

Decision for dispute CAC-UDRP-103599

Case number	CAC-UDRP-103599
Time of filing	2021-02-25 09:26:34
Domain names	groupjcd-ecaux.com

Case administrator

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

Organization	JCDECAUX SA
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Complainant representative

Organization	Nameshield (Enora Millocheau)
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Respondent

Name	ricardo perez
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OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of the international trademark registration JCDECAUX® n° 803987 registered since 27 November 2001 ("Complainant's Trademark").

The disputed domain name was registered on 18 February 2021.

FACTUAL BACKGROUND

As the Respondent did not file any response to the complaint, the Panel took into account the following facts asserted by the Complainant (and supported by the documentary evidence submitted by the Complainant) and unchallenged by the Respondent:

(a) The Complainant is the worldwide number one in outdoor advertising. Throughout the world, the company's success is driven by meeting the needs of local authorities and advertisers by a constant focus on innovation. For more than 50 years JCDECAUX SA has been offering solutions that combine urban development and the provision of public services in approximately 80 countries.

(b) The Complainant is the owner of the Complainant's Trademark.

(c) The Complainant is also the owner of a large domain names portfolio, including the same distinctive wording JCDECAUX®, such as <jcdecaux.com> registered since 23 June 1997.

(d) On the website under the disputed domain name there is only a general landing page otherwise the disputed domain name is inactive.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:

In addition to the above factual assertions, the Complainant also contends the following:

(a) The disputed domain name is confusingly similar to its trademarks and branded services as the addition of the term "GROUP" and a hyphen to the trademark is not sufficient to escape the finding that the disputed domain name is confusingly similar to Complainant's Trademark;

(b) 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 Complainant's business. The Complainant does not carry out any activity for, nor has any business with the Respondent. There is no website under the disputed domain name and no indication of preparation for its use was established in these proceedings. Therefore, the Respondent has no legitimate interest in the disputed domain name;

(c) Panels have confirmed that the Complainant's Trademark is well-known (for example the WIPO Case No. DCC2017-0003, JCDcaux SA v. Wang Xuesong, Wangxuesong). Thus, given the distinctiveness of the Complainant's Trademark and reputation, the Respondent has registered the disputed domain name with full knowledge of the Complainant and the Complainant's Trademark.

The 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 domain name by the 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. Therefore, the Respondent has registered the disputed domain name and is using it in bad faith.

RESPONDENT:

The Respondent did not provide any response to the complaint.

RIGHTS

The Panel concluded that the disputed domain name is confusingly similar to Complainant's Trademarks within the meaning of paragraph 4(a)(i) of the Uniform Domain Name Dispute Resolution Policy ("Policy").

For details, please see "Principal Reasons for the Decision".

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).

For details, please see "Principal Reasons for the Decision".

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).

For details, please see "Principal Reasons for the Decision".

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under the Policy were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

Paragraph 4(a) of the Policy requires that the Complainant proves each of the following three elements to obtain an order that the disputed domain name should be transferred or revoked:

- (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.

The Panel will proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied in these proceedings.

RIGHTS

The disputed domain name is confusingly similar to Complainant's Trademark. It contains the Complainant's Trademark in full only separated by a hyphen and adds a non-distinctive element "GROUP". The Panel fully agrees with the Complainant that such additions cannot diminish confusing similarity of disputed domain name to Complainant's Trademark.

For sake of completeness, the Panel asserts that the top-level suffix in the domain name (i.e. the ".com") must be disregarded under the identity / confusing similarity test as it is a necessary technical requirement of registration.

Therefore, the Panel concludes that the Complainant satisfied the requirement under paragraph 4(a)(i) of the Policy.

NO RIGHTS OR LEGITIMATE INTERESTS

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 disputed domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy (please see, for example, WIPO case no. D2003-0455, Croatia Airlines d.d. v. Modern Empire Internet Ltd.).

As asserted by the Complainant (and unchallenged by the Respondent), the Respondent is not commonly known by the disputed domain name. Neither is the Respondent in any way related to the Complainant. The Respondent failed to provide any information and evidence that it has relevant rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a) (ii) of the Policy).

Therefore, the Panel concludes that the Respondent did not establish any right or legitimate interest to the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

Given the reputation of the Complainant and well-known nature of its trademark the Panel cannot find any conceivable good faith registration and use of the disputed domain name by the Respondent in a situation where there is no legitimate website under the disputed domain name and there was no response to the complaint in which the Respondent could have established such good faith use of the disputed domain name (or at least preparations for such good faith use).

As a result, the Panel found that the disputed domain name has been registered and used by the Respondent 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. **GROUPJCD-ECAUX.COM**: Transferred

PANELLISTS

Name	Michal Matějka
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DATE OF PANEL DECISION	2021-04-03
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Publish the Decision
