Decision for dispute CAC-UDRP-102968

Case number	CAC-UDRP-102968
Time of filing	2020-03-16 09:37:05
Domain names	jcdcaux.com

Case administrator

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

Complainant

Organization	JCDECAUX SA

Complainant representative

Organization	Nameshield (Laurent Becker)

Respondent

Name	Chrystal Blanton

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings.

IDENTIFICATION OF RIGHTS

Complainant is the owner of several trademarks including the International Trademark JCDECAUX nr. 803987, date of registration 27 November 2001.

FACTUAL BACKGROUND

According to the information submitted by Complainant, Complainant is a large French company active in outdoor advertising in approximatively 80 countries: street furniture, transport advertising and billboards.

The disputed domain name <jcdcaux.com> was registered on 10 March 2020. The trademark registration of Complainant has been issued prior to the registration of the disputed domain name.

According to Complainant the disputed domain name is confusingly similar to Complainant's trademark. Complainant submits that the omission of the letter “E” of the trademark in the disputed domain name is not sufficient to escape the finding that the disputed domain name is confusingly similar to the trademark JCDECAUX. According to Complainant this is a clear case of typosquatting as the disputed domain name contains an obvious misspelling of Complainant’s trademark.

According to Complainant, Respondent has no rights or legitimate interest in the disputed domain name. Respondent is not known as the disputed domain name. Complainant contends that Respondent is not affiliated with nor authorized by Complainant in any way and is not related in any way to its business. Complainant does not carry out any activity for, nor has any business with Respondent. Neither license nor authorization has been granted to Respondent to make any use of Complainant's trademark JCDECAUX or apply for registration of the disputed domain name by Complainant. The disputed domain name does not resolve to any active website. Therefore, Complainant contends that Respondent did not make any use of the disputed domain name since its registration, and it confirms that Respondent has no demonstrable plan to use the disputed domain name. It demonstrates a lack of legitimate interests in respect of the disputed domain name.

According to Complainant the disputed domain name is registered and is being used in bad faith. Given the distinctiveness of the Complainant's trademark and reputation, Complainant submits that Respondent has registered the disputed domain name with full knowledge of Complainant's trademark.
According to the evidence submitted by Complainant the disputed domain name is inactive. Complainant contends that Respondent has not demonstrated any activity in respect of the disputed domain name, and it is not possible to conceive of any plausible actual or contemplated active use of the disputed domain name by Respondent that would not be illegitimate, such as by being a passing off, an infringement of consumer protection legislation, or an infringement of the Complainant's rights under trademark law.

Although the disputed domain name now appears to be inactive, it has been set up with MX records which suggests that it may be actively used for e-mail purposes. This is also indicative of bad faith registration and use because any e-mail emanating from the disputed domain name could not be used for any good faith purpose.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

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 Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

Complainant has, to the satisfaction of the Panel, shown 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

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

In the opinion of the Panel the disputed domain name is confusing similar to Complainant's trademark (paragraph 4 (a)(i) of the Policy). Many UDRP decisions have found that a domain name is identical or confusingly similar to a complainant's trademark where the domain name incorporates the complainant's trademark or the principal part thereof in its entirety. Complainant has established that it is the owner of trademark registrations for JCDECAUX. The disputed domain name incorporates almost the entirety of the well-known JCDECAUX trademark as its distinctive element, with the deletion of the letter "E" of the trademark in the disputed domain name. The gTLD ".com" in the disputed domain name may be disregarded.

The Panel notes that Complainant's registration of its international trademark predates the creation date of the disputed

domain name.

In the opinion of the Panel Complainant has made a prima facie case that Respondent lacks rights or legitimate interest in the disputed domain name. Complainant has not licensed or otherwise permitted Respondent to use its trademarks or to register the disputed domain name incorporating its marks. Respondent is not making a legitimate non-commercial or fair use of the disputed domain name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademarks of Complainant. Respondent is not commonly known by the disputed domain name nor has it acquired trademark rights. Complainant has no relationship with Respondent. Based on the undisputed submission and evidence provided by Complainant there is no website under the disputed domain name.

In the view of the Panel this case is a typical case of “typosquatting” which does not confer any rights nor interest in the disputed domain name. Respondent did not submit any response.

Under these circumstances, the Panel finds that Respondent has no rights or legitimate interests in the disputed domain name (paragraph 4 (a)(ii) of the Policy).

The Panel finds that the disputed domain name has been registered and is being used in bad faith (paragraph 4 (a)(iii) of the Policy). Complainant has rights in the JCDECAUX trademarks. Respondent knew or should have known that the disputed domain name included almost the entirety of Complainant’s well-known mark. The Panel accepts the undisputed submission of Complainant that the disputed domain name has been set up with MX records which suggests that it may be actively used for e-mail or phishing purposes.

The Panel also notes that there is currently no active website at the disputed domain name. Such passive use of the disputed domain name does not prevent the Panel from finding registration and use in bad faith. The Panel further notes that the undeveloped use of the website at the disputed domain name which incorporates Complainant’s trademark in its entirety indicates that Respondent possibly registered the disputed domain name with the intention to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the trademarks of Complainant as to the source, sponsorship, affiliation, or endorsement of its website or location, which constitutes registration and use in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **JCDCAUX.COM**: Transferred

PANELLISTS

Name	**Dinant T.L. Oosterbaan**

DATE OF PANEL DECISION 2020-04-10

Publish the Decision