

## **ADMINISTRATIVE PANEL DECISION**

Jollibee Foods Corporation v. Sameer Ijaz  
Case No. D2024-3395

### **1. The Parties**

The Complainant is Jollibee Foods Corporation, Philippines, represented by Demys Limited, United Kingdom.

The Respondent is Sameer Ijaz, Pakistan.

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

The disputed domain name <jollibeeg.org> is registered with Web Commerce Communications Limited dba WebNic.cc (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on August 19, 2024. On August 20, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 21, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the 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 22, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 11, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on September 12, 2024.

The Center appointed Jacques de Werra as the sole panelist in this matter on September 20, 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 which was established in 1978 is a multinational fast-food company headquartered in Manila, Philippines. It operates multiple restaurant brands, including JOLLIBEE. The Complainant currently operates over 6,800 multi-brand stores across 33 countries, including the Philippines, United States of America (“United States”), Canada, People’s Republic of China, United Kingdom, Vietnam, United Arab Emirates, and Australia.

The Complainant’s JOLLIBEE brand was established in 1978 and operates over 1,600 outlets worldwide, including locations in Southeast Asia, East Asia, the Middle East, North America, and across Europe, including Spain, Italy, and the United Kingdom.

The Complainant owns many word trademarks for JOLLIBEE which include the following ones (“the Trademark”):

- United States registered trademark No 3196017 registered on January 9, 2007, for services in class 43;
- Philippines registered trademark No 7558 registered on February 19, 2007, for goods and services in classes 9, 18, 20, 21, 24, 25;
- International trademark No 1602968 (WIPO Madrid system) registered on May 6, 2021, for goods in class 9.

The disputed domain name was registered on November 21, 2023. The disputed domain name resolved to a website which urged Internet user to download unwanted and potentially harmful software through a “warning” disguised as a virus alert inviting the Internet user to perform an alleged virus scan. In the background of the pop-up message the website displayed the logo and trademark of a widely used and well-known anti-virus program, in order to make the alert appear legitimate. The disputed domain name’s zone file is further configured with Mail eXchanger (“MX”) records, which means that it can be used for email communication.

#### **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 disputed domain name only differs from the Complainant’s Trademark by the addition of the letters “sg”, which in this context may represent the two-letter country code for Singapore. The Complainant consequently contends that the adornment “sg” is generic, descriptive and does nothing to distinguish the disputed domain name from the Complainant’s Trademark.

The Complainant has found no evidence indicating that the Respondent has been commonly known as “jollibee” or “jollibee sg” either before or after the registration of the disputed domain name. The Respondent is not a licensee of the Complainant and has not received any permission, consent, or acquiescence from the Complainant to use its Trademark in connection with the registration of the disputed domain name or any other domain name, service, or product. The Complainant has also found no evidence that the Respondent owns any trademarks incorporating the term “jollibee” or “jollibeessg”. Furthermore, there is no evidence that the Respondent has ever conducted legitimate business under the name “Jollibee” or “jollibee sg”. The Complainant asserts that, given the disputed domain name is confusingly similar to its name and Trademark, there is no conceivable use for the disputed domain name, now or in the future, that would confer any legitimate interest upon the Respondent. The Complainant further avers that the Respondent specifically cannot claim a legitimate “fair use” interest as the nature of the

disputed domain name carries a risk of implied affiliation. The Complainant further avers that it is more likely than not that the Respondent is using the website related to the disputed domain name to spread malware.

The Complainant asserts that the disputed domain name is inherently confusing to Internet users. Given that the disputed domain name is confusingly similar to the Complainant's name and Trademark, "initial interest confusion" is unavoidable. The Complainant contends that customers and other Internet users encountering the disputed domain name, whether directly or through search engine results, would reasonably assume that it is operated by, affiliated with, or endorsed by the Complainant. Consequently, the Complainant asserts that the disputed domain name is inherently confusing and that its registration creates a presumption of bad faith on the part of the Respondent.

The Complainant avers that it is more likely than not that the Respondent is using the website related to the disputed domain name for malicious purposes, such as phishing attacks and to spread malware. The Complainant consequently avers that the use of the disputed domain name to distribute malware must be a bad faith use. The Complainant further avers that the disputed domain name is configured with MX records and is therefore capable of email communication so that, since the disputed domain name is confusingly similar to the Complainant's name and Trademark, anyone receiving an email originating from the disputed domain name would reasonably assume that it was sent from the Complainant. The Complainant alleges by relying on previous UDRP decisions that the configuration of MX records for email is indicative of probable use of the disputed domain name for the purpose of impersonating Complainant and misleading Internet users. The Complainant further notes that the Respondent was a party to at least one previous dispute under the UDRP, namely *Chick-fil-A, Inc. and CFA Properties, Inc. v. Sameer Ijaz*, NAF FA2403002086949 in which the panel held that the Respondent had registered and used the domain name in bad faith.

## **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. See 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 Trademark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the Trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of another term after the Trademark in the dispute domain name, here: "sg", which can generally be understood as a reference to the abbreviation of the country of Singapore, 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 Trademark 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. Given that the Respondent has not responded to the Complaint and has not participated in the proceedings, 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.

Panels have held that the use of a domain name for illegal activity (here: distributing malware through a “warning” disguised as a virus alert inviting the Internet user to perform an alleged virus scan) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13. In this case, the Panel notes that the disputed domain name resolved to a website which urged Internet user to download unwanted and potentially harmful software through a “warning” disguised as a virus alert. In the background of the pop-up message the website displayed the logo and trademark of a widely used and well-known anti-virus program, in order to make the alert appear legitimate. The Panel further notes that the Respondent also set up MX records for the disputed domain name so that emails could potentially be sent from an email address associated with the disputed domain name for fraudulent purposes.

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.

Panels have held that the use of a domain name for illegal activity constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. In this case, the Panel notes that the disputed domain name resolved to a website which urged Internet user to download unwanted and potentially harmful software through a “warning” disguised as a virus alert. In the background of the pop-up message the website displayed the logo and trademark of a widely used and well-known anti-virus program, in order to make the alert appear legitimate. The Panel further notes that the Respondent also set up MX records for the disputed domain name so that emails could potentially be sent from an email address associated with the disputed domain name for fraudulent purposes. In this respect, the Panel notes that the configuration of MX records for email has been held as a source of risk of illegal / phishing activity by previous panels. See *Klarna Bank AB v. WhoisGuard Protected, WhoisGuard, Inc. / Melanie Forster*, WIPO Case No. [D2021-0756](#) and *Chevron Corporation and Chevron Intellectual Property LLC v. Privacy Service Provided by Withheld for Privacy ehf / gabriel levy*, WIPO Case No. [D2022-2616](#).

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 <jollibeesg.org> be transferred to the Complainant.

*/Jacques de Werra/*

**Jacques de Werra**

Sole Panelist

Date: September 24, 2024