



Asian Domain Name Dispute Resolution Centre

seoul

(Seoul Office)

## ADMINISTRATIVE PANEL DECISION

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**Case No.** KR-1900205

**Complainants:** JUUL LABS, INC. (Authorized Representative : Ki-Beom Park  
Attorney, Joo-Young Moon Patent Attorney)

**Respondent:** Jay Jung

**Disputed Domain Name(s):** juulmania.com

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### 1. The Parties and Contested Domain Name

The Complainant is JUUL LABS, INC., 560 20th Street, Building 104, San Francisco, CA , U.S.A.

The Authorized Representative of Complainant is Ki-Beom Park, Attorney & Joo-Young Moon Patent Attorney, Jeongdong Building, 17F, 21-15 Jeongdong-gil, Jung-gu, Seoul 04518, Republic of Korea.

The Respondent is Jay Jung, 911 S. Berendo St., Apt 4, Los Angeles, CA 90006, U.S.A.

The domain name at issue is 'juulmania.com', registered by Name.com.

## 2. Procedural History

The Complaint was filed with the Seoul Office of the Asian Domain Name Dispute Resolution Center (ADNDRC) ["Center"] on October 8, 2019, seeking for a transfer of the domain name in dispute.

On October 15, 2019, the Center sent an email to the Registrar asking for the detailed data of the registrant. On August 18, 2019, Name.com transmitted by email to the Center its verification response, advising that the 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"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules"), and the Centre's Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the "Supplemental Rules").

In accordance with the Rules, the Centre formally notified the Respondent of the Complaint. The proceedings commenced on October 21, 2019 and the due date for the Response was November 10, 2019. No Response was filed by the due date.

On November 13 2019, the Center appointed Prof. Moonchul Chang as the Sole Panelist in the administrative proceeding and with the consent for the appointment, impartiality and independence declared and confirmed by the Panelist, the Center, in accordance with paragraph 7 of the Rules, organized the Panel of this case in a legitimate way.

We are writing to advise the parties of Panel order.

### **3. Factual background**

The Complainant is JUUL Labs, Inc, is an American electronic cigarette company which spun off from Pax Labs in 2017. The Complainant sells and advertizes e-cigarettes (vaporizers), chargers and nicotine pods through its website at <juul.com>

The Complainant owns the trademark JUUL which is registered for, among others, electronic cigarettes, chargers, nicotine pods, and related goods and services worldwide. The Complainant has obtained registrations for its JUUL trademark around the world, especially registered on September 22, 2015 in the United States and on May 12, 2016 in the Republic of Korea.

According to the publicly available WhoIs information and confirmed by the Registrar, the disputed domain name <Juulmania.com> was registered on November 28, 2018.

### **4. Parties' Contentions**

#### **A. Complainant**

The Complainant contends that:

(i) The disputed domain name <juulmania.com> is confusingly similar to the Complainant's trademark JUUL. It incorporates the Complainant's JUUL mark in entirety with the addition of a term "mania." The word "juul" is the dominant feature of the disputed domain name, causing confusing similarity to the Complainant's trademark and 'mania' is simply a common word.

(ii) The Respondent has no rights or legitimate interests in respect of the disputed domain name. Although the Respondent is not licensed or authorized as a seller of the Complainant's products, he sells and advertizes the Complainant's products. Further, the Respondent sells and advertized not only the Complainant's products

but also e-cigarette products of Complainant's competitors under the disputed domain name. The Respondent does not hold any lawful rights or interests in the registration and use of the disputed domain name.

(iii) The disputed domain name was registered and is being used by the Respondent in bad faith. Firstly, the Respondent registered the disputed domain name for the purpose for exploiting the fame of the JUUL mark, with the knowledge of the reputation and the value of JUUL mark at the time of its registration. Secondly, the Respondent uses the disputed domain name in bad faith. The Respondent sells and advertizes not only Complainant's e-cigarette products but also products of the Complainant's competitors for commercial gain in his website. Thirdly, the Respondent lures customers from his website of disputed domain name to his youtube channel to teach them to refill JUUL pods which are not meant to be refilled. This practice may be hazardous to the health of users and is likely to damage or tarnish the goodwill in the JUUL brand and the the Complainant's future sales of its devices and pods..

**B. Respondent**

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

**5. Findings**

The ICANN Uniform Domain Name Dispute Resolution Policy provides, at Paragraph 4(a), that each of three findings must be made in order for a Complainant to prevail:

- i. Respondent's domain name must be 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. Respondent's domain name has been registered and is being used in bad faith.

## **A) Identical / Confusingly Similar**

The disputed domain name <juulmania.com> is comprised of two words: "juul" and "mania". The dominant feature of the disputed domain name is "juul" which is entirely identical to the Complainant's trademark and the word "mania" is only a generic term and descriptive suffix. Numerous UDRP panels have held that where a domain name substantially incorporates a complainant's trademark, this is sufficient to make the domain name "confusingly similar" within the meaning of the Policy (see *Amazon.com, Inc. v. MCL International Limited*, WIPO Case No. D2000-1678). The generic Top-Level Domain (gTLD) suffix ".com" can be disregarded under the confusing similarity test (see *DHL Operations B.V. v. zhangyl*, [WIPO Case No. D2007-1653](#)).

Accordingly, the Panel finds that the first element under paragraph 4(a) of the Policy has been met by the Complainant.

## **B) Rights and Legitimate Interests**

Under paragraph 4(a)(ii) of the Policy, the overall burden of proof is on the Complainant. However, once the Complainant presents a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name, the burden of production shifts to the Respondent (see *Belupo d.d. v. WACHEM d.o.o.*, [WIPO Case No. D2004-0110](#); *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, [WIPO Case No. D2003-0455](#)).

Firstly, the Complainant contends that he has never licensed or authorized the Respondent to use the Complainant's trademark or to register any domain names incorporating the JUUL mark. The Respondent has used the Complainant's trademark without permission of the Complainant. In this case the Respondent sells and advertises the Complainant's products under the disputed domain name. Here, the Panel finds that Complainant has made out a *prima facie* case.

Secondly, the Complainant contends that the Respondent is not using the disputed domain name in connection with a *bona fide* offering of goods or services. In fact the Respondent sells and advertized not only the Complainant's products but also e-cigarette products of Complainant's competitors under the disputed domain name. In the meantime the Respondent failed to come forward with any appropriate allegations or evidence that might demonstrate its rights or legitimate interests in the disputed domain name to rebut the Complainant's *prima facie* case.

Thirdly, there is no evidence presented to the Panel that the Respondent has used, or has made demonstrable preparations to use, the disputed domain name in connection with a *bona fide* offering of goods or services or is making a legitimate and fair use of the disputed domain name. In addition there is no evidence to suggest that the Respondent has been commonly known by the disputed domain name.

Accordingly, the Panel concludes that the Complainant has satisfied the second element under paragraph 4(a) of the Policy in the present case.

### **C) Bad Faith**

Paragraph 4(a)(iii) of the Policy requires that the disputed domain name "has been registered and is being used in bad faith". As this requirement is conjunctive, the Complainant must establish both bad faith registration and bad faith use of the disputed domain name. In addition, the circumstances listed in paragraph 4(b) of the Policy are not exclusive, and other circumstances may likewise lead to a finding of bad faith registration and use.

Firstly, since the JUUL mark is widely-known in many countries, including the United States of America and the Republic of Korea, it is most likely that the Respondent registered the disputed domain name with notice of the Complainant's trademark. It is also presumable that the Respondent in all likelihood registered the disputed domain name with the expectation of taking advantage of the reputation of the Complainants' trademarks. This is supported by the fact that the Respondent

uses the dispute domain name to sell and advertize not only the Complainant's products for commercial gain but also e-cigarette products of Complainant's competitors in his website. Finally, the Respondent shows the customers in his youtube channel connected by his website how to refill JUUL pods. Since this practice could be hazardous to the health of users, it may also damage or tarnish the goodwill in the JUUL brand

Based on the foregoing, the Panel is satisfied that bad faith registration and use have been sufficiently established with respect to the disputed domain name in accordance with paragraph 4(b) of the Policy.

Accordingly, the Panel concludes that the Complainant has satisfied the third element under paragraph 4(a) of the Policy in the present case.

## 6. 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 <juulmania.com> be transferred to the Complainant.



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Moonchul Chang

Sole Panelist

Dated: November 30, 2019