

ADMINISTRATIVE PANEL DECISION

The CIMA Group, LLC v. wanabrand gummies
Case No. D2024-4332

1. The Parties

The Complainant is The CIMA Group, LLC, United States of America (“U.S.”), represented by Dentons US LLP, U.S.

The Respondent is wanabrand gummies, U.S.

2. The Domain Name and Registrar

The disputed domain name <wanabrandgummies.com> (the “Disputed Domain Name”) is registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 21, 2024. On October 22, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On October 22, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 24, 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 October 28, 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 October 29, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 18, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 25, 2024.

The Center appointed Douglas M. Isenberg as the sole panelist in this matter on November 27, 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 that it “is the owner of a prominent and trusted cannabis edibles brand”; that “a 2024 *Forbes* magazine article identified Complainant as ‘a leader in the North American cannabis edibles market’”; that it “is the registrant of the domain name <wanabrands.com>,” which it “obtained [...] in 2012 and has operated [as] its primary website [...] since at least 2016.” The Complainant further states, and provides evidence to support, that it is “the owner of fifteen United States federally registered trademarks for WANA in the cannabis field, as well as a number of common law trademarks for WANA-formative marks, including in connection with Complainant’s edibles products,” some of which are set forth below (the “WANA Trademark”):

- U.S. Reg. No. 5,644,127 for WANA (registered January 1, 2019) for use in connection with “providing information, news, and commentary in the field of current events relating to cannabis, marijuana, and hemp”;
- U.S. Reg. No. 6,446,757 for WANA (registered August 10, 2021) for use in connection with, inter alia, “educational services, namely, providing on-line courses in the fields of cannabis, marijuana, hemp, cannabinoids, vaping, health and wellness, and mental and physical health”; and,
- U.S. Reg. No. 6,446,763 for WANA (registered August 10, 2021) for use in connection with “providing a website featuring health and wellness information in the fields of cannabis, marijuana, hemp and cannabinoids”

The Disputed Domain Name was created on January 7, 2024, and, as described in the Complaint and as shown in an annex provided therewith, is used in connection with a website that “is nearly identical to Complainant’s website” and is used “to sell products that purport to be Complainant’s gummies, all while holding itself out as ‘WANA BRANDS GUMMIES’,” even though the Disputed Domain Name “is not connected to 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 Name.

Notably, the Complainant contends that:

- The Disputed Domain Name is confusingly similar to the WANA Trademark because, inter alia, “the Disputed Domain Name incorporates in whole Complainant’s registered WANA mark and merely adds the descriptive words ‘BRAND’ and ‘GUMMIES’ alongside the ‘.com’ generic Top-Level Domain (gTLD)’”; and “the content of the website at the Disputed Domain Name features products that are identical to Complainant’s products,” which “confirm[s] confusing similarity.”
- The Respondent has no rights or legitimate interests in the Disputed Domain Name because, inter alia, “Respondent is not, and never was, a licensee or business associate of the Complainant or any of its affiliates, nor is the Respondent otherwise authorized by the Complainant to use its WANA mark in any manner, including as a domain name or for a website offering edibles”; “Respondent appears to use the Disputed Domain Name intentionally to confuse and mislead the public into believing they are purchasing

Complainant's goods from Complainant's authorized website"; and "Respondent's use of the Disputed Domain Name improperly trades on the Complainant's substantial goodwill in the WANA marks and creates a likelihood of confusion among the public by falsely suggesting that the Complainant or its WANA brand is the source, sponsor, affiliate, or endorser of the Respondent, the site at the Disputed Domain Name, and the goods sold therein."

- The Disputed Domain Name was registered and is being used in bad faith because, inter alia, "Respondent is deliberately using the Disputed Domain Name <wanabrandgummies.com> to create confusion and to mislead Complainant's customers, potential customers, and the public into falsely believing that a relationship of source, sponsorship, affiliation, or endorsement exists between the Complainant and the website that appears at the Disputed Domain Name"; and "Respondent's only purpose for and use of the Disputed Domain Name is to misdirect consumers who are looking for the Complainant's website or goods to the Respondent's site at the Disputed Domain Name to sell likely counterfeit or fraudulent goods for the Respondent's improper benefit, by creating a likelihood of confusion with the Complainant's marks as to the affiliation or endorsement of the Respondent's site"

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.

Based on the multiple trademark registrations cited in the Complainant, the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy, that is, the WANA Trademark. [WIPO Overview 3.0](#), section 1.2.1.

The Disputed Domain Name is identical or confusingly similar to the WANA Trademark. The relevant comparison to be made is with the second-level portion of the Disputed Domain Name only (i.e., "wanabrandgummies"), as it is well-established that the generic Top-Level Domain name (i.e., ".com") may be disregarded for this purpose. [WIPO Overview 3.0](#), section 1.11: "The applicable Top Level Domain ('TLD') in a domain name (e.g., '.com', '.club', '.nyc') is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test."

The second-level portion of the Disputed Domain Name contains the WANA Trademark in its entirety, plus the descriptive words "brand" and "gummies". As set forth in [WIPO Overview 3.0](#), section 1.7: "[I]n cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing." Inclusion of the words "brand" and "gummies" in the Disputed Domain Name does nothing to alleviate confusing similarity for purposes of the Policy, because "[w]here the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element." [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. While the Respondent has provided a registrant name of “wanabrand gummies”, the Panel notes that there is no evidence in the record that the Respondent is commonly known by the Disputed Domain Name for the purposes of the Policy. [WIPO Overview 3.0](#), section 2.3. Rather, it appears likely that the Respondent chose such registrant name to falsely suggest an affiliation with the Complainant.

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

C. Registered and Used in Bad Faith

Whether a domain name is registered and used in bad faith for purposes of the Policy may be determined by evaluating four (non-exhaustive) factors set forth in the Policy: (i) circumstances indicating that the registrant has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration 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 registrant’s documented out-of-pocket costs directly related to the domain name; or (ii) the registrant 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 registrant has engaged in a pattern of such conduct; or (iii) the registrant has registered the domain name primarily for the purpose of disrupting the business of a competitor; or (iv) by using the domain name, the registrant has intentionally attempted to attract, for commercial gain, Internet users to the registrant’s 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 registrant’s website or location or of a product or service on the registrant’s website or location. Policy, paragraph 4(b).

In the present case, the Panel notes that the Respondent is using the Disputed Domain Name to sell the same products offered by the Complainant under the WANA Trademark, which the Complainant argues creates confusion by misleading customers into believing that the Respondent’s website is somehow associated with the Complainant, which it is not. The Complainant states that the products on the Respondent’s website are “most likely [...] imposter products.” Significantly, the Respondent has not refuted any of these allegations.

As set forth in [WIPO Overview 3.0](#), section 3.1.4: “use of a domain name for per se illegitimate activity” – such as impersonation – “is manifestly considered evidence of bad faith.” See also *Emu (Aus) Pty Ltd. and Emu Ridge Holdings Pty Ltd. v. Antonia Deinert*, WIPO Case No. [D2010-1390](#) (“a reasonable person who visited the Respondent’s website was likely to be misled in relation to the source, sponsorship, affiliation, or endorsement of the website and the products purportedly made available for online sale on the website”).

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 <wanabrandgummies.com> be transferred to the Complainant.

/Douglas M. Isenberg/

Douglas M. Isenberg

Sole Panelist

Date: December 3, 2024