

ADMINISTRATIVE PANEL DECISION

Koninklijke Douwe Egberts B.V. v. Privacy Protection / LIUQINGRU
Case No. D2022-2430

1. The Parties

Complainant is Koninklijke Douwe Egberts B.V., Netherlands, represented by Ploum, Netherlands.

Respondent is Privacy Protection, United States of America (“USA”) / LIUQINGRU, China.

2. The Domain Name and Registrar

The disputed domain name <jdecoffee.xyz> is registered with Sav.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 5, 2022. On July 5, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 5, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to Complainant on July 6, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on July 7, 2022.

The Center verified that the Complaint together with the amendment to the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified Respondent of the Complaint, and the proceedings commenced on July 15, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 4, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on August 9, 2022.

The Center appointed Gabriel F. Leonardos as the sole panelist in this matter on August 25, 2022. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

Complainant, Koninklijke Douwe Egberts B.V., is a company which is part of the enterprise Jacobs Douwe Egberts, which attends by the abbreviation “JDE”. Jacobs Douwe Egberts is part of JDE Peet’s, one of the largest international coffee and tea companies, attending to over 100 countries over the world.

Complainant owns over 90 trademark registrations internationally containing the word “JDE”. Some examples of Complainant’s trademark registrations can be found below:

Registration No.	Trademark	Jurisdictions	International Classes	Date of Registration
908920695	JDE	Brazil	11	November 21, 2017
1248744	JDE	International Registration (designating multiple jurisdictions including China)	7, 11, 21, 29, 30, 32, 43	April 16, 2015
4903379	JDE	USA	7, 11, 21, 29, 30, 32, 43	February 23, 2016
2884673	JDE	Argentina	11	April 20, 2017

Complainant is well known around the world as JDE, for its products and services provided on the area of coffee and tea related products. Complainant owns and operates websites at numerous domain names, such as <jdecoffee.com>.

The disputed domain name was registered on October 20, 2021, with the use of a privacy service and resolves to a webpage in which the disputed domain name is offered for sale.

5. Parties’ Contentions

A. Complainant

Complainant pleads that the disputed domain name is confusingly similar to its registered trademark JDE, since it fully incorporates Complainant’s trademark.

Complainant affirms that Respondent creates a confusion, considering specially that the disputed domain name uses the trademark JDE in its entirety with the addition of the word “coffee” and the generic Top-Level Domain (“gTLD”) “.xyz”, as consumers may believe that the disputed domain name is linked to Complainant as a company that offers products related to coffee and tea.

Therefore, according to Complainant, the disputed domain name presents a risk of confusion to consumers, who will likely believe it is linked with Complainant’s trademark JDE, fulfilling paragraph 4(a)(i) of the Policy and paragraph 3(b)(viii) and 3(b)(ix)(1) of the Rules.

In addition, Complainant states that Respondent does not have any rights or legitimate interests in respect of the disputed domain name, nor is Respondent commonly known by the disputed domain name. Further, Respondent has not been authorized, or licensed to use Complainant’s trademark JDE as a domain name nor is Respondent associated with Complainant.

Complainant observes that the disputed domain name redirects Internet users to a webpage where the disputed domain name is being offered for sale at USD 788. Thus, Complainant alleges that Respondent could not demonstrate any fair use of the disputed domain name.

This way, Complainant states that no legitimate use of the disputed domain name could be reasonably claimed by Respondent, thus paragraph 4(a)(ii) of the Policy and paragraph 3(b)(ix)(2) of the Rules have been fulfilled.

Moreover, Complainant states that the disputed domain name was registered and is being used in bad faith.

Complainant notes that the JDE mark is well known internationally and given the similarities between Complainant's trademark, its business and the disputed domain name, Respondent must have been aware of Complainant's trademark JDE. Thus, the registration of the disputed domain name with these elements would have happened in bad faith.

Further, Complainant highlights that the disputed domain name redirects to a website where it is being offered for sale, which would not demonstrate any *bona fide* use of the disputed domain name.

Complainant also indicates that Respondent's registration of the disputed domain name would show Respondent's intent to rely on a risk of confusion with Complainant's activities and trademark – and such use of the disputed domain name would be characterized as bad faith.

Finally, Complainant affirms that the use of a privacy service for the registration of the disputed domain name would be an indicative of bad faith.

This way, Complainant states that no legitimate use of the disputed domain name could be reasonably claimed by Respondent, thus paragraph 4(a)(iii) of the Policy and paragraph 3(b)(ix)(3) of the Rules have been fulfilled.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

To succeed in a UDRP complaint, Complainant must demonstrate that all the elements listed in paragraph 4(a) of the Policy have been satisfied, as following:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) 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 burden of proving these elements is upon Complainant.

Respondent had 20 days to submit a response in accordance with paragraph 5(a) of the Rules and failed to do so. Paragraph 5(f) of the Rules establishes that if a respondent does not respond to the complaint, in the absence of exceptional circumstances, the panel's decision shall be based upon the complaint.

A. Identical or Confusingly Similar

Complainant has duly proven that it owns prior registered and unregistered rights for JDE, and that the

disputed domain name is constituted by the trademark JDE in its entirety with the addition of the word “coffee”.

The addition of the word “coffee” does not prevent a finding of confusing similarity with Complainant’s trademark JDE, since the trademark JDE is fully integrated in the disputed domain name. Furthermore, the Panel notes that the word “coffee” refers to the scope of Complainant’s products and services.

Thus, the Panel finds that the disputed domain name is confusingly similar to Complainant’s trademark JDE, and so the requirement of the first element of paragraph 4(a) of the Policy is satisfied.

B. Rights or Legitimate Interests

The consensus view of UDRP panels on the burden of proof under paragraph 4(a)(ii) of the Policy is summarized in section 2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”) as follows: “[w]hile the overall burden of proof in UDRP proceedings is on the complainant, 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.”

In this case, noting the facts and contentions listed above, the Panel finds that Complainant has made out a *prima facie* case showing that Respondent lacks rights or legitimate interests in the disputed domain name, so the burden of production shifts to Respondent. As Respondent has not replied to Complainant’s contentions, the Panel has considered Complainant’s un rebutted *prima facie* case to be sufficient to demonstrate that Respondent has no rights or legitimate interests in the disputed domain name.

Furthermore, Respondent has not used the disputed domain name in the context of a *bona fide* offering of goods or services that could demonstrate rights or legitimate interests, since evidence shows that the disputed domain name resolves to a website where the disputed domain name is being offered for sale at USD 788 .

Therefore, the Panel finds that the requirement of the second element of paragraph 4(a) of the Policy is also satisfied.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy lists a number of circumstances that, without limitation, are deemed evidence of registration and use of a domain name in bad faith.

Respondent has registered the disputed domain name that fully incorporates Complainant’s trademark JDE, plus the addition of the term “coffee”. The Panel finds that it is duly demonstrated that Respondent was aware of Complainant’s rights to the trademark JDE at the time of the registration – as Complainant enjoys a worldwide reputation with the use of the referred trademark, and the term “coffee” is inherently associated with Complainant. In addition, the disputed domain name is almost identical to Complainant’s domain name <jdecoffee.com>.

With that in mind, the Panel finds that Respondent registered the disputed domain name with the intention of attracting Internet users and consumers in search of Complainant’s products and services.

Moreover, the Panel finds that the term “coffee” accompanying the trademark JDE in the disputed domain name, consists of a reference that is linked with the goods and services provided by Complainant, which indicates that the use of the trademark JDE in the disputed domain name that is unauthorized by

Complainant will most likely be of bad faith.

In addition, the Panel finds that the use of the disputed domain name to redirect to a webpage where the disputed domain name is being offered for sale, on the circumstances of the present case, also indicates bad faith. Paragraph 4(b)(i) of the Policy identifies a classic case of bad faith registration and use, as follows:

“circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name.”

Considering that the disputed domain name was registered at least more than five years after Complainant's trademark registrations for JDE, the fact that the disputed domain name resolves to a website where the disputed domain name is being offered for sale likely for a valuable consideration in excess of the out-of-pocket costs directly related to the disputed domain name suggests a finding of bad faith in Respondent's acts.

Finally, as regarding the use of a privacy service for the registration of the disputed domain name, it should be noted that the use of the privacy service itself cannot evidence bad faith. However, in the circumstances of this case, the use of a privacy service can constitute another indicative of bad faith, as previously understood in *Jay Leno v. St. Kitts Registry, Domain Names Administration*, WIPO Case No. [D2009-0571](#):

“Although mere use of an identity protection service does not, standing alone, demonstrate bad faith, since such services have come to be accepted nowadays as capable of serving legitimate interests of privacy and spam protection (see *Divex Limited v. ZJ, Sam Chang and Tim NG*, WIPO Case No. [D2007-0861](#)), here the concealment of the Respondent's identity and contact information, when coupled with the Respondent's exploitation of Complainant's mark for commercial gain, does constitute further evidence, if such be needed, of bad faith registration and use. See *Villeroy & Boch AG v. Whois Data Shield/Hong Kong Names LLC*, WIPO Case No. [D2008-1300](#) and *Fifth Third Bancorp v. Secure Whois Information Service*, WIPO Case No. [D2006-0696](#).”

Considering that (i) the disputed domain name has Complainant's trademark JDE in its entirety, with the addition of a term (“coffee”) that suggests a relation with Complainant's business; (ii) the trademark JDE is well known internationally; and (iii) the disputed domain name resolves to a website where the disputed domain name is being offered for sale; the Panel concludes that the circumstances of the present case indicates that the use of a privacy service could be regarded as bad faith.

In light of the above, the Panel finds that the disputed domain name has been registered and is being used in bad faith. Therefore, the requirement of the third element of paragraph 4(a) of the Policy is satisfied.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <jdecoffee.xyz> be transferred to Complainant.

/Gabriel F. Leonardos/

Gabriel F. Leonardos

Sole Panelist

Date: September 9, 2022