

ADMINISTRATIVE PANEL DECISION

Jamie Oliver Enterprises Limited v. Ljubiša Jevtović
Case No. DME2024-0005

1. The Parties

Complainant is Jamie Oliver Enterprises Limited, United Kingdom, represented by Sipara, United Kingdom.

Respondent is Ljubiša Jevtović, Serbia.

2. The Domain Name and Registrar

The disputed domain name <jamiesitalian.me> (the “Domain Name”) is registered with Ascio Technologies Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 26, 2024. On April 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On April 26, 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 May 8, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 28, 2024. The Response was filed with the Center on May 26, 2024.

The Center appointed Robert A. Badgley as the sole panelist in this matter on June 4, 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

Complainant alleges as follows:

“The Complainant is a company within the Jamie Oliver Group of companies ultimately controlled by Jamie Oliver [...]. Jamie Oliver is a world-famous British chef, author, restaurateur and food activist. The Jamie Oliver Group is a commercial business with a social purpose, it covers a wide range of activities including publishing cookery books, providing TV and digital content, licensing products, campaigning for social causes and operating restaurants.”

“One of Jamie Oliver’s famous restaurants is called JAMIE’S ITALIAN. Between 2008 and 2019 there were 25 JAMIE’S ITALIAN restaurants in the UK, although unfortunately all but 3 closed in 2019 [...] There are currently JAMIE’S ITALIAN restaurants in many countries around the world, including Brazil, Cyprus, Hungary, Ireland, Portugal, Qatar, the UAE, Serbia and India, with plans to open new restaurants in other countries, including Montenegro. [...]”

“The Jamie Oliver enterprises are famous worldwide. For example, the Jamie Oliver channel on YouTube has almost 6 million followers and there are Jamie’s Italian videos on that channel with numerous views, such as 783K views on the video of Jamie’s Italian Asparagus Carbonara, 163K view of the video of Jamie’s Italian Christmas Cracker Ravioli and 358K views of Jamie’s Italian Puglian Burrata Bruschetta. [...]”

“The Complainant owns an extensive portfolio of JAMIE’S ITALIAN trade mark applications / registrations around the world for goods and services in multiple classes relating to restaurants and the food industry.”

Annexed to the Complaint are various documents generally corroborating the allegations that Complainant has owned and operated restaurants called JAMIE’S ITALIAN in several countries for several years, that Complainant has produced some videos on YouTube with significant viewership, and that Complainant has various registered trademarks and trademark applications in various jurisdictions for the mark JAMIE’S ITALIAN. For instance, Complainant holds United Kingdom Reg. No. UK008009935797 for the mark JAMIE’S ITALIAN, registered on June 29, 2007 in connection with, among other things, “restaurant services.”

Complainant owns the domain name <jamiesitalian.com> and several domain names with the same Second-Level Domain but with a country-code Top-Level Domain (“ccTLD”), such as <jamiesitalian.in> and <jamiesitalian.ae>. According to Complainant, it “is anticipating shortly opening a restaurant in Montenegro and so would have used the domain jamiesitalian.me for that purpose.” (The ccTLD “.me” denotes Montenegro.) Complainant filed an application on September 27, 2023 to register the trademark JAMIE’S ITALIAN in Montenegro (Application no. 935797) in connection with, among other things, “restaurant services.” That application is pending.

The Domain Name was registered on October 24, 2023. When the Complaint in this proceeding was initiated, the Domain Name resolved to a parking page provided by the Registrar. At some point since then, Respondent set up an actual website purporting to be in development and dedicated to bicycling.

On March 14, 2024, Complainant’s counsel sent a letter to the Registrar, which evidently was forwarded to Respondent because it elicited a reply from Respondent on March 19, 2024. Among other things, Respondent stated:

“We registered the domain jamiesitalian.me but have not used it in a manner to mislead anyone; we have not put the domain up for sale, nor have we created a website. The current owner of the domain intended to launch a business in the sports, bicycles, and bicycle parts market in Italy based on his domain. They will not be involved in the food preparation business. Significant resources have been invested in this project.”

“We believe you are aware that both judicial and extrajudicial methods, as well as arbitration before the competent state body, are available to you. We are prepared to prove that we have not infringed the JAMIE’S ITALIAN trademark in Montenegro. We understand that the costs for you could be substantial. We

wish to resolve the dispute amicably. We are open to discussions with you and any reasonable proposal to transfer the domain to you. We agree to provide you with our internet provider's email address [...] so we can continue direct discussions.”

“We hope the issue will be resolved to mutual satisfaction.”

On March 20, 2024, Complainant’s counsel sent an email to Respondent, stating:

“We see you are open to discussions for a reasonable proposal to transfer the domain. Please can you tell me what you mean by this, so I can discuss with the business.”

There is no indication in the record that there was a specific reply to this email. On March 27, 2024, Complainant’s counsel sent respondent a letter asserting its trademark rights and asking Respondent to explain how he believes he has a legitimate interest in the Domain Name.

On April 2, 2024, Respondent replied, stating in part:

“We did not register the domain to prevent you from registering it. We did not register the domain to sell it. [...] We have not set up a site that could confuse your clients. We do not intend to commercialize the domain; we will engage in non-profit activities.” [...]

“We call for agreement and peaceful dispute resolution, but we are prepared for any scenario.”

“Regarding your inquiry about our business with bicycle parts from Italy, it concerns cycling training, training advice, organizing cycling trips, organizing a community with Italian partners, and promoting the sport. It’s all non-profit. The domain owner is a former national champion and representative in cycling.”

Respondent closed this message as follows: “We offer you the opportunity to propose an acceptable compromise to us.”

On April 15, 2024, Respondent followed up with an email to Complainant’s counsel, stating as follows:

“Have you made a decision regarding our domain dispute? It’s time for us to activate the domain and get the site up and running. After that there will be no reason to transfer ownership of the domain to you, we continue to develop our plan. We have waited with our activities because we do not want to start things before you officially declare. Summer is approaching and it’s time to start a plan, and for that we need to have a name and a website. If we transfer the domain to you, we must have time for certain marketing changes. Please respond as soon as possible. Greeting.”

The foregoing email appears to have been the last communication between the Parties before the Complaint in this proceeding was filed on April 26, 2024.

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.

B. Respondent

The crux of Respondent's position in this case is set forth, as follows, in the Response:

"The complainant, as a well-known global brand, should understand that a domain is not intellectual property and that the rule 'first-come, first-serve' applies worldwide. Internet domain names are registered on a 'first in time, strongest in right' basis. If the complainant filed a trademark application, why did they not immediately register the domain that was available at the time? A serious global brand would not allow this to happen."

"When the respondent registered the domain, it was available. The respondent could not have known about the complainant's business plans, nor was he interested in them. Additionally, in Serbia, the complainant does not operate, and he is misleading the public."

"The respondent chose the domain name with meaningful intent:

'JA' in Serbian means 'ME' in English,
'MI' in Serbian means 'WE' in English,
'E' stands for E-bike,
'S' stands for sport,
'Italian' because Italy is a country known for sports and cycling."

"The respondent intends to form a nonprofit organization that connects people and organizes cycling tours, excursions, and visits to the natural beauties of Montenegro, Serbia, and Italy."

"The complainant asked the respondent for detailed information, but the respondent is not obliged to disclose his business plans and strategies to the complainant. Similarly, he is not required to prove his sports achievements as a former competitive cyclist."

"The respondent was born in a country that was once united with Montenegro, speaks the same language, has family living in Montenegro, and clearly has a greater legitimate interest in operating in Montenegro than the complainant."

"The website is available at www.jamiesitalian.me, and anyone can see that the respondent is not in competition with the complainant and has no interest in attracting the complainant's audience. Their interests are not the same. The complainant is focused solely on money, while the respondent is dedicated to sports and healthy living." [...]

"The respondent is actively working on implementing his plan, as evidenced by the purchased airline tickets to Milan, Italy, where he will meet with his future collaborators from Italy."

6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements which 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 Complainant has rights; and
- (ii) 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 Complainant's trademark and the Domain Names. [WIPO Overview 3.0](#), section 1.7.

The Panel concludes that Complainant has rights in the trademark JAMIE'S ITALIAN through registration and use demonstrated in the record. The Panel also concludes that the Domain Name is confusingly similar to that mark. The Domain Name entirely incorporates the mark but omits the possessive apostrophe. The Panel concludes that the mark remains clearly recognizable within the Domain Name despite this minor difference.

Complainant has established Policy paragraph 4(a)(i).

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

- (i) before any notice to you [Respondent] of the dispute, your use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a bona fide offering of goods or services; or
- (ii) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Domain Name, even if you have acquired no trademark or service mark rights; or
- (iii) you [Respondent] are making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

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 often primarily within the knowledge or control of the respondent. Thus, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production 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.

The Panel concludes that Respondent lacks rights or legitimate interests in connection with the Domain Name. Ultimately, on the record provided, the Panel concludes that Respondent's alleged plans vis-à-vis the Domain Name are pretextual rather than genuine.

First, the Panel notes that Respondent concedes that Complainant's JAMIE'S ITALIAN brand is a "well-known global brand."

Second, and above all, the Panel finds the following explanation from Respondent to be fanciful and unsupported by contemporaneous evidence in the record:

"'JA' in Serbian means 'ME' in English, 'MI' in Serbian means 'WE' in English, 'E' stands for E-bike, 'S' stands for sport, 'Italian' because Italy is a country known for sports and cycling."

Taken at face value, Respondent claims to have conceived a branding theme of "Me, We, E-Bike, Sport, and Italy." This purported theme strikes the Panel as utterly contrived. Among other things, the question why should "E" stand for "E-Bike" presents itself, as does the question how an "e-bike" might figure in

Respondent's stated plans. Further, the choice of "Italian" rather than "Italy" in this context appears implausible.

In addition, the alleged business plan that Respondent asserts in the Response (organize "cycling tours, excursions, and visits to the natural beauties of Montenegro, Serbia, and Italy") is at odds with the alleged business plan articulated in Respondent's March 19, 2024 email, namely: "launch a business in the sports, bicycles, and bicycle parts market in Italy." Although both alleged plans pertain in some measure to bicycles, one seems to deal with organizing tours in three countries, whereas the other seems to deal with selling sporting goods, including bicycle parts, in Italy. Irrespective of whether Respondent may or may not develop any of these business plans, the selection of the Domain Name does not logically seem to be substantiated by such business plans.

It also bears noting that Respondent's reluctance to provide any details about its business plans (including the name of the alleged cycling champion supporting this business) strikes the Panel as odd. Even on Respondent's newly minted website – albeit still in development – there is no identification of the famous bicyclist. The potential marketing strength provided by a famous cyclist in this context leads the Panel to draw the inference that there may not actually be a famous cyclist behind Respondent's business. However, even if Respondent himself (or a potential partner) was to be a famous cyclist, that would not be sufficient to support Respondent's reason for the selection of the Domain Name. The Panel notes that according to Respondent's explanation the letter "e" in "Jamie" would be the only reference to cycling as an acronym of "ebike" within the Domain Name, which seems in the Panel's opinion a fabricated explanation.

Further, if tours in Serbia, Montenegro, and Italy were envisaged by Respondent as a genuine business plan, one must ask why Respondent chose the ccTLD ".me" and included "Italian" (and not "Serbian" or "Montenegrin") in the Domain Name (or other domain names).

In sum, the Panel finds Respondent's stated aims vis-à-vis the Domain Name to be highly implausible, unsupported by contemporaneous evidence (the airline ticket does little to corroborate Respondent's alleged motives), and internally inconsistent. Put another way, the Panel finds these stated motives to be pretextual rather than genuine. The Panel reaches this conclusion on the record presented, and does not intend to suggest that a maladroit but genuinely conceived marketing plan would fail to confer legitimacy on a respondent in a UDRP case. The problem for Respondent here is lack of genuineness, not lack of marketing savvy.

The Panel's finding that Respondent more likely than not concocted its business plan here – and put up a pretextual website (after Parties' communications) designed to corroborate that plan – leads the Panel to question Respondent's credibility in general. Given this conclusion and the close similarity between Complainant's mark and the Domain Name, the Panel concludes that Respondent targeted Complainant's mark and hence lacks rights or legitimate interests in respect of the Domain Name.

Complainant has established Policy paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that the following circumstances, "in particular but without limitation," are evidence of the registration and use of the Domain Name in "bad faith":

- (i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or
- (ii) that 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 Respondent has engaged in a pattern of such conduct; or

- (iii) that Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or
- (iv) that by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent's website or other online location, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website or location or of a product or service on Respondent's website or location.

The Panel concludes that Respondent registered and used the Domain Name in bad faith under the Policy. The Panel incorporates its discussion above in the "Rights or Legitimate Interests" section.

Given that there is no dispute between the Parties that Complainant's mark is well-known, given the Panel's finding that Respondent's account lacks credibility, and given the fact that Respondent registered the Domain Name within four weeks of Complainant's application to register JAMIE's ITALIAN as a trademark in Montenegro, the Panel finds it more likely than not that Respondent registered the Domain Name with Complainant's mark in mind. Respondent's use of the Domain Name for a parking page, which changed to a pretextual website (after Parties' communications) designed to corroborate Respondent's plan, leads the Panel to a conclusion that Respondent's use amounts to a use in bad faith.

The Panel also finds, on this record and on a balance of probabilities, that Respondent targeted Complainant's mark in order to extract a payment from Complainant in exchange for the Domain Name. Respondent points out that he never expressly asked Complainant for money, but it is difficult to conceive of any other manner in which, at Respondent's repeated urging, the Parties might come to a mutually agreeable resolution. Respondent did not suggest in this proceeding what kind of mutually agreeable resolution could be reached without the transfer of money being involved. The Panel can think of none, and even if money was not expressly involved, the Panel considers that Respondent was likely seeking to unfairly benefit (monetarily or not) of the Domain Name. The Panel finds that the above-quoted Policy paragraph 4(b)(i) applies here.

Complainant has established Policy paragraph 4(a)(iii).

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 <jamiesitalian.me> be transferred to Complainant.

/Robert A. Badgley/

Robert A. Badgley

Sole Panelist

Date: June 18, 2024