

ADMINISTRATIVE PANEL DECISION

CKE Restaurants, Inc. v. Mangust Freeman, Svetlana Vidsutnia
Case No. D2024-4142

1. The Parties

The Complainant is CKE Restaurants, Inc., United States of America (“United States”), represented by 101domain.com, United States.

The Respondents are Mangust Freeman, United States, and Svetlana Vidsutnia, Netherlands.

2. The Domain Names and Registrar

The disputed domain names <hardees-discounts.online>, <hardeesorders.online>, <hardeesorders.top>, and <hardees-specials.shop> are registered with Hosting Concepts B.V. d/b/a Registrar.eu (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 9, 2024. On October 9, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names.

On October 10 and 15, 2024, the Registrar transmitted by email to the Center its verification responses disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Information not available on WHOIS) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 15, 2024 with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrars, requesting the Complainant to either file separate complaints for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all domain names are under common control. The Complainant filed an amended Complaint on October 18, 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 Respondents of the Complaint, and the proceedings commenced on October 21, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 10, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on November 12, 2024.

The Center appointed William F. Hamilton as the sole panelist in this matter on December 3, 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, CKE Restaurants, Inc., is the parent company of Hardee's Restaurants LLC, a wholly-owned and controlled subsidiary. CKE Restaurants, Inc. and Hardee's Restaurants LLC are collectively referred to herein as "the Complainant." The Complainant operates a globally recognized restaurant chain with over 1,800 franchised or company-operated restaurants spanning the United States and across thirteen foreign countries. The Complainant was founded in 1960 and has been operating in the restaurant industry for over six decades, establishing worldwide brand recognition of the HARDEE'S trademark (the "Mark") for food and restaurant services. Complainant's primary website "www.hardees.com" was created in 1998 and provides information for online customers about Complainant's franchise locations and products.

The Complainant has consistently and consecutively used the Mark for over three decades prior to recent registration of the disputed domains names in August 2024.

The Complainant owns the United States Registration No.1,729,627 for the Mark, which was registered on November 3, 2024. The Complainant also owns the European Union Trade Mark No. 000946285 for the Mark, which was registered on July 6, 2000.

The disputed domain names <hardeesorder.online> and <hardeesorders.top> were registered on August 2, 2024 by Respondent Svetlana Vidsutnia. The disputed domain names <hardees-discounts.online> and <hardees-specials.shop> were registered on August 6, 2024 by the Respondent Mangust Freeman. The addresses and phone numbers of the Respondents do not resolve to genuine locations or connections. The disputed domain names <hardeesorder.online> and <hardees-specials.shop> initially resolved to live websites using the Mark, product images, and descriptions to compete with the Complainant. After sending a "Take Down" request, the disputed domain names each began resolving to pay-per-click parking websites offering links to services and products competing with the Complainant.

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 names. 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 names incorporate the Mark entirely (albeit not including the apostrophe) followed by generic or descriptive terms. The Complainant contends that the Complainant has never authorized the Respondents to use the disputed domain name, that the Respondents are not generally known by the disputed domain name, have never operated a business under the disputed domain name, have not advertised the disputed domain name, and have never engaged in any bona fide commercial activity in connection with the disputed domain name. The Complainant contends that the Respondents have no rights or legitimate interests in the Complainant's trademarks and has registered and

used the disputed domain name in bad faith to unfairly compete with the Complainant and otherwise disrupt the Complainant's business.

B. Respondent

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

6. Discussion and Findings

Consolidation: Multiple Respondents

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are the same entity or mere alter egos of each other, or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The disputed domain name registrants did not comment on the Complainant's request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2.

As regards common control, the Panel notes that that Respondents' names and addresses provided at registration appear to be false or incomplete, the disputed domain names were registered with the same Registrar, the disputed domain names employ a common scheme and structure utilizing the Complainant's Mark, and the disputed domain names were registered in a four-day period in August 2024. Accordingly, on the evidence presented the Panel finds that the disputed domain names are under common control.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below collectively as "the Respondent") in a single proceeding.

Policy Requirements:

Under paragraph 4(a) of the Policy, to succeed the Complainant must satisfy the Panel 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 was registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has shown rights in the trademarks for the purposes of the Policy by virtue of the trademarks' subsisting registration in the United States and the European Union.

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.

Each of the disputed domain name incorporates the Mark in its entirety (albeit omitting the apostrophe) and merely add the terms "discount," "orders," or "specials." Previous UDRP panels have consistently found that merely adding additional terms to a registered trademark results in confusing similarity. Accordingly, the Panel finds the disputed domain names are confusingly similar to the Complainant's Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The generic Top-Level Domain ("gTLD") of the disputed domain names, in this case ".online," ".top," and ".shop," may be disregarded for the purposes of assessment under the first element, as it is viewed as a standard registration requirement. [WIPO Overview 3.0](#), section 1.11.1.

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 names. 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 names such as those enumerated in the Policy or otherwise.

The Panel finds that the Respondent has used the confusingly similar disputed domain name to compete with the Complainant, previously using the Complainant's Mark and logo to impersonate the Complainant and offer competing products, and later resolving to a parking pay-per-click ("PPC") page with competing links. The offering of competing products or links under the disputed domain names does not establish any rights or legitimate interests of the Respondent in the disputed domain names in these circumstances.

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

C. Registered and Used in Bad Faith

Under paragraph 4(b) of the Policy, bad faith may be established by any one of the following non-exhaustive scenarios:

- (i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or

- (ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on the respondent's website or location.

The Respondent registered the disputed domain name years after the Complainant's trademark registrations. Given the Complainant's long use of the trademarks, and the Respondent's use of the disputed domain names to offer the competing sales, including the adoption of the Complainant's Mark on Respondent's websites, and the high similarity of the disputed domain names to the Mark, the Panel finds it implausible that the Respondent was unaware of the Complainant's rights in the Mark when registering the disputed domain names.

The Panel finds on the evidence presented that the Respondent is attempting to create confusion for commercial gain by prominently featuring the Complainant's well-known Mark in the disputed domain names, offering competing sales, and creating websites that falsely appears to be associated with the Complainant. The fact that the disputed domain names now resolve to parking PPC websites does not avoid, and in fact further substantiates, a finding of bad faith registration and use.

By using the disputed domain name to offer competitive products or links, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its websites by creating a likelihood of confusion with the Complainant's trademarks as to source, sponsorship, affiliation, or endorsement. This constitutes evidence of registration and use in bad faith pursuant to paragraph 4(b)(iv) of 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 names <hardees-discounts.online>, <hardeesorders.online>, <hardeesorders.top>, and <hardees-specials.shop> be transferred to the Complainant.

/William F. Hamilton/

William F. Hamilton

Sole Panelist

Date: December 12, 2024