Decision for dispute CAC-UDRP-106434

Case number	**CAC-UDRP-106434**
Time of filing	**2024-04-24 09:40:32**
Domain names	**ladoublejsoldes.com**

Case administrator

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

Complainant

Organization	**Doublej S.r.l.**

Complainant representative

Organization	**Barzanò & Zanardo Milano S.p.A.**

Respondent

Name	**Robert M Ellzey**

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 several trademark registrations consisting of or containing the word elements “La DOUBLEJ” or “DOUBLE J.”, in particular:

- European Union figurative trademark No. 013452172 for the word “**DOUBLE J.**” in stylized letters, registered on March 25, 2015;
- International trademark No. 1702742 for the mark “**La DOUBLEJ**” in special characters combined with a figurative element, registered on July 19, 2022, inter alia in Australia, China, Cyprus and Israel;
- International trademark No. 1506003 for the mark “**DOUBLE J.**” in stylized letters, registered on October 4, 2019 inter alia in China and the United States

(“**Complainant's trademarks**”).

FACTUAL BACKGROUND

The Complainant is a fashion company registered in Italy and known as "La DoubleJ". The company's name and trademarks are named after its founder: JJ Martin. The Complainant's trademarks are used by the Complainant internationally in connection with fashion products.

The disputed domain name <ladoublejsoldes.com> was registered on December 8, 2023.

PARTIES CONTENTIONS

1. **Complainant**

The Complainant argues that the disputed domain name is confusingly similar to its trademarks, pointing out that the word elements "LA DOUBLE J" are recognizable within the disputed domain name.

The Complainant contends that the addition of the generic term "soldes" (which means "sales" in French) and the gTLD .com are not sufficient to escape the finding that the disputed domain name is confusingly similar to its trademarks.

The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain name.

In particular, Complainant notes that Respondent has no relationship whatsoever with Complainant and has never received any express or implied authorization from Complainant to use its trademarks or to register a domain name that is identical or confusingly similar to such trademarks. Moreover, there is no evidence that Respondent has acquired any rights in any trademark or trade name corresponding to the disputed domain name. Finally, Complainant alleges that the disputed domain name is being used to impersonate Double J's trademarks and that the website associated with the disputed domain name is publishing Complainant's trademarks, official images, and content without authorization, and, as a result, the use of the domain name is not a bona fide, legitimate, or fair use under the UDRP Policy.

The Complainant alleges that Respondent has registered and is using the disputed domain name in bad faith.

With respect to bad faith registration, the Complainant alleges that Respondent registered the domain name as confusingly similar to Complainant's well-known prior marks and that, given the distinctiveness and fame of DoubleJ's brand and products, it is inconceivable that Respondent could have registered the disputed domain name without actual knowledge of the Complainant.

With regard to the use in bad faith, the Complainant alleges that the disputed domain name is redirected to La DoubleJ's mirror site; it is therefore used to publish, without the Complainant's authorization, La DoubleJ's trademarks, official images and products that are clearly counterfeit and offered for sale at a greatly reduced price. The Complainant also notes that the website associated with the domain name does not contain any information about the actual person responsible, which proves that the website is used to defraud Internet users.

Based on the foregoing, the Complainant concludes that the Respondent has intentionally attempted to attract Internet users to its website for commercial gain by creating a likelihood of confusion with the Complainants' trademarks (Paragraph 4(b)(IV) of the UDRP Policy).

2. **Respondent**

No administratively compliant response has been submitted by the Respondent.

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).

The Complainant has demonstrated that it is the rightful owner of several word and figurative marks that include the words "DOUBLE J." or "La DOUBLEJ." as their dominant and distinctive element and that enjoy legal protection in the European Union and/or several other countries. The Panel acknowledges that the aforementioned word elements are clearly identifiable in the disputed domain name and agrees with the Complainant that the additional verbal element contained in the disputed domain name, namely "soldes" is generic and insufficient to prevent a likelihood of confusion with the Complainant's trademarks.

The presence of the generic Top Level Domain (gTLD) ".com" in the disputed domain name is a standard registration requirement and shall not be considered in assessing whether the disputed domain name is confusingly similar to the Complainant's trademark (see Rollerblade, Inc. v. Chris McCrady, WIPO Case No. D2000-0429).

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).

A complainant is required to establish a prima facie case that the respondent lacks rights or legitimate interests. Once such a case is made, the burden of proof shifts to the respondent to demonstrate their rights or legitimate interests in the disputed domain

name. Failure to do so results in the complainant satisfying paragraph 4(a)(ii) of the Policy (as per Article 2.1 of WIPO Jurisprudential Overview 3.0 and WIPO Case No. D2003-0455, Croatia Airlines d.d. v. Modern Empire Internet Ltd.).

Based on the contentions of the Complainant, the Panel finds that the Complainant has successfully established a prima facie case that the Respondent lacks rights or legitimate interests. As the Respondent has failed to provide any relevant evidence demonstrating any such rights or legitimate interests, the Complainant is deemed to have satisfied the second element.

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).

Bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark (see Article 3.1. of WIPO Jurisprudential Overview 3.0).

Registration in bad faith

Panels have consistently held that the mere registration of a domain name that is identical or confusingly similar to a famous or widely known mark by an unaffiliated entity, particularly domain names that contain the mark plus a descriptive term, may in itself create a presumption of bad faith (see Art. 3.1.4 of the WIPO Jurisprudence Overview 3.0).

The Complainant has demonstrated, through the extensive evidence submitted in support of the complaint, that its LA DOUBLEJ mark and brand are well known. The Panel also notes that "LA DOUBLEJ" is a per se fanciful mark with a high degree of inherent distinctiveness and that the disputed domain name is used for the website where the alleged "LA DOUBLEJ" fashion items are offered for sale.

Based on the reputation and inherent distinctiveness of the Complainant's mark and the fact that the related website www.ladoublejsoldes.com is used to offer alleged "LA DOUBLEJ" fashion products, the Panel concludes that it is obvious that the Respondent must have been aware of the Complainant and its marks when it registered the disputed domain name.

Therefore, the Panel finds that the Respondent registered the disputed domain name in bad faith.

Bad faith use

The disputed domain name is associated with a third-party website that gives the impression of being the Complainant's official website, in particular by using the Complainant's stylized LA DOUBLEJ trademark in the same style and colour as that used by the Complainant, inter alia, on its official website <ladoublej.com>. The third-party website does not contain any information as to the identity of the person operating it or as to the relationship between this website and the complainant. Based on the appearance and design of this website, an Internet user may mistakenly believe that the website is either directly operated by the Complainant or that the Complainant has authorized, licensed and/or endorsed this website.

The Panel finds that such use is not for bona fide offerings, but rather an attempt to attract Internet users to the website for commercial gain by creating a likelihood of confusion with the Complainant's trademark as to source, sponsorship, affiliation, or endorsement.

With respect to the sale of counterfeit goods on the website associated with the disputed domain name, the Panel notes that while the use of a domain name for per se illegal activities such as the sale of counterfeit goods is obviously considered evidence of bad faith, such allegations must be supported by evidence, as panels are generally unwilling to accept merely conclusory or wholly unsupported allegations of illegal activities, including counterfeiting, even when the respondent is in default (see Art. 2.13.2 of the WIPO Jurisprudence Overview 3.0).

Based on the fact that the Respondent has improperly concealed its identity on the website associated with the disputed domain name and that the prices at which LA DOUBLEJ fashion products are offered for sale on that website appear to be significantly lower than the prices at which those products are offered for sale on the Complainant's official website, ladoublej.com, the Panel finds credible the Complainant's allegation that the disputed domain name is being used for illegal activity, i.e., the sale of counterfeit goods.

Therefore, the Panel finds that the disputed domain name is being used in bad faith.

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 Panel has found that the disputed domain name is identical to and confusingly similar with the Complainant's trademarks.

Based on the contentions presented by the Complainant, the Panel has found that the Complainant has satisfactorily made a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. As the Respondent has failed to provide any relevant evidence demonstrating any such rights or legitimate interests, the Complainant is deemed to have satisfied the second element.

The Panel finds that, based on the Complainant's allegations and evidence, it can be concluded that the Respondent must have been aware of the Complainant's trademarks when it registered the disputed domain name, and as such, the Respondent has registered the disputed domain name in bad faith.

Finally, the Panel has concluded that the Complainant had successfully established that the disputed domain name was used in bad faith, namely that the Respondent by using the disputed domain name, had intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant’s trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent’s website or location or of a product or service on the Respondent’s website or location.

Therefore, for the foregoing reasons, the Panel orders that the disputed domain name <ladoublejsoldes.com> 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. **ladoublejsoldes.com**: Transferred

PANELLISTS

Name	**Karel Šindelka**

DATE OF PANEL DECISION 2024-06-03

Publish the Decision