

Decision for dispute CAC-UDRP-105001

Case number CAC-UDRP-105001

Time of filing 2022-11-22 09:27:09

Domain names jcdecauxlive.com

Case administrator

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

Complainant

Organization JCDECAUX SA

Complainant representative

Organization NAMESHIELD S.A.S.

Respondent

Organization GNN

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 proprietor of the mark 'JCDECAUX' under the international system (803987, first registered 27 November 2001, on the basis of a French national mark, and duly renewed), subsisting in a number of classes including 6, 9, and 11 (for urban furniture) and 37 (associated services).

FACTUAL BACKGROUND

The Complainant, a corporate body (société anonyme) with its seat in Angers, France, has its activities in the field of outdoor advertising (street furniture, transport advertising and billboards). It currently operates in over 80 countries, and has been active for over 50 years. To promote its portfolio of services, it registered the domain name <WWW.JCDECAUX.COM> on 23 June 1997, and has duly renewed it since, providing to this day a website at said domain name.

The Respondent, who has provided a partial address in Singapore consisting simply of the country name but no further identification, registered the disputed domain name on 9 November 2022.

PARTIES CONTENTIONS

No administratively compliant response has been filed. As the address for written correspondence was manifestly false, written notice was not sent by the Provider. One email message sent to the contact address provided by the Respondent was neither returned as delivered or undelivered.

The Complainant submits that the requirements of the Policy have been met and that the disputed domain name should be transferred to it. It makes a number of legal arguments (referenced below) and also supplies a set of Annexes providing evidence of its activities and of the Respondent's use of the disputed domain name.

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).

Setting aside (in accordance with established practice under the policy) the top level domain .COM, the only difference between the Complainant's mark and the disputed domain name is the addition of the string 'LIVE' in the latter. As a generic term added to a mark, it is clear that confusing similarity is present in this case.

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).

The Panel accepts that the Complainant has made out a prima facie case regarding the absence of any relevant rights or legitimate interests. The Respondent is known as 'Manlidy' and 'GNN' and is not known as JCDECAUX in any way. The Complainant declares that the Respondent is not affiliated with nor authorized by it in any way, that the Complainant neither carries out any activity for, nor has any business with, the Respondent. The Complainant also states that it has not licenced or authorised the Respondent to make any use of its mark. The Respondent has not provided any evidence in respect of rights or legitimate interests, through its failure to participate in these present proceedings (a result in part of its intentional provision of an incomplete mailing address).

Due weight is also placed on the use of the disputed domain name by the Respondent in connection with sports betting (at the time of the submission of the Complaint, redirection). Taking account of the many cases on this topic (WIPO Jurisprudential Overview, version 3.0, para 2.5), and the Complainant's citation of WIPO Case No. D2019-2122, Novartis AG v. liubo shi, liu bo shi, the Panel agrees that there is no plausible evidence of a bona fide offering of goods and services under a domain name closely associated with the Complainant and its (unrelated) business.

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).

Considering first the question of registration in bad faith, the Panel accepts the Complainant's submission that its mark is well known and has been well known for some time, accepting too the cases cited by the Complainant where other Panels have been satisfied of its well-known nature. The Respondent is therefore assumed to have known of the Complainant, and had it in mind, when registering the disputed domain name with a minor variation.

In respect of use in bad faith, the Panel finds that this is clearly a situation within the terms of the non-exhaustive example set out in the Policy (article 4(b)(iv) - that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of said website and the services offered on the website. The evidence presented by the Complainant regarding the disputed domain redirecting to a registration page (in Chinese) for a sports betting website is accepted in this regard, as is its further citation of Case D2019-2122 already noted above.

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 reasons for the decision are as set out above. In the absence of any Response from the Respondent, or any other information indicating the contrary, the Panel concluded that the Respondent has no rights or legitimate interests in respect of the disputed domain name. On the other hand, it is clear that the Complainant has rights in respect of the trade mark JCDECAUX, and that the addition of the text LIVE does not prevent a finding of confusing similarity with the Complainant's marks. It is likely, in light of the nature of the Complainant's mark and activities, and the degree to which the disputed domain name departs from the Complainant's mark, that the Respondent would have been aware of the Complainant and its particular activities, and that the Respondent is intentionally using the disputed domain name to attract Internet users to its page (through redirection) purporting to offer access to an unrelated sports betting (gambling) service, an established form of bad faith use under the Policy. The Panel takes into account the evidence supplied by the Complainant. The Panel can find for these reasons that the disputed domain name was registered and is being operated in bad faith, and that the Respondent, through its failure to participate and its provision of a manifestly incomplete address, has not pointed to any rights, legitimate interests, or the absence of bad faith registration or use. The requirements for the acceptance of a Complaint under paragraph 4 of the Policy have therefore been met, and the Panel ordered that the disputed domain name be transferred to the Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **jcdecauxlive.com: Transferred**

PANELLISTS

Name	Daithi Mac Sithigh
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DATE OF PANEL DECISION **2022-12-20**

Publish the Decision
