Decision for dispute CAC-UDRP-103198

Case number	CAC-UDRP-103198
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Domain names	jedecaux.com

Case administrator

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

Complainant

Organization	JCDECAUX SA

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Name	Michelle MacDonald

OTHER LEGAL PROCEEDINGS

The Panel is not cognizant of any other pending or decided legal proceedings relating to the Disputed Domain Name.

IDENTIFICATION OF RIGHTS

The Complainant owns the international trademark registration n° 803987 for “JCDECAUX” since November 27, 2001.

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, the Complainant has been offering solutions that combine urban development and the provision of public services in more than 80 countries. The Complainant is currently the only group present in the three principal segments of the outdoor advertising market: street furniture, transport advertising, and billboard.

All over the world, the digital transformation is gathering pace, and the Complainant now has more than 1,061,630 advertising panels in Airports, Rail and Metro Stations, Shopping Malls, on Billboards, and Street Furniture.

The Complainant's Group is listed on the Premier Marché of the Euronext Paris stock exchange and is part of the Euronext 100 index. Employing a total of 13,210 people, the Group is present in more than 80 different countries and 3,890 cities and

has generated revenues of €3,890m in 2019.

The Complainant is also the owner of a large domain name portfolio, including the same distinctive wording "JCDECAUX", such as <jcdecaux.com> registered since June 22, 1997.

The Disputed Domain Name <jedecaux.com> was registered on July 21, 2020, and at one point resolved to a parking page with commercial links related to the Complainant's activities.

PARTIES CONTENTIONS

COMPLAINANT

I. THE DISPUTED DOMAIN NAME IS IDENTICAL OR CONFUSINGLY SIMILAR

The Complainant states that the Disputed Domain Name is confusingly similar to its trademarks and branded services "JCDECAUX".

Indeed, the substitution of the letter "C" by the letter "E" in the trademark "JCDECAUX" is not sufficient to escape the finding that the domain name is confusingly similar to the trademark "JCDECAUX".

Thus, this is a clear case of typosquatting, the disputed domain name contains an obvious misspelling of the Complainant's trademark. Previous panels have found that the slight spelling variations do not prevent a disputed domain name from being confusingly similar to the Complainant's trademark.

Besides, it is well established that TLDs may typically be disregarded in the assessment under paragraph 4(a)(i) of the Policy when comparing disputed domain names and trademarks.

Thus, the Disputed Domain Name is confusingly similar to the Complainant's trademark "JCDECAUX".

II. RESPONDENT HAS NO RIGHTS OR LEGITIMATE INTEREST IN RESPECT OF THE DISPUTED DOMAIN NAME

The Complainant is 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 rights or legitimate interests in the domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a) (ii) of the UDRP.

The Complainant asserts that the Respondent is not identified in the WHOIS database as the disputed domain name. Past panels have held that a Respondent was not commonly known by a disputed domain name if the Whois information was not similar to the disputed domain name. Thus, the Respondent is not known as the Disputed Domain Name.

The Complainant contends that the Respondent is not affiliated with nor authorized by the Complainant in any way. The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and he is not related in any way to its business. The Complainant does not carry out any activity for, nor has any business with the Respondent.

Neither license nor authorization has been granted to the Respondent to make any use of the Complainant's trademark "JCDECAUX", or apply for registration of the Disputed Domain Name by the Complainant.

The Complainant also claims that the Disputed Domain Name is a typo squatted version of the trademark "JCDECAUX". Typosquatting is the practice of registering a domain name in an attempt to take advantage of Internet users' typographical errors and can be evidence that a respondent lacks rights and legitimate interests in the domain name.

Besides, the Disputed Domain Name resolved at one point to a parking page with commercial links related to the

Complainant's activities. Past panels have found it is not a bona fide offering of goods or services or legitimate noncommercial or fair use.

Therefore, the Complainant contends that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name.

III. THE DISPUTED DOMAIN NAME WAS REGISTERED AND IS BEING USED IN BAD FAITH

The Disputed Domain Name is confusingly similar to the Complainant's trademark “JCDECAUX”. Past Panels have held that the “JCDECAUX” trademark is well-known.

Besides, by registering the domain name <jedecaux.com>, which consists of the substitution of the letter “C” by the letter “E” in the trademark “JCDECAUX” and the gTLD “.COM", the Complainant can state that this practice was intentionally designed to be confusingly similar to the Complainant's trademarks. Previous UDRP Panels have seen such actions as evidence of bad faith.

Given the distinctiveness of the Complainant’s trademark and reputation, the Complainant can state that the Respondent has registered the Disputed Domain Name with full knowledge of the Complainant’s trademark “JCDECAUX”, and therefore could not ignore the Complainant.

Furthermore, the Disputed Domain Name resolves to a parking page with commercial links related to the Complainant’s activities. The Complainant contends the Respondent has attempted to attract Internet users for commercial gain to his website thanks to the Complainant's trademark for its commercial gain, which is an evidence of bad faith.

On these bases, the Complainant concludes that the Respondent has registered and is using the Disputed Domain Name in bad faith.

RESPONDENT

No administratively compliant Response has been filed.

RIGHTS

To the satisfaction of the Panel, the Complainant has shown that the Disputed Domain Name is identical or confusingly similar to the trademark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

To the satisfaction of the Panel, the Complainant has 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

To the satisfaction of the Panel, the Complainant has 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

As per paragraph 4(a) of the Policy, for this Complaint to succeed concerning the disputed domain name the Complainant must prove the following:

(i) The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and

(ii) The Respondent has no rights or legitimate interests in respect of the disputed domain name; and

(iii) The disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

Concerning the initial aspect under the first element, and as per evidence on record, the Panel is satisfied that the Complainant has shown it owns rights in the JCDECAUX trademark.

The Panel must now turn its attention to assessing the confusing similarity between the Disputed Domain Name and the trademark. At the outset, the Panel notes that the Disputed Domain Name almost reproduces the trademark "JCDECAUX" in its totality, except for one letter, namely exchanging the second letter in the Disputed Domain Name for an E, instead of the C in the trademark. This slight change falls squarely in what is commonly described as typosquatting, which was one of the original raison d'être of the UDRP.

In assessing the evidence provided, it is clear that the slight change in one letter does not dispel a finding of confusing similarity between the Disputed Domain Name and the trademark.

Based on the above, the Panel finds the Disputed Domain Name to be confusingly similar to the Complainant's trademark. As a result, the Panel determines that the Complaint has satisfied the first element set under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Based on the evidence on record, and acknowledging that the Respondent failed to produce allegations or evidence necessary to demonstrate its rights or legitimate interests in the Disputed Domain Name, the uncontested facts indicate that a) the Respondent is not commonly known by the Disputed Domain Name; b) the Respondent is not affiliated with the Complainant; c) it is not authorized to carry out any activity for the Complainant; d) has no business dealings with the Complainant and e) the Respondent has no license or authorization to use the trademark.

In the view of the Panel, these assertions are enough to establish a prima facie case that the Respondent lacks rights or legitimate interests in the Disputed Domain Name (see 2.1 of WIPO 3.0 Overview).

The Respondent in failing to respond to the Complainant's contentions has not rebutted the prima facie case, as above-mentioned. Additionally, there is no other available evidence on record that would otherwise allow the Panel to find any rights or legitimate interests for the Respondent in the Disputed Domain Name.

The Panel finds that the Respondent has no rights or legitimate interests in the Disputed Domain Name and therefore the Complainant has fulfilled the second requirement set under paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds, as per the evidence on record, that the Respondent was likely aware of the Complainant and targeted the Complainant's trademark when registering the Disputed Domain Name. This conclusion is reinforced by the fact that the Respondent almost reproduced verbatim the trademark, except for one letter, in what can normally be described as a typical typosquatting case. Although it does not seem out of the realm of possibility that an argument could be made to explain a different meaning of the Disputed Domain Name, this argument is neither put forward by the Respondent nor seems

persuasive on the balance of probabilities.

Also, it is worth noting that the Disputed Domain Name at one point in time resolved to a parking page with commercial links related to the Complainant's activities, which lead the Panel to conclude that that the most likely intention of the Respondent about the Disputed Domain Name was to intentionally attempted to attract, for commercial gain, Internet users to its website/Domain Name, by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website and/or Domain Name (see 3.1 of WIPO 3.0 Overview).

Accordingly, the Panel finds that the Complainant has satisfied the requirements set forth under paragraph 4(a)(iii) of the Policy.

D. Decision

For the preceding reasons and in conformity with the provisions contained under Paragraph 4(i) of the Policy and Paragraph 15 of the Rules, the Panel orders the transfer of the Disputed Domain Name to the Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **JEDECAUX.COM**: Transferred

PANELLISTS

Name	**Rodolfo Carlos Rivas Rea**

DATE OF PANEL DECISION 2020-08-21

Publish the Decision