# Decision for dispute CAC-UDRP-107054

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| Case number | CAC-UDRP-107054 |
| Time of filing | 2024-11-18 11:06:01 |
| Domain names | baerskinapparels.com, bearskinapparels.com, stonewolves.com, wolfhugapparels.com |

## Case administrator

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| Name | Olga Slanařová (Case admin) |

## Complainant

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| Organization | Global Innovation Ventures AG |

## Complainant representative

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| Organization | Trama Legal s.r.o. |

## Respondents

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| Organization | Mythical Jelly? |
| Organization | WOLFHUG |
| Organization | BAERSKIN Apparels |
| Organization | OakRidge |

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain names.

IDENTIFICATION OF RIGHTS

The Complaint is based amongst others on the following trademark, registered in the Complainant's name: “baerskin” (word mark) no. 6879944, registered in the United States on October 18, 2022 - still under the Complainant's former company name - for goods in class 25;

Beyond this registered trademark, the Complainant relies on further pending applications for figurative trademarks containing the verbal element "baerskin".

On 1 November 2024, Complainant dispatched a notice of infringement to the Respondent regarding the disputed domain name <baerskinapparels.com>. The Respondent replied on 2 November 2024 with a note it would take down the content of its website and in the following the disputed domain name has been suspended.

Originally, however, the website to which the disputed domain name <baerskinapparels.com> resolved, purported to sell clothing

under the Complainant's “BAERSKIN”-logo (including the figurative element of stylised “bear head”). Additionally, the Respondent also created its Facebook profile called "Baerskin Apparels” and used - again - the Complainant’s BAERSKIN-Logo with the stylized bear head element as a profile image. However, the Complainant has no relationship with the Respondent.

The second and third disputed domain names, i.e. <bearskinapparels.com> and <wolfhugapparels.com>redirect both to the same website under the last disputed domain name, i.e. <stonewolves.com>. Also this website purported to sell clothing at highly discounted prices ("Save 59%") by using the "BAERSKIN"-trademark.

On 8 November 2024 dispatched another notice of infringement to the Respondent regarding the disputed domain name <stonewolves.com>. The Respondent replied on that same day that its activities are for the educational purposes of its employees.

## FACTUAL BACKGROUND

The Complaint is directed against the following four disputed domain names:

1. <baerskinapparels.com>, registered on October 23, 2024 by Ponke Lee (Organization Name: Mythical Jelly?)
2. <bearskinapparels.com>, registered on November 11, 2024 by Ponke Lee (Organization Name: WOLFHUG)
3. <stonewolves.com>, registered on November 1, 2024 by Ponke Lee (Organization Name: BAERSKIN Apparels)
4. <wolfhugapparels.com>, registered on November 9, 2024 by Ponke Lee (Organization Name: OakRidge)

The Registrar Verification confirmed that all four disputed domain names are registered by a person using the same personal name (Ponke Lee) but different Organization names.

## PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain names should be transferred to it.

No administratively compliant Response has been filed.

## RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

## NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain names (within the meaning of paragraph 4(a)(ii) of the Policy).

## BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain names have been registered and are being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

## PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

In particular, the Panel is convinced that all four disputed domain names have been registered by the same Respondent Mr/Ms Ponke Lee.

The fact that for each of the disputed domain names a different "Organization Name" is given, does - in the Panel's view - not change the fact that all of these disputed domain names have been registered in the name of the same natural person. Therefore, the Panel

finds it appropriate to proceed with its examination of the Complaint directed against the same Respondent for four different disputed domain names.

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PRINCIPAL REASONS FOR THE DECISION

1. 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 names.

(a) The Complainant has shown rights in respect of its trademark **baerskin** for the purposes of the Policy.

(b) This mark is identically included in the disputed domain name <baerskinapparels.com>.

Furthermore, the Panel finds that this mark is recognizable within the second disputed domain name <bearskinapparels.com>, where merely the first two vowels "ae" have been inverted to "ea". The Panel considers this to be a common, obvious, or intentional misspelling of a trademark which is not sufficient to escape the confusing similarity test for purposes under the first element.

Although the addition of the term "apparel" in both of these disputed domain names may bear on the assessment of the second and third elements, the Panel finds that the addition of this term does not prevent a finding of confusing similarity between these two disputed domain names and the mark for the purposes of the Policy.

(c) However, as to the further two disputed domain names <stonewolves.com> and <wolfhugapparels.com>, the Panel notes that they are not similar to the "baerskin" trademark(s) relied upon by the complainant.

Furthermore, the Complainant has not invoked and proven the existence of any unregistered rights.

Rather, the Complainant argues that the content hosted on the website to which these two disputed domain names resolve/redirect contains copyrighted material. It is true that in some cases panels have taken note of the content of the website associated with a domain name to confirm a confusing similarity where it appears prima facie that the respondent is attempting to target a trademark through the disputed domain name. However, such content cannot substitute for the first element of the Policy, which clearly requires that the Complainant has rights in a trademark or service mark that is identical or confusingly similar to the disputed domain name. In the absence of such a mark, the Complaint must be rejected in respect of the disputed domain names <stonewolves.com> and <wolfhugapparels.com> because the first element is not satisfied.

(d) The Panel therefore finds that the first element of the Policy has been established only with respect to the disputed domain names, <baerskinapparels.com> and <bearskinapparels.com>, and will proceed with its analysis in this regard.

2. Rights or Legitimate Interests

In the absence of any response, or any other information from the Respondent indicating the contrary, the Panel holds that the Complainant successfully presented its prima facie case and that the Respondent has no rights or legitimate interests in respect of the two disputed domain names, paragraph 4(a)(ii) of the Policy.

In particular, the Respondent is neither affiliated with nor authorized by the Complainant, and it is not related in any way to the Complainant's business. In addition, there is no evidence in the record or WhoIs information showing that the Respondents might be commonly known by the respective disputed domain names in the sense of paragraph 4(c)(ii) of the Policy.

Finally, the websites to which the two disputed domain names resolve (or resolved) purport to sell clothing by using the Complainant's "BAERSKIN" marks. In case of the domain name <baerskinapparels.com> even the figurative element of stylised "bear head" is used. Additionally, the Respondent also created a Facebook profile called "Baerskin Apparels" and using - again - the Complainant's BAERSKIN-Logo with the stylized bear head element as a profile image. However, the Complainant has no relationship with the Respondent. In the Panel's view, such use cannot be qualified as a bona fide offering of goods or services in accordance with paragraph 4(c)(i) of the Policy, since such use is likely to mislead Internet users. In addition, the Respondent did not submit any evidence of bona fide pre-Complaint preparations to use these respective domain names. In particular, the Complainant's uncontested allegations demonstrate that it has not authorized or licensed any such use of the baerskin-trademark in particular not for registering the disputed domain names which are confusingly similar to the Complainant's trademark.

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

3. Registered and Used in Bad Faith

According to paragraph 4(a)(iii) of the Policy, the Complainant must thirdly establish that the two disputed domain names have been registered and are being used in bad faith. The Policy indicates that certain circumstances specified in paragraph 4(b) of the Policy may, "in particular but without limitation", be evidence of the disputed domain names' registration and use in bad faith.

(1) One of these circumstances that the Panel finds applicable to the two disputed domain names at issue is that the Respondent by using these disputed domain names, has intentionally attempted to attract, for commercial gain, Internet users to its websites by

creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of their website or location or a product or service on their website or location (paragraph 4(b)(iv) of the Policy).

It results from the documented and undisputed evidence provided by the Complainant that the remaining two disputed domain names resolve (or resolved) to websites purporting to sell clothing by using the Complainant's “BAERSKIN” marks. In case of the domain name <baerskinapparels.com> even the figurative element of stylised “bear head” is used. Additionally, the Respondent also created a Facebook profile called "Baerskin Apparels” and using - again - the Complainant’s BAERSKIN-Logo with the stylized bear head element as a profile image. For the Panel, it is therefore evident that the Respondent positively knew the Complainant’s trademarks and products. Consequently, and in the absence of any evidence to the contrary, the Panel is convinced that the Respondent also knew that these disputed domain names included the Complainant’s trademark baerskin entirely (or confusingly similarly) when it registered the respective domain names. Registration of a domain name which contains a third party’s trademark, in awareness of said trademark and in the absence of rights or legitimate interests is suggestive of registration in bad faith. While the ability to purchase the goods is not known to the Panel, the alleged commercial offering and impersonation of the Complainant is sufficient to establish the Respondent's bad faith intent to mislead Internet users.

(2) Finally, the finding of bad faith registration and use is supported by the following further circumstances resulting from the case at hand:

- the trademark baerskin is fully and identically incorporated in at least one of the disputed domain names;
- the Respondent's failure to submit a formal response;
- the Respondent's failure to provide any evidence of actual or contemplated good-faith use; all to the contrary: The Respondent in its email of November 2 2024 even took down the content available under <baerskinapparels> without referring to any good-faith use or planned use;
- and the implausibility of any good faith use to which the disputed domain names may be put.

In the light of the above the Panel finds that the two disputed domain names have been registered and are being used in bad faith pursuant to paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Partially Accepted/Partially Rejected

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **baerskinapparels.com**: Transferred
2. **bearskinapparels.com**: Transferred
3. **stonewolves.com**: Remaining with the Respondent
4. **wolfhugapparels.com**: Remaining with the Respondent

## PANELLISTS

| Name | **Tobias Malte Müller** |
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DATE OF PANEL DECISION 2025-01-16

Publish the Decision