Decision for dispute CAC-UDRP-101713

Case number	CAC-UDRP-101713
Time of filing	2017-10-06 12:45:23
Domain names	jcdecaaux.com

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization	JCDECAUX SA

Complainant representative

Organization	Nameshield (Maxime Benoist)

Respondent

Name	Casey Kolp

OTHER LEGAL PROCEEDINGS

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

IDENTIFICATION OF RIGHTS

The Complainant adduced proof of its international trademark “JCDECAUX” number 803987 registered since 27 November 2001 and its Community Trademark 004961454 registered since 12 May 2007 as well as of it being the registrant of jcdecaux.com, jcdecaux.us and jcdecaux.net.

FACTUAL BACKGROUND

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

JCDecaux is a world-leading outdoor advertising company, active in this field for more than half a century and with a workforce of 12,000. It is a publicly quoted company on the Euronext stock exchange and has a very substantial annual turnover.

The disputed domain name <jcdecaaux.com> was registered on 2 October 2017 by the Respondent using the name “Casey Kolp” with contact details in Michigan, United States. The domain name is in use, employing a parking webpage.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

PARTIES' CONTENTIONS:

COMPLAINANT:

The Complainant states that the disputed domain name is confusingly similar to the Complainant's trademarks JCDECAUX® and domain names associated with them. Moreover, the Complainant asserts that the brand "JCDecaux" is a fanciful term, based on its founder's name. The term is only known in relation with the Complainant. It has no meaning whatsoever in English, French or in any other language. A Google search of the term thus displays results only related to the Complainant.

By the mere addition of a second "a" to form the disputed domain name <jcdecaaux.com> the Respondent has thus registered a domain name that is confusingly similar to the name in which the Complainant has provided proof of its rights. The disputed domain name is phonetically and optically similar and its misspelling in these circumstances amounts to typosquatting. There is nothing in the disputed domain name to mitigate the effect of such confusing similarity.

The Complainant invokes previous ADR cases in support of its position as to the UDRP criterion of confusing similarity, among them being CAC Case n° 101615, JCDECAUX SA v. Olivia Shpiruk (<jodecaux.com>).

As to the UDRP criterion of the Respondent's lack of rights or legitimate interest, the Complainant avers that the Respondent is not known to it, is not affiliated with or authorized by the Complainant in any way, and is not related in any other way to the Complainant's business. The Complainant furthermore does not carry out any activity for or have any business with the Respondent and the domain name <jcdecaaux.com> being pointed to a parking webpage displaying sponsored links is not legitimate non-commercial or fair use of the disputed domain name. The Complainant invokes in this regard the previous ADR decision in NAF case no. FA 918556, Disney Enters., Inc. v. Kamble, a case which related to a pay-per-click website.

In these circumstances, the Complainant contends that, citing WIPO case D2003-0455 Croatia Airlines d.d. v. Modern Empire Internet Ltd., the Complainant is only required to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such prima facie case is made, the Respondent carries the burden of demonstrating its rights or a legitimate interest in the domain name.

The Complainant then alleges that the third cumulative requirement of the UDRP is fulfilled, namely bad faith, by imputing intention to the Respondent to use a misspelling of the Complainant's mark in order to attract web visitors for commercial gain, knowing of the Complainant's famous mark or under constructive knowledge. The Complainant cited the finding in WIPO Case No. D2005-1304, Mobile Communication Service Inc v. Webreg, RN in support of this contention in the circumstance of use of a parking site with sponsored links.

RESPONDENT:

No administratively compliant Response has been filed.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed 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 disputed 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 disputed 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 the UDRP were met and that there is no other reason why it would be inappropriate to provide a decision.

The Panel takes note of a communication sent to the CAC after the opening of the present proceedings by a person claiming to have the Respondent's name as used in these proceedings, Casey Kolp. That person denied being associated in any way with the registration of the disputed domain name and requested the CAC to conduct research to find the correct person with that name.

PRINCIPAL REASONS FOR THE DECISION

This is a clear case of typosquatting giving rise to the disputed domain name's confusing similarity with the Complainant's famous mark, widely used and known internationally, both offline in its business of outdoor advertising and online via its domain names and associated websites.

There is no evidence either from the Respondent’s side in this uncontested case or otherwise to indicate that the Respondent might have rights or legitimate interests in the disputed domain name. The Complainant has, on the other hand, submitted ample evidence in substantiation of its own rights and by its attestations for the Panel to conclude that the Respondent has no rights or legitimate interests in the disputed domain name.

The fact that a parking webpage with sponsored links has been employed by the Respondent in conjunction with a misspelling in what is a famous and quite unique brand name used in the disputed domain name is one – already compelling – indication of bad faith. Another is in the apparent fraudulent use by the Respondent of the name that the registrant of the disputed domain name -- whoever that person is -- used in order to register it (see Procedural Factors, above).

The Panel thus has no hesitation in finding that all three cumulative requirements set down in the UDRP have been shown and thus decides in favour of the Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **JCDECAAUX.COM**: Transferred

PANELLISTS

Name	**Kevin J. Madders**

DATE OF PANEL DECISION 2017-11-20

Publish the Decision