Decision for dispute CAC-UDRP-101867

Case number	CAC-UDRP-101867
Time of filing	2018-02-01 08:56:34
Domain names	jcdecuax.com

Case administrator

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

Complainant

Organization	JCDECAUX SA

Complainant representative

Organization	Nameshield (Laurent Becker)

Respondent

Name	Noah

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other proceedings between the parties.

IDENTIFICATION OF RIGHTS

The Complainant is, inter alia, the proprietor of the European Union trademark Registration 004961454 JCDecaux applied for on March 8, 2006 and registered on April 12, 2007.

FACTUAL BACKGROUND

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

Since 1964, the Complainant is the worldwide number one in outdoor advertising. For more than 50 years it has been offering solutions that combine urban development and the provision of public services in approximatively 56 countries. The Complainant is currently the only group present in the three principal segments of outdoor advertising market: street furniture, transport advertising and billboard.

The Complainant owns several trademarks “JCDECAUX” such as the international trademark registration “JCDECAUX” number 803987 registered since November 27, 2001.

JCDecaux SA is also the owner of a large domain names portfolio, including the same distinctive wording JCDECAUX ®,

such as <jcdecaux.com> registered since June 23, 1997.

The disputed domain name was registered on January 24, 2018 by the Respondent identified as “Noah”.

The disputed website is inactive.

Furthermore, the registration data of the disputed domain name provide a postal code which refers to the small city of Alton in the UK whereas as city the village Shaldon, UK is named which is not in the State/province London as mentioned in the registry.

PARTIES CONTENTIONS

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 UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

The disputed domain name is highly similar to the trademark JCDECAUX of the Complainant since only the letters „u“ and „a“ are exchanged and already the optical impression is almost the same. The Panel therefore considers the disputed domain name to be confusingly similar to the trademarks in which the Complainants have rights in accordance with paragraph 4(a)(i) of the Policy.

The Complainant’s assertions that the Respondent is not commonly known by the disputed domain name and is not affiliated with nor authorised by the Complainant are sufficient to constitute a prima facie showing of absence of rights or legitimate interest in the disputed domain name on the part of the Respondent. The evidentiary burden therefore shifts to the Respondent to show by concrete evidence that it does have rights or legitimate interests in that name. The Respondent has made no attempt to do so. The Panel therefore finds that the Respondent does not have rights or legitimate interests in the disputed domain name.

It is the consensus view of Panels (following the decision Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003, <telstra.org>) that the apparent lack of active use of the domain name without any active attempt to sell or to contact the trademark holder (passive holding), does not as such prevent a finding of bad faith. Examples of what may be cumulative circumstances found to be indicative of bad faith include that no response to the complaint has been filed and the registrant's concealment of its identity, here by providing non comprehensible address data. Furthermore, typosquatting is not only a question of similarity, but can also be an indication of bad faith.

Accordingly, 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) by registering a confusingly similar domain name being aware of the trademarks of Complainant.

The Panel therefore considers the disputed domain name to has been registered and used in bad faith in accordance with paragraph 4(a)(iii) of the Policy under the present circumstances.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **JCDECUAX.COM**: Transferred

PANELLISTS

Name	**Dietrich Beier**

DATE OF PANEL DECISION 2018-03-08

Publish the Decision