pet supplies industry.

Respondent, according to the disclosed Whois information for the disputed domain name, is located in China. The disputed domain name was registered on May 24, 2024, and resolves to a website at "www.journeypetfood.com" which appears to purportedly offer Complainant's AMERICAN JOURNEY pet food products at discounted prices, thereby prominently displaying Complainant's AMERICAN JOURNEY trademark and official logo and copying product pictures from Complainant's official website without any authorization to do so; this website neither displays reliable contact information nor a disclaimer that the website is not operated by or affiliated with Complainant.

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

#### **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 was founded in 2011 and nowadays operates one of the largest online retail stores, with its AMERICAN JOURNEY trademark being popular, trust and valuable, thereby enjoying considerable media recognition.

Complainant submits that the disputed domain name is confusingly similar to Complainant's AMERICAN JOURNEY trademark, since (1) it incorporates the dominant portion of the latter and substitutes the term "American" by the generic descriptor "pet food". Moreover, Complainant asserts that Respondent has no rights or legitimate interests in respect of the disputed domain name, since (1) Respondent has never been authorized by Complainant to use its AMERICAN JOURNEY trademark in any manner, much less as part of the disputed domain name or in the correspondent website to which the disputed domain name resolves, (2) Respondent is using the disputed domain name to infringe and cybersquat upon Complainant's rights in its globally known AMERICAN JOURNEY trademark, (3) the disputed domain name currently resolves to an imitation website that offers for sale at discounted prices pet food products under Complainant's AMERICAN JOURNEY trademark and that contains copyright-protected product photographs taken from Complainant's official website, all without Complainant's authorization, (4) the use of the term "journey" in the disputed

domain name and the sale on Respondent's website of discounted pet food products bearing Complainant's AMERICAN JOURNEY trademark and prior packaging materials for the same pet food products offered by Complainant are so closely and uniquely associated with Complainant that there can be no credible and legitimate intent that would not capitalize on the reputation and goodwill inherent in Complainant's AMERICAN JOURNEY trademark, and (5) pursuant to the *Ok! Data* test (*Ok! Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#)), Respondent cannot make any claim to be a reseller with rights or legitimate interests in the disputed domain name, for Respondent does not accurately disclose Respondent's lack of a relationship or affiliation with the AMERICAN JOURNEY trademark owner, namely Complainant. Finally, Complainant argues that Respondent has registered and is using the disputed domain name in bad faith since (1) Respondent knowingly registered the disputed domain name to lure Internet users to its website displaying Complainant's AMERICAN JOURNEY trademark without permission and to offer pet food products bearing the AMERICAN JOURNEY trademark at a discounted rate, using Complainant's proprietary photographs of pet supply products and the prior packaging for such products taken from Complainant's website, and (2) Respondent has intentionally attracted Internet users for commercial gain, claiming to offer Complainant's specialty brand pet food goods bearing the AMERICAN JOURNEY trademark for sale at reduced rates through its competing imitation website, thereby creating a likelihood of confusion with Complainant's AMERICAN JOURNEY website as to the source, sponsorship, affiliation, or endorsement of the disputed domain name.

## **B. Respondent**

Respondent did not reply to Complainant's contentions.

## **6. Discussion and Findings**

Under paragraph 4(a) of the Policy, Complainant carries the burden of proving:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) that 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.

Respondent's default in the case at hand does not automatically result in a decision in favor of Complainant, however, paragraph 5(f) of the Rules provides that if Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute solely based upon the Complaint. Further, according to paragraph 14(b) of the Rules, the Panel may draw such inferences from Respondent's failure to submit a Response as it considers appropriate.

### **A. Identical or Confusingly Similar**

First, 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 AMERICAN JOURNEY 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 its AMERICAN JOURNEY trademark mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. Moreover, the disputed domain name at least incorporates the dominant feature of said trademark, namely the term "journey" which is why the Panel finds Complainant's AMERICAN JOURNEY trademark is still recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to such trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. Such finding is further confirmed by the fact that Complainant's AMERICAN JOURNEY trademark is prominently displayed on the website under the disputed domain name. [WIPO Overview 3.0](#), section 1.15.

Although the addition of other terms (here, the term “pet food”) 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 Complainant’s AMERICAN JOURNEY trademark for the purposes of the Policy, especially when taking into consideration that this term directly refers to Complainant’s core business of trading pet food. [WIPO Overview 3.0](#), section 1.8.

The Panel, therefore, finds the first element of the Policy has been established.

## **B. Rights or Legitimate Interests**

Second, paragraph 4(c) of the Policy provides a list of circumstances in which Respondent may demonstrate rights or legitimate interests in the 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.

In particular, Respondent has not been authorized to use Complainant’s AMERICAN JOURNEY trademark, either as a domain name or in any other way. Also, there is no reason to believe that Respondent’s name somehow corresponds with the disputed domain name and Respondent does not appear to have any trademark rights associated with the terms “American” and/or “journey” on its own. To the contrary, the disputed domain name resolves to a website at “www.journeypetfood.com” which appears to offer Complainant’s AMERICAN JOURNEY pet food products at discounted prices, thereby prominently displaying Complainant’s AMERICAN JOURNEY trademark and official logo and copying product pictures from Complainant’s official website without any authorization to do so; this website neither displays reliable contact information nor a disclaimer that the website is not operated by or affiliated with Complainant. Such making use of the disputed domain name, therefore, neither qualifies as bona fide nor as legitimate noncommercial or fair within the meaning of the Policy, not even so under the so-called *Oki Data* principles which would indeed have required Respondent e.g. to accurately and prominently disclose on such website the nonexistent relationship between Respondent and Complainant as the AMERICAN JOURNEY trademark holder, which Respondent quite to the contrary did not. [WIPO Overview 3.0](#), section 2.8.

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

## **C. Registered and Used in Bad Faith**

Finally, 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.

The circumstances to this case leave no doubts that Respondent was fully aware of Complainant’s rights in its undisputedly popular AMERICAN JOURNEY trademark when registering the disputed domain name and that the latter is clearly directed thereto. Moreover, using the disputed domain name, which is at least

confusingly similar to Complainant's AMERICAN JOURNEY trademark, to run a website at "www.journeypetfood.com" which appears to offer Complainant's AMERICAN JOURNEY pet food products at discounted prices, thereby prominently displaying Complainant's AMERICAN JOURNEY trademark and official logo and copying product pictures from Complainant's official website without any authorization to do so (thereby neither displaying reliable contact information nor a disclaimer that the website is not operated by or affiliated with Complainant), is a clear indication that Respondent intentionally attempted to attract, for commercial gain, Internet users to its own website by creating a likelihood of confusion with Complainant's AMERICAN JOURNEY trademark as to the source, sponsorship, affiliation or endorsement of Respondent's website. Such circumstances are evidence of registration and use of the disputed domain name in bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

In this context, it also carries weight in the eyes of the Panel that Respondent obviously provided false or incomplete contact information in the Whois register for the disputed domain name since, according to the email correspondence between the Center and the postal courier, the Written Notice on the Notification of Complaint dated July 23, 2024 could not be delivered. This fact at least throws a light on Respondent's behavior which supports the Panel's bad faith finding.

The Panel, therefore, finds that Complainant has established the third element of the Policy, too.

## **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 <journeypetfood.com> be transferred to Complainant.

*/Stephanie G. Hartung/*

**Stephanie G. Hartung**

Sole Panelist

Date: August 20, 2024