

ADMINISTRATIVE PANEL DECISION

JanitorAI Inc. v. Danny Long
Case No. DME2024-0004

1. The Parties

The Complainant is JanitorAI Inc., United States of America (“United States”), represented by Minx Law, United States.

The Respondent is Danny Long, Singapore.

2. The Domain Name and Registrar

The disputed domain name <janitorai.me> (the “Domain Name”) is registered with CloudFlare, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 11, 2024. On April 12, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On April 15, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Registration Private) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 15, 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 April 16, 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 April 24, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 14, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 16, 2024.

The Center appointed Marina Perraki as the sole panelist in this matter on May 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 provides online software services under the mark JANITORAI through its website at “www.janitorai.com” (the Complainant’s website), enabling Internet users to interact and chat with artificial intelligence (“AI”) chatbots, as well as related entertainment services. The Complainant’s website was launched in May 2023 and is attracting 1 million users in under a week. The Complainant’s website currently attracts over 5 million users, features 2 million bots and is ranked in the Top 10 of global AI websites. The Complainant, by and through its predecessors in interest, first used the JANITORAI mark on its website on May 30, 2023, when the Complainant’s website was launched. The Complainant filed for United States trademark on February 5, 2024.

The Domain Name was registered on September 1, 2023, and leads to a website (the Website), which at the time of filing of the Complaint, incorporated the Complainant’s mark JANITORAI, appearing as “Janitor AI-S”. At the time of the decision, the Website currently reads “Janny AI” and includes at the bottom of the main page a copyright notice “Janny AI. All rights reserved” and the phrase “We created this page because JanitorAI sucks”. The Website includes a nearly identical favicon and browser tab to that of the Complainant’s website, similar user interface and copyrighted content from the Complainant’s website. Per the Complaint, the Website copies dozens of chatbot images and chatbot narrative descriptions from the Complainant’s website. These images and text (chatbot images and descriptions) are inserted on a page layout that is similar to the Complainant’s website, consisting of rows of the available chatbot characters in rectangular boxes that have a graphic depiction of the chatbot above the chatbot’s name and character description.

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 Domain Name.

B. Respondent

The Respondent did not reply to the Complainant’s contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements which the Complainant must satisfy with respect to the Domain Name:

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

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 Domain Name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Panel notes that the Complainant has two trademark applications in United States but does not appear to have any trademark registration yet for JANITORAI. However, the Complainant claims to have used the term JANITORAI since May 2023 to provide online software services enabling Internet users to interact and chat AI.

The Panel finds the Complainant has established unregistered trademark or service mark rights for JANITORAI for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.3.

According to the [WIPO Overview 3.0](#), section 1.1.1 the term "trademark or service mark" as used in UDRP paragraph 4(a)(i) encompasses both registered and unregistered (sometimes referred to as common law) marks. Per the Complaint and as not disputed by the Respondent, the Complainant's JANITORAI services and website are well-known and associated with the Complainant's products such that, as the Panel finds on balance, the Complainant has common law rights in JANITORAI for the purposes of the Policy.

The entirety of the common law mark is reproduced within the Domain Name. Accordingly, the Domain Name is identical to the common law mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The ".me" country code Top-Level Domain ("ccTLD") is disregarded, as ccTLDs typically do not form part of the comparison on the grounds that they are required for technical reasons (*Rexel Developpements SAS v. Zhan Yequn*, WIPO Case No. [D2017-0275](#); [WIPO Overview 3.0](#), section 1.11).

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 that the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the 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 Domain Name such as those enumerated in the Policy or otherwise.

The Respondent did not demonstrate any prior to the notice of the dispute use of the Domain Name or a trademark corresponding to the Domain Name in connection with a bona fide offering of goods or services.

On the contrary, as the Complainant demonstrated, the Domain Name resolved to a Website mimicking that of the Complainant's.

Moreover, the composition of the Domain Name reproducing the Complainant's common law trademark in its entirety, carries a risk of implied affiliation. [WIPO Overview 3.0](#), section 2.5.1.

Panels have held that the use of a domain name for impersonation/passing off, can never confer rights or legitimate interests on a 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.

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.

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

The Panel concludes that the Respondent has registered and used the Domain Name in bad faith. Because the Complainant has used the JANITORAI common law mark prior to the Domain Name registration by the Respondent, the Panel finds it more likely than not that the Respondent had the Complainant's common law mark in mind when registering the Domain Name. Furthermore, the Domain Name incorporates in whole the Complainant's common law mark, therefore creating a likelihood of confusion with the Complainant's common law mark as to the source, sponsorship, affiliation or endorsement of the Domain Name. The Website's content, mimicking the website of the Complainant, further supports knowledge of the Complainant and its activity.

As regards bad faith use of the Domain Name, the Complainant has demonstrated that the Domain Name used to resolve to the Website, mimicking the website of the Complainant, thereby giving the false impression that it is operated by the Complainant. The Domain Name operates therefore by intentionally creating a likelihood of confusion with the Complainant's trademark and business as to the source, sponsorship, affiliation or endorsement of the Website, for commercial gain. This supports the finding of bad faith use ([WIPO Overview 3.0](#), section 3.1.4).

The Panel further finds that the Domain Name was registered to unfairly capitalize on the Complainant's rights, as it was registered only a few months after the launch of the Website and its immediate success. The Respondent's intention was therefore to capitalize from the success of the Website and the Complainant's mark.

The Respondent is using the Domain Name to host the Website which is in the exact same field of business as the Complainant and is reproducing, without any authorization from the Complainant, content from the Complainant's website, while also mimicking the browser tab, favicon, copyrighted chatbot images and the Complainant's website layout. Furthermore, while at the time of filing of the Complaint, the Respondent appeared in the Website as "Janitor AI-S" it currently appears as "Janny AI", but still looks and sounds similar to the Complainant's JANITORAI common law mark. This further indicates the Respondent's bad faith.

As regards the phrase at the bottom of the main page of the Website “We created this page because JanitorAI sucks”, this does not alter the Panel’s finding above, on the contrary it reinforces them because this phrase appears in a non-striking letter size and at the bottom of the main page in the Website, while nothing in the Website suggests that it is a criticism site, as the phrase indicates, on the contrary it is a site mimicking that of the Complainant.

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 Domain Name, <janitorai.me> be transferred to the Complainant.

/Marina Perraki/

Marina Perraki

Sole Panelist

Date: June 10, 2024