

## **ADMINISTRATIVE PANEL DECISION**

Chewy, Inc. v. Raph Bess  
Case No. D2024-2996

### **1. The Parties**

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

The Respondent is Raph Bess, United States.

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

The disputed domain name <chewysol.com> is registered with Wix.com Ltd. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 22, 2024. On July 24, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 26, 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 (REDACTED FOR PRIVACY (DT) Wix.com Ltd.) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 2, 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 August 6, 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 the Respondent of the Complaint, and the proceedings commenced on August 7, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 27, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 3, 2024.

The Center appointed Martin Schwimmer as the sole panelist in this matter on September 9, 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 states in its Complaint and provides evidence in the respective Annexes sufficient to support that the Complainant provides pet supplies and pet wellness-related services under the trademark CHEWY (the “CHEWY Mark”) through its online retail store. Founded in 2011 as a customer-service focused online retailer for pet supplies, the Complainant grew to generate 2017 revenue of approximately USD 2 billion and was responsible for 51% of online pet food sales in the U.S., when it was acquired by PetSmart in May 2017 for USD 3.35 billion. Complainant went public in 2019 under the ticker symbol CHWY.

The Complainant’s online retail store services for pet supplies and pet wellness-related services employs more than 18,000 people, offers over 115,000 products from over 3,500 brands, and maintained more than 20 million active customers to generate net sales of over USD 11 billion in fiscal year 2023. The Complainant’s CHEWY Mark is well-known as shown by the brand being ranked in the top 50 of Forbes’s “2024 Best Brands for Social Impact.”

The Complainant owns numerous trademark registrations for the CHEWY Mark and related CHEWY-formative marks (collectively, the “CHEWY Marks”) in the United States and many jurisdictions throughout the world, including:

- U.S. Reg. 4,346,308, CHEWY.COM, registered on June 4, 2013, for on-line retail store services featuring pet food, pet supplies and pet accessories, in International Class 35, claiming use in commerce since 2012;
- U.S. Reg. 5,028,009, CHEWY, registered on August 23, 2016, for services in International Class 35, claiming use in commerce since 2016; and
- U.S. Reg. 5,834,442, CHEWY, registered on August 13, 2019, for services in International Class 35, claiming use in commerce since 2018.

The Complainant shows in the annexes to its Complaint that the goodwill generated by the Complainant’s CHEWY Marks has earned it recognition from organizations and news outlets worldwide, and the CHEWY Mark has been determined famous in prior UDRP decisions cited in the Complaint.

The Complainant also owns domain names incorporating the CHEWY Mark, including the <chewy.com> domain name, registered since 2004, used by the Complainant to access its official website at “www.chewy.com” (the “Official CHEWY Mark Website”) through which the Complainant makes substantial use of the CHEWY Mark to provide its pet supplies and pet wellness-related services.

The disputed domain name was registered on February 7, 2024. While the disputed domain name does not currently resolve to an active website, the Complainant asserts that the disputed domain name previously resolved to a website prominently displaying the Complainant’s CHEWY Mark and promoting a cryptocurrency named Chewy and its investment product on the Solana blockchain platform. The Website reproduced copyrighted material from the Complainant’s website. The Website text made references to the CHEWY coin being a “pet cryptocurrency.”

#### **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 Respondent made unauthorized use of the Complainant's well-known CHEWY trademark to promote a CHEWY-branded cryptocurrency, through the use of a website that reproduced imagery obtained from the Complainant's official website, and made repeated references to pets, which is the Complainant's field of activity.

## **B. Respondent**

The Respondent did not reply to the 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 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 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 other terms here, "sol", 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.

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. 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.

Further, the composition of the disputed domain name carries a risk of implied affiliation. The Complainant acknowledges that the term "sol" is likely intended to signify a connection with the SOLANA cryptocurrency platform. However, if some users understand the string "sol" to signify the Solana platform, one could not

exclude the possibility that those users may interpret the name to signify a cryptocurrency project on the Solana platform originating with or endorsed by the Complainant. This possibility was likely intended by the Respondent, who made unauthorized use of imagery obtained from the Complainant on the Respondent's website.

Panels have held that the use of a domain name for illegal activity, here, claimed impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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 registration of the Complainant's CHEWY Mark was many years before the Respondent's registration of the disputed domain name and the Respondent intentionally utilized the Complainant's well-known CHEWY trademark for the purpose of promoting a cryptocurrency and its investment product. The Respondent purportedly made unauthorized use of the Complainant's copyrighted material, and made repeated references to pets, the subject matter of the Complainant's business.

Panels have held that the use of a domain name for illegal activity here, claimed impersonation/passing off, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes 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 <chewysol.com> be transferred to the Complainant.

*/Martin Schwimmer/*

**Martin Schwimmer**

Sole Panelist

Date: September 23, 2024