

ADMINISTRATIVE PANEL DECISION

Winnietin, LLC dba Pig Candy BBQ v. mujiati karmila
Case No. D2024-4039

1. The Parties

The Complainant is Winnietin, LLC dba Pig Candy BBQ, United States of America (“United States”), represented by Wood, Herron & Evans, LLP, United States .

The Respondent is mujiati karmila, Singapore.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 2, 2024. On October 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 2, 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, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 3, 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 amendment to the Complaint on October 9, 2024.

The Respondent sent an email communication to the Center on October 3, 2024.

The Center verified that the Complaint together with the amendment to 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 October 10, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 30, 2024. The Respondent did not submit any formal

response. Accordingly, the Center notified the Commencement of Panel Appointment Process on October 31, 2024.

The Center appointed Steven A. Maier as the sole panelist in this matter on November 6, 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 limited liability company located in Ohio, United States. It is a provider of restaurant, bar and catering services.

The Complainant registered the disputed domain name on or about December 4, 2016. It provides evidence that it regularly renewed that registration via its registrar, GoDaddy, with the final renewal being for a period of two years from December 5, 2022.

The Complainant has traded under the name and mark PIG CANDY BBQ since March 2021.

The Complainant appears to have used the disputed domain name for a website in connection with its restaurant services since at least July 2021.

The Complainant is the registrant of United States trademark registration number 7229999 for a combined trademark comprising the words PIG CANDY BBQ and a design comprising a pig on a bicycle, registered on November 28, 2023 in International Classes 30 and 43.

The Respondent bought the disputed domain name from Afternic (a division of GoDaddy) on or about April 18, 2024. The Complainant states that it never authorized GoDaddy to offer the disputed domain name for sale.

Until at least August 16, 2024, the disputed domain name resolved to a website which largely replicated the Complainant's own website, although excluding its homepage. From at least September 11, 2024, the disputed domain name resolved to a website apparently promoting gambling services.

5. Parties' Contentions

A. Complainant

The Complainant relies on its registered trademark rights, and also claims common law trademark rights in the mark PIG CANDY BBQ by virtue of its use of that mark in commerce since 2021.

The Complainant contends that the disputed domain name is identical to that trademark, and also confusingly similar to the textual element of its registered trademark.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. It states that it has no relationship with the Respondent and has never authorized it to use its PIG CANDY BBQ trademark, that the Respondent has not commonly been known by the disputed domain name, and that the Respondent is making neither bona fide commercial use nor legitimate noncommercial or fair use of the disputed domain name. The Complainant asserts that the Respondent reproducing the Complainant's own website content is intended to mislead Internet users, and cannot give rise to rights or legitimate interests on the Respondent's part.

The Complainant submits that the disputed domain name has been registered and is being used in bad faith. It states that the Respondent registered the disputed domain name long after the Complainant's trademark rights had been established, and that the Respondent had actual or constructive knowledge of that trademark.

The Complainant submits that the disputed domain name was obtained without the authorization of the Complainant. The Complainant's founder and owner declares (under penalty of perjury) that GoDaddy was never authorized to sell the disputed domain name, and that it admitted after the event that it had made an error. The Complainant exhibits correspondence with GoDaddy, in which GoDaddy claims that the disputed domain name was listed as a "premium domain name" in 2018 and that the exact order ID was available in the Complainant's account. GoDaddy further asserted that customers were advised in March 2021 that premium listings were being ported to Afternic and that customers should review their listings. The Complainant continued in the relevant correspondence to protest that the sale had not been authorized.

The Complainant refers to the Respondent's use of the disputed domain name, initially to replicate its website content and subsequently to promote a gambling website, from which the Complainant contends it must be presumed to earn click-through revenue. The Complainant submits that the Respondent has therefore intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion between the disputed domain name and the Complainant's trademark.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

The Respondent did not file a formal Response in the proceeding. In its informal email to the Center dated October 3, 2024, the Respondent stated: "I just checked again and do parking website. I hope this can close the case."

6. Discussion and Findings

In order to succeed in the Complaint, the Complainant is required to show that all three of the elements set out under paragraph 4(a) of the Policy are present. Those elements are that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has established that it is the owner of registered trademark rights in the combined trademark referred to above. The textual element of that trademark is PIG CANDY BBQ, which is identical to, and therefore plainly recognizable within, the disputed domain name. The Panel therefore finds that the disputed domain name is identical to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

In the view of the Panel, the Complainant's submissions set out above give rise to a prima facie case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. However, the Respondent has failed to file a formal Response in this proceeding, and asserts in its informal email only that it has used the disputed domain name for the purpose of a "parking website." That explanation is not consistent with its use of the disputed domain name, initially to reproduce the Complainant's own website

content, and subsequently to promote gambling services. Nor is either of those uses connected with any conceivable dictionary meaning of the disputed domain name, or any of its elements, and the Panel finds in the circumstances that the Respondent has no rights or legitimate interests in respect of the disputed domain name. Also, the Panel considers that the composition of the disputed domain name carries a high risk of implied affiliation (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 2.5.1).

C. Registered and Used in Bad Faith

In this case, it appears to be undisputed that the disputed domain name was offered for sale by GoDaddy and Afternic, from April 2018 onwards, and was bought by the Respondent in April 2024 (although the Respondent offers no evidence relating to the circumstances of that purchase). While there is a dispute between the Complainant and GoDaddy about whether the Complainant had requested or authorized any such sale, there is no suggestion that the Respondent was aware of any such dispute at the time it purchased the disputed domain name.

That is not, however, the end of the matter so far as the question of the Respondent's bad faith is concerned. The disputed domain name, while being comprised of three dictionary terms, is nevertheless unusual and distinctive in nature. It is not therefore a domain name that would readily be usable, whether by the Respondent or any subsequent purchaser, in connection with any dictionary meaning. Furthermore, and highly significantly, the Respondent replicated the Complainant's own website content for a period of approximately four months after acquiring the disputed domain name. The Respondent has provided no explanation for this, whether in its informal communication or otherwise, and misstates in that informal communication the use that it has in fact made of the disputed domain name.

All of these circumstances lead the Panel to infer, on the balance of probabilities, that the Respondent was aware of the Complainant's use of the PIG CANDY BBQ name and mark at the time it registered the disputed domain name, and that it acquired the disputed domain name with the intention of targeting the Complainant's goodwill attaching to its business under that name and trademark.

The Respondent's use of the disputed domain name to replicate the Complainant's own website content, for a period of approximately four months, strongly implies an intention to deceive Internet users into believing that the disputed domain name, and connected website, must be owned or operated by, or otherwise legitimately affiliated with, the Complainant. The Respondent appears then to have pivoted the disputed domain name to a website promoting gambling services, from which it must be assumed to earn click-through or other revenue.

The Respondent's failure to file a formal Response, and the inaccurate nature of its informal email, also add to the overall impression of bad faith in this case.

The Panel finds in the circumstances that, by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation, or endorsement of its website or of a product or service on its website (paragraph 4(b)(iv) of the Policy).

The Panel therefore finds that the disputed domain name has been registered and is being used in bad faith.

7. Decision

For the foregoing reasons, in accordance with paragraphs 5(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <pigcandybbq.com> be transferred to the Complainant.

/Steven A. Maier/

Steven A. Maier

Sole Panelist

Date: November 25, 2024