

ADMINISTRATIVE PANEL DECISION

Sniffies, LLC v. Mark Seo
Case No. D2024-4356

1. The Parties

Complainant is Sniffies, LLC, United States of America (U.S.A.), represented by Hanson Bridgett LLP, U.S.A.

Respondent is Mark Seo, U.S.A.

2. The Domain Name and Registrar

The disputed domain name <sniffieapp.com> (the “Domain Name”) is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 22, 2024. On October 23, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On October 24, 2024, the Registrar transmitted by email to the Center its verification response confirming that 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 Respondent of the Complaint, and the proceedings commenced on October 25, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 14, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on November 19, 2024.

The Center appointed Harrie R. Samaras as the sole panelist in this matter on November 22, 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

Since at least February 2017, Complainant has offered an online dating and social meetup Progressive Web App (PWA) platform at <sniffies.com> having geolocation capabilities that it markets to the gay male market. Among other things, the PWA platform allows users to share their geographic location and see other users on a map and send direct messages to each other based on their geographic proximity.

Complainant owns trademark registrations in various jurisdictions for the wordmark SNIFFIES and the graphic mark  (the “Logo”), which it uses in conjunction with its PWA platform. Those registrations include: U.S.A. Registration Nos. 7,039,755 (registered May 2, 2023) and 6,820,819 (registered August 16, 2022) for SNIFFIES (the “SNIFFIES Mark” or the “Mark”) and U.S.A. Registration No. 7,274,275 (registered January 16, 2024) for the Logo. Complainant has offered its PWA platform and online dating services under the SNIFFIES Mark in the United States and internationally. The platform hosts 18,000,000 user sessions per month with an average session duration of 20 minutes and an average of 40 page-views per session.

The Domain Name was registered on July 20, 2024. It resolved to a website (the “Website”) that was described in part as follows: “Sniffies is a location-based app designed specifically for gay men and the LGBTQ+ community. It provides a unique map-based experience to find nearby people for casual encounters. Unlike traditional dating apps, Sniffies focuses on real-time connections with its interactive map, allowing users to explore and connect with others instantly while maintaining anonymity.” The SNIFFIES Mark and Logo (together and separately) were featured prominently throughout the Website, for example, in page headers, title banners and descriptions of the app and services Respondent was offering. Similar to Complainant’s website “www.sniffies.com”, the Website features its own photographs depicting members of the gay male community.

The “download” link featured prominently on the main page of the Website is possibly a malicious redirect that directly downloads files of unknown origin to the user’s computer. The download link points to a webpage which then redirects users to another webpage. Following that link directs the user straight to a download window for a file with a name beginning with “Sniffies - Gay Dating & Chat (. . .).” The listing page for the download file expressly markets itself as “Sniffies – Gay Dating & Chat” offering an unauthorized SNIFFIES downloadable app. That website also offers many name-brand apps for downloading that also appear to be unauthorized (e.g., games, entertainment).

Currently, the Domain Name resolves to a webpage stating:

“SORRY!

If you are the owner of this website, please contact your hosting provider: (...)@sniffieapp.com

It is possible you have reached this page because:” the IP address has changes, there has been a server misconfiguration, or the site may have moved to a different server.

5. Parties’ Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

Notably, Complainant contends that the Domain Name is confusingly similar to the SNIFFIES Mark. The Domain Name differs from the SNIFFIES Mark and Complainant’s <sniffies.com> domain name by only one letter “s” and the descriptive word “app,” which consumers are likely to perceive as evocative or suggestive of Complainant’s dating services.

Respondent is not known by “sniffies,” “sniffie,” or “sniffieapp.com,” nor could Respondent have developed any common-law trademark rights in Complainant’s senior and well-known Mark. Also, Respondent is not

affiliated with Complainant and Complainant has not licensed or permitted Respondent to use the SNIFFIES Mark or any other of Complainant's marks, or any domain names incorporating them.

Respondent uses the SNIFFIES Mark, including the Logo, as part of a fraudulent, deceptive scheme (as described above) to mislead users into believing the Website and Domain Name are controlled by or associated with Complainant. Visitors to Respondent's Website are likely to believe that the links on that website to download apps or other content originate from Complainant. The clear aim of the scheme is to misdirect users into visiting the Website associated with the Domain Name, which lends credibility to the registrant's fraudulent activities.

Respondent's conduct—in the form of either or both illegitimate diversion to a competitor or diversion to a fraudulent website—is prima facie evidence that Respondent does not have rights or legitimate interests in the Domain Name. Furthermore, Respondent has only used the Domain Name in furtherance of an impersonation scheme for deceiving consumers who are seeking Complainant's services and are instead redirected to Respondent's fraudulent website.

Respondent was aware of Complainant and its prior trademark rights, as the reputation and renown of Complainant was instrumental to Respondent's deceptive scheme. Although the Domain Name contains the letter string "sniffie," the main page and all subpages of the Website refer explicitly to the SNIFFIES Mark. Many of the subpages are designed to look like informational content about Complainant and its services, but bear hallmarks of being AI-generated and use titles that imply that they are specifically designed to game web search results for common queries related to Complainant (e.g., "What is the Sniffies door icon"). Most importantly, the "download" link featured prominently on the main page of Respondent's Website is a malicious redirect that directly downloads files of unknown origin to the user's computer. Respondent's clear knowledge of Complainant—and Respondent's deceitful user-misdirection scheme via fraudulent links—establishes that Respondent intended to profit from registration of the infringing Domain Name.

Complainant is aware of no evidence that Respondent has used the Domain Name for anything other than the current purposes—namely, deceiving third parties with a spurious website imitating Complainant's website for the purposes of diverting customers to a potentially malicious download in Complainant's name by impersonating Complainant, potentially for the fraudulent purposes of signing users up for paid subscriptions to illusory services or infecting user machines with malware.

B. Respondent

Respondent did not reply to 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 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.

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 Panel finds the Mark is recognizable within the Domain Name. Accordingly, the Domain Name is confusingly similar to the Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. Although the Domain Name omits the letter "s" at the end of the SNIFFIES Mark, this does not prevent a finding of confusing similarity.

Furthermore, although the addition of other term here, “app” 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 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 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 Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the Domain Name. Respondent has not rebutted Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Domain Name such as those enumerated in the Policy or otherwise.

Respondent has not shown that he has been known by the SNIFFIES Mark or that Complainant authorized him to use the Mark for any purposes, including in the Domain Name. The evidence set forth above in describing the Website supports the conclusion that Respondent was using the Website to appear to be affiliated with Complainant, for example, by using the SNIFFIES Mark and Logo throughout the Website, and using similar marketing and descriptive text. Furthermore, the Website led consumers to click on links offering them to download what appears to be a non-existent SNIFFIES application. The maze of links that Respondent created and the risk that visitors might be enticed to visit unsafe locations or download malicious software do not confer rights or legitimate interests to 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 finds that Respondent registered the Domain Name in bad faith considering the facts that: (a) Respondent registered the Domain Name years after Complainant began using the Mark in internationally in conjunction with an online dating and social PWA platform having geolocation capabilities that it markets to the gay male market; (b) the Mark and Logo were used ubiquitously throughout the Website as was marketing text and photographs similar to Complainant’s while offering the same or similar services as Complainant; (c) the Domain Name is similar to Complainant’s domain name (<sniffies.com>) and the Mark, merely omitting the letter “s” at the end of the Mark and adding the word “app” that describes what Complainant offers and what the Website purportedly was offering; and (e) Respondent has shown no rights or legitimate interests in the Domain Name.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

In the present case, Respondent was using a Domain Name that is confusingly similar to Complainant's SNIFFIES Mark to divert the public to a website that suggested an affiliation with Complainant -- the Website featured Complainant's SNIFFIES Mark and Logo throughout as well as marketing information and photos akin to those on Complainant's website. Once at the Website, visitors were guided into downloading possible malware and signing up for paid subscriptions to illusory services. Furthermore, the scheme was diverting potential customers away from Complainant to a website purportedly selling competing services.

Panels have held that the use of a domain name for distributing malware or impersonation/passing off as evidenced here, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds Respondent's registration and use of the Domain Name constitutes bad faith under the Policy.

Furthermore, the Panel notes the current use of the Domain Name resolves to an inactive webpage. Panels have found that the non-use of a domain name (as described above under section 4) would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Mark and Logo and the composition of the Domain Name, leads to a finding that in the circumstances of this case the passive holding of the Domain Name does not prevent a finding of bad faith under the Policy. Respondent has not provided any explanation why it registered the Domain Name and whether it has any future plans to use it for any legitimate activity

The Panel finds that 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 Domain Name <sniffieapp.com> be transferred to Complainant.

/Harrie R. Samaras/

Harrie R. Samaras

Sole Panelist

Date: December 2, 2024