

Decision for dispute CAC-UDRP-101016

Case number	CAC-UDRP-101016
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Time of filing	2015-07-08 10:10:56
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Domain names	jpdecaux.com
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Case administrator

Name	Lada Válková (Case admin)
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Complainant

Organization	JC DECAUX SA
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Complainant representative

Organization	Nameshield (Laurent Becker)
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Respondent

Organization	DeSiaMore Company Ltd
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OTHER LEGAL PROCEEDINGS

The Panel is not aware of any pending or decided proceeding related to the disputed domain name.

IDENTIFICATION OF RIGHTS

Complainant, JC DECAUX SA, has proved to be the owner of the following registered trademarks:

JCDecaux word, International registration No. 803987 registered on November 27, 2001.

JCDecaux word, CTM Registration No. 004961454 registered on April 12, 2007.

Furthermore, the Complainant provides evidence it owns various websites containing the word “JCDecaux” (i.e., “www.jpdecaux.com” registered on June 26, 1997).

The disputed domain “jpdecaux.com” was registered on September 3, 2014.

Complainant’s trademark registrations long predate Respondent’s registration of the disputed domain name.

FACTUAL BACKGROUND

Since 1964, JCDecaux SA is the pioneer of the Street Furniture concept which has grown to be number two worldwide in

outdoor advertising and number one in Asia-Pacific.

JCDecaux S.A. is a leading outdoor advertising company worldwide. The Complainant is currently the only group present in the three principal segments of the outdoor advertising market: street furniture, transport advertising and billboard.

Created in 1964 by Jean-Charles Decaux, the Group is listed on the Premier Marché of the Euronext Paris stock exchange and is part of Euronext 100 index. Employing a total of 12,000 people, the Group is present in more than 60 different countries and 3,700 cities and generated revenues of €2,676m in 2013.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

PARTIES' CONTENTIONS:

COMPLAINANT:

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

The Complainant contends the disputed domain name "jpdecaux.com" is confusingly similar to its trademarks "JCDECAUX". According to the Complainant, the disputed domain name is virtually identical to the trademark JCDECAUX replacing only the letter "c" with the letter "p". This practice is commonly referred to as typosquatting and is confusingly similar to Complainant's trademark.

In addition, the Complainant contends the addition of a gTLD ".com" is not sufficient to escape the finding that the domain is confusingly similar to the trademarks and does not change the overall impression of the designation as being connected to a trademark of the Complainant.

Furthermore, the Complainant claims the Respondent does not have any rights or legitimate interest in the domain name and is not in any way related to the JCDecaux's business.

The Complainant contends that the Respondent is not affiliated with nor authorized by JCDecaux SA in any way.

JCDecaux SA does not carry out any activity for, nor has any business with the Respondent.

The Respondent is not commonly known under the denomination "JPDECAUX". The Respondent works in the web hosting industry.

The web site www.jpdecaux.com displays a content in relation to the Complainant's business: "Airport Advertising, Billboard Advertising, Street Furniture and Transport Advertising".

The Complainant contends that the Respondent, by using the domain name, has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website or location or of a product or service on its website or location.

The Complainant contends that the domain name constitutes a typosquatting variant of Complainant's trademark. Moreover, the website in connection with the dispute domain name displays a content in relation with the Complainant's business.

Further, the likelihood of confusion has to be appreciated globally, taking account of all relevant factors and the more distinctive the earlier mark the greater would be the likelihood of confusion. Where the association between the domain name and the trademark would cause the end user to believe wrongly that the respective services came from the same or economically linked undertakings, there would be a likelihood of confusion.

On those facts, the Complaint contends that the Respondent intentionally has attempted to attract for commercial gain Internet users to Respondent's web by profiting of the notoriety of the Complainant and his trademark.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the Domain Name is 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 Domain Name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the Domain Name has been registered and is 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.

PRINCIPAL REASONS FOR THE DECISION

Complainant's registration and extensive use of the JCDECAUX trademarks for outdoor advertising sufficiently establishes its right in the mark pursuant to paragraph 4(a)(i) of the Policy.

The Panel agrees with the Complainant's assertion that the domain name at issue, jpdecaux.com, is confusingly similar to the trademark JCDECAUX replacing only the letter "c" with the letter "p" and that this registration can constitute a typosquatting variant of Complainant's trademark JCDECAUX.

Therefore this Panel considers the disputed domain name to be confusingly similar to the Complainant's marks pursuant to paragraph 4(a)(i) of the Policy.

* * *

The Respondent has no connection or affiliation with the Complainant, which has not licensed or otherwise authorised the Respondent to use or apply for any domain name incorporating Complainant's trademark.

The Respondent does not appear to make any legitimate use of the domain name for non-commercial activities. Indeed, the disputed domain name appears to be used to drive Internet traffic inappropriately to Respondent's web site for commercial gain.

The Respondent does not appear to have been commonly known by the disputed domain name.

The Respondent has not proved, affirmed or even alleged to have legitimate rights (within the meaning of paragraph 4(a)(ii) of the Policy) to the disputed domain name.

Therefore, the Respondent has not shown any facts or elements to justify prior rights and/or legitimate interests in the disputed domain name in accordance with the ICANN Policy. The Respondent did not provide any elements to demonstrate, as requested by the Policy, that it used or made preparations to use the disputed domain name or a name corresponding to it in connection with a bona fide offering of goods or services.

Accordingly, the Panel finds that the Complainant has satisfied the burden of proof with respect to paragraph 4(a)(ii) of the

Policy.

* * *

The web site "www.jpdecaux.com" displays a content competing to the Complainant's business: "Airport Advertising, Billboard Advertising, Street Furniture and Transport Advertising".

The business model based upon use of an infringing domain name to attract users to Respondent's web site, which displays competing services, is evidence that the Respondent registered and is using the disputed domain name in bad faith pursuant to paragraph 4(b)(iv) of the Policy.

Therefore this Panel agrees with the Complainant that from all the above it is clear that Respondent's registration and use of the disputed domain name falls squarely within the parameters of bad faith use and registration within the meaning of the ICANN Policy.

Considering the foregoing, the Complainant has, to the satisfaction of the Panel, shown the Domain Name was registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **JPDECAUX.COM**: Transferred

PANELLISTS

Name	Dr. Fabrizio Bedarida
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DATE OF PANEL DECISION	2015-08-13
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Publish the Decision