

Decision for dispute CAC-UDRP-104697

Case number	CAC-UDRP-104697
Time of filing	2022-07-08 09:04:11
Domain names	jcdecauxbusiness.com

Case administrator

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

Complainant

Organization	JCDECAUX SA
--------------	--------------------

Complainant representative

Organization	NAMESHIELD S.A.S.
--------------	--------------------------

Respondent

Name	fekete micheal beetwy
------	------------------------------

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 owns the international trademark registration JCDECAUX n° 803987 registered since November 27, 2001.

FACTUAL BACKGROUND

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

For more than 50 years the Complainant has been offering outdoor advertising solutions that combine urban development and the provision of public services in approximately 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. It now has more than 957,706 advertising panels in airports, rail and metro stations, shopping malls, on billboards and street furniture.

The Complainant owns the international trademark registration JCDECAUX n° 803987 registered since November 27, 2001, as well as the domain name <jcdecaux.com> registered since 1997.

The disputed domain name <jcdecauxbusiness.com> was registered on June 27, 2022. It resolves to a parking page with

commercial links.

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

Paragraph 15(a) of the Rules instructs this Panel to "decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable."

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

- (1) the disputed domain name registered by the Respondent is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (2) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (3) the disputed domain name has been registered and is being used in bad faith.

In view of the Respondent's failure to submit a response, the Panel shall decide this administrative proceeding on the basis of Complainant's undisputed representations pursuant to paragraphs 5(f), 14(a) and 15(a) of the Rules and draw such inferences it considers appropriate pursuant to paragraph 14(b) of the Rules. The Panel is entitled to accept all reasonable allegations set forth in a complaint; however, the Panel may deny relief where a complaint contains mere conclusory or unsubstantiated arguments. See WIPO Jurisprudential Overview 3.0 at paragraph 4.3; see also *eGalaxy Multimedia Inc. v. ON HOLD By Owner Ready To Expire*, FA 157287 (Forum June 26, 2003) ("Because Complainant did not produce clear evidence to support its subjective allegations [. . .] the Panel finds it appropriate to dismiss the Complaint").

As to the first element, the Complainant has shown that it has rights in the JCDECAUX mark and that the mark is very well-known. The Panel finds the disputed domain name <jcdecauxbusiness.com> to be confusingly similar to the Complainant's trademark JCDECAUX because it incorporates the mark in its entirety and merely adds the generic word "business", which does nothing to distinguish the domain name from the mark, together with the inconsequential top-level domain ".com", which

may be ignored. The Complainant has established this element.

As to the second element, paragraph 4(c) of the Policy sets out three illustrative circumstances as examples which, if established by the Respondent, shall demonstrate rights to or legitimate interests in a disputed domain name for the purposes of paragraph 4(a)(ii) of the Policy, i.e.

(i) before any notice to the Respondent of the dispute, the use by the Respondent of, or demonstrable preparations to use, the domain name or a name corresponding to the disputed domain name in connection with a bona fide offering of goods or services; or

(ii) the Respondent (as an individual, business or other organization) has been commonly known by the disputed domain name, even if the Respondent has acquired no trademark or service mark rights; or

(iii) the Respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert customers or to tarnish the trademark or service mark at issue.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name and is not related in any way to its business. The Complainant asserts that the Respondent is not identified in the WHOIS database by the disputed domain name and is not affiliated with nor authorized by the Complainant in any way. The Complainant does not carry out any activity for, nor has any business with the Respondent. Neither licence nor authorization has been granted to the Respondent to make any use of the Complainant's trademark JCDECAUX, nor to apply for registration of the disputed domain name. Furthermore, the disputed domain name resolves to a parking page with commercial links.

The Panel notes that the disputed domain name <jcdecauxbusiness.com> was registered by the Respondent on June 27, 2022, long after the Complainant has shown that its JCDECAUX mark had become very well-known. It resolves to a parked webpage displaying commercial links. These circumstances, together with the Complainant's assertions, are sufficient to constitute a prima facie showing of absence of rights or legitimate interests in respect of the disputed domain name on the part of the Respondent. The evidentiary burden therefore shifts to the Respondent to show that it does have rights or legitimate interests in the disputed domain name. See *JUUL Labs, Inc. v. Dryx Emerson / KMF Events LTD*, FA1906001849706 (Forum July 17, 2019). The Respondent has made no attempt to do so.

The Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant has established this element.

As to the third element, paragraph 4(b) of the Policy sets out four illustrative circumstances, which, though not exclusive, shall be evidence of the registration and use of the domain name in bad faith for purposes of paragraph 4(a)(iii) of the Policy, including:

(iv) by using the domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on its website or location.

The circumstances set out above in relation to the second element satisfy the Panel that the Respondent was fully aware of the Complainant's very well-known JCDECAUX mark when the Respondent registered the disputed domain name and that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Respondent's website, by creating a likelihood of confusion with the Complainant's mark as to the source of Respondent's website and of the products or services promoted on that website. This demonstrates registration and use in bad faith to attract users for commercial gain under Policy

paragraph4(b)(iv). The Complainant has established this element.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. **JCDECAUXBUSINESS.COM**: Transferred

PANELLISTS

Name	Mr. Alan Lawrence Limbury
------	---------------------------

DATE OF PANEL DECISION	2022-08-02
------------------------	------------

Publish the Decision
