

Decision for dispute CAC-UDRP-104095

Case number	CAC-UDRP-104095
Time of filing	2021-11-11 16:21:34
Domain names	jpmhealthconference.org

Case administrator

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

Organization	JPMorgan Chase Bank, N.A.
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Complainant representative

Organization	RiskIQ, Inc. - Incident Investigation and Intelligence (i3), Jonathan Matkowsky
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Respondent

Name	John
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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 brought evidence that it is the owner or licensee of "JPM" trademarks.

FACTUAL BACKGROUND

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

BACKGROUND

JPMorgan Chase & Co. (NYSE: JPM) is a leading global financial services firm with assets of \$2.6 trillion and operations worldwide. The firm is a leader in investment banking, financial services for consumers and small businesses, commercial banking, financial transaction processing, and asset management. A component of the Dow Jones Industrial Average, JPMorgan Chase & Co. serves millions of customers in the United States and many of the world's most prominent corporate, institutional, and government clients under its J.P. Morgan and Chase brands. Id.

The bank and non-bank subsidiaries of JPM operate throughout the United States and through overseas branches and

subsidiaries, representative offices, and subsidiary foreign banks. Complainant, JPMorgan Chase Bank, N.A. is one of JPM's principal subsidiaries.

The 40th annual J.P. Morgan Healthcare Conference is expected to take place in January 2022. It is known as the most extensive and most informative healthcare investment symposium in the industry, bringing together industry leaders, emerging fast-growth companies, innovative technology creators, and investment community members.

The JPM Health Conference is for clients of the firm, by invitation only. Those interested in attending would typically have to reach out, like in the past, to inquire about an invitation.

Travel scams are frequently targeting conference attendees.

JPM noticed that someone set up a mail server on the disputed domain name to make it look like they were the backend office support for the conference for booking (Zoho mail record). Someone programmed a 302 redirect from the disputed domain name to a website offering to "help" attendees prebook their room for the upcoming 41st annual JPM Health Conference. JPM requested through its authorized representative that Respondent amicably resolve the matter by transferring the disputed domain name to JPM. Respondent took down the website, claiming not to have known that JPM was a protected mark, but refused to turn over the disputed domain name. The disputed domain name also still had mail server records on it through Zoho India.

RESPONDENT'S USE AND REGISTRATION IS IN BAD FAITH PER THE POLICY

I. The disputed domain name is Confusingly Similar to a Mark in Which JPM has Established Rights (Policy 4(a)(i))

The overall facts and circumstances of the case (including relevant website content to which Respondent was pointing the disputed domain name) support a finding of confusing similarity, notably because Respondent registered the disputed domain name precisely because it targeted the mark held by the Complainant. The Complainant's mark is registered, and Respondent was well aware of JPM's use of the mark from the unsolicited press recognition. Otherwise, it would not have used the mark in a Domain to send e-mails from "office@jpmhealthconference.org" in the name of "Customer Service" to suggest people "prebook" from "limited rooms" available at "special contracted rates" for the annual event.

The relevant trademark is recognizable within the disputed domain name. The addition of descriptive terms related to the JPM Health Conference weighs in favor of a finding of confusing similarity under the first element.

[II.] Respondent has no Rights or Legitimate Interests Within the Meaning of Policy (4(a)(ii))

Respondent is not affiliated with nor authorized by the Complainant in any way, and the Complainant does not carry out any activity for, nor has any business with the Respondent. The Complainant has granted neither license nor authorization to the Respondent to make any use of the Complainant's trademark or apply for registration of the disputed domain name or any other domain name. The Whois contact information also supports that Respondent is not commonly known by the disputed domain name.

Respondent has configured Mail server (MX) records on the disputed domain name with Zoho India even after objection by JPMC.

These preparatory steps (configuring 'MX' or mail exchange records) have been considered with 'use' for the Policy by other Panels. Respondent has no legitimate interest in sending or receiving e-mail from the disputed domain name because it will likely lead recipients of the e-mail to mistakenly believe that the mail originates with permission or approval of the trademark owner. Worse, senders might be scammed by travel scams targeting conference attendees or become confused into mistakenly believing that the communications are being sent with the permission or approval of JPMC. Holding oneself out

as the JPM Health Conference Office support does not constitute making use, or demonstrable preparations for use, of the disputed domain name in connection with a bona fide offering of goods or services or making a legitimate non-commercial or fair use of the disputed domain name.

[III.] Respondent has Registered and Used the disputed domain name in Bad Faith Within the Meaning of Policy (4(a)(iii))

Per Paragraph 4(b)(iv) of the Policy, Respondent likely registered and is using the disputed domain name to intentionally attempt to attract, for commercial gain, Internet users to an online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation or endorsement of a location of a mail server sending and receiving e-mails likely intended for Complainant.

Panels may take a wide range of factors into account when assessing bad faith within the meaning of the Policy. Here, the automatic re-direct that was set up on this disputed domain name to purportedly offer special contracted rates to the invite-only JPM Health Conference demonstrates that Respondent specifically targeted the JPM and the JPM Health Conference. Its use of an account "office@jpmhealthconference.org" to communicate in the name of customer service with prospective attendees would obviously suggest that it has the permission or approval from JPM Health Conference to offer special rates to invited attendees when it knows that it does not have permission. Even when told to transfer the disputed domain name to resolve the matter amicably, Respondent refused to do so and continues to use the disputed domain name for its mail servers with Zoho India. It was specifically told that an adverse inference may be drawn if it does not want to amicably resolve the dispute by transferring the disputed domain name, and it ignored the repeated requests to transfer the disputed domain name anyway. There is no plausible good-faith explanation for Respondent to continue to connect the disputed domain name to Zoho Mail Servers in India or refuse to transfer it unless Respondent intends to continue to use the disputed domain name either to send or receive e-mails with confused people interested in the JPM Health Conference or to redirect the disputed domain name again to deceptive content.

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

FIRST CONDITION

It is commonly accepted that the first condition functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the complainant's

trademark and the disputed domain name. This test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the domain name. In this comparison, the cc- or g- TLD is usually not taken into account.

The disputed domain name includes the Complainant's JPM mark in its entirety.

Moreover, the addition of a generic term that refers directly to an event organized by the Complainant does not undermine this conclusion; on the contrary, it tends to reinforce the confusion.

SECOND CONDITION

Panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name.

The Complainant claims, without being contradicted, that:

- The Complainant has not licensed or authorized the Respondent to register or use the disputed domain name;
- The Respondent has used the disputed domain name to configure Mail server (MX) records which could be a preparatory step for a further fraudulent operation.

The Respondent has chosen not to answer to the Complaint.

Based on the elements presented by Complainant, the Panels finds that the second condition is satisfied.

THIRD CONDITION

The Complainant claims, without being contradicted, that:

- The automatic re-direct that was set up on the disputed domain name to purportedly offer special contracted rates to the invite-only JPM Health Conference demonstrates that Respondent specifically targeted the JPM and the JPM Health Conference.
- Its use of an account "office@jpmhealthconference.org" to communicate in the name of customer service with prospective attendees would obviously suggest that it has the permission or approval from JPM Health Conference to offer special rates to invited attendees when it knows that it does not have permission.

The Respondent has chosen not to answer to the Complaint.

Based on the elements presented by Complainant, the Panels finds that the third condition is satisfied.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. JPMHEALTHCONFERENCE.ORG: Transferred

PANELLISTS

Name	Mr. Etienne Wéry
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DATE OF PANEL DECISION 2021-12-10

Publish the Decision
