

ADMINISTRATIVE PANEL DECISION

JSL Global Commodities Pte. Ltd. v. antonio Giovanni
Case No. D2022-1902

1. The Parties

The Complainant is JSL Global Commodities Pte. Ltd., Singapore, represented by Sarad Kumar Sunny, India.

The Respondent is antonio Giovanni, Germany.

2. The Domain Name and Registrar

The disputed domain name <jslgcs.com> is registered with GMO Internet, Inc. d/b/a Discount-Domain.com and Onamae.com (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on May 26, 2022. On May 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 30, 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 the Complainant on May 30, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint in English on May 30, 2022.

On May 30, 2022, the Center transmitted an email communication to the Parties in English and Japanese regarding the language of the proceeding. On May 30, 2022, the Complainant submitted a request that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

The Center verified that the Complaint together with the amended 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 the Respondent in English and Japanese of the Complaint, and the proceedings commenced on June 7, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 27, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 28, 2022.

The Center appointed Keiji Kondo as the sole panelist in this matter on July 11, 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

The Complainant is in the business of commodity sourcing and marketing of stainless steel products. The Complainant is a commodity trading company dealing in trading of stainless steel flat products as well as raw materials and inputs consumed in manufacturing of process of stainless steel such as ferro nickel, stainless steel scrap, thermal & coking coal, and others.

Since its incorporation in 2018, the Complainant has used the mark "JSL Global Commodities" in connection with its products and services. In addition, the Complainant has used the domain name <jslgc.com>, in which "jslgc" is an abbreviated form of "JSL Global Commodities".

The disputed domain name was registered on December 6, 2021. The disputed domain name does not resolve to any active website and has been used to impersonate the Complainant and send fraudulent emails.

5. Parties' Contentions

A. Complainant

The disputed domain name is confusingly similar to the earlier trademarks in which the Complainant has rights. By virtue of its continuous use, the Complainant argues rights to its domain name <jslgc.com> and its corporate name "JSL Global Commodities" for purposes of the Policy.

The disputed domain name is a misspelling of the Complainant's domain name at <jslgc.com> and hence is substantially and confusingly similar. By merely adding the letter "s" after "jslgc" in the Complainant's domain name <jslgc.com>, the Respondent has registered the disputed domain name which is calculated to trade on the Complainant's name by exploiting likely mistakes by unsuspecting users when entering the URL address, hence citing a clear example of typosquatting. Further, the Respondent has subsumed the Complainant's popular corporate name known in the form of "jslgc" in entirety in the disputed domain name.

The corporate name "JSL Global Commodities", also expressed as "jslgc", which forms part of the Complainant's domain name <jslgc.com> has acquired fame and is exclusively associated with the Complainant's goods and services. As such, the use of the disputed domain name by the Respondent would be understood as a reference to the Complainant, thus perpetuating confusion among consumers who wish to access the Complainant's web page.

The Complainant has spent substantial time, effort and money in advertising and promoting its corporate name and its abbreviated form "jslgc" throughout the world. As a result, the corporate name of the Complainant has become famous and the Complainant has developed an enormous amount of goodwill in the same.

Further, the Respondent cannot claim or show any rights to the disputed domain name that are superior to the Complainant's rights, goodwill and reputation as established by way of documentary evidence which are being filed along with the present Complaint.

Accordingly, paragraph 4(a)(i) of the UDRP, requiring that the domain name(s) at issue be “identical or confusingly similar to a trademark or service mark in which the Complainant has rights” is satisfied.

The Respondent has no rights or legitimate interests in respect of the disputed domain name.

Since the disputed domain name is a misspelling of the Complainant’s domain name <jslgc.com>, it is evident that the Respondent can have no right or legitimate interest in the disputed domain name. Further, it is evident that the sole purpose of registering the disputed domain name is to misappropriate the reputation associated with the Complainant’s famous corporate name so as to encash upon the goodwill attached thereto. In the present case, the Respondent has attempted to sell the disputed domain name for profit, or in the alternative, to prevent the Complainant from registering a domain name in which the Complainant has full legal rights.

Further, the Respondent is not commonly known by the domain name nor has he made any demonstrable preparation to use the disputed domain name “jslgcs.com” in connection with a commercial or *bona fide* purpose.

The Respondent is not a licensee of the Complainant, nor has the Complainant granted any permission or consent to the Respondent to use the mark JSL or any variation thereof in any manner or to incorporate the same in a domain name.

The Respondent has not shown any demonstrable preparation to use the domain name in connection with a *bona fide* offering of goods and services.

Accordingly, paragraph 4(a)(ii) of the UDRP, requiring that the Respondent does not have rights or interests in respect of the disputed domain name, is satisfied.

The disputed domain name has been registered and is being used in bad faith.

The bad faith of the Respondent in registering the disputed domain name can be simply established from the fact that the Respondent has merely added the letter “s” after “jslgc” in the Complainant’s domain name *i.e.* <jslgc.com> and has adopted the disputed domain name. Such act of the Respondent is intended to trick users into visiting the disputed domain name. The domain name is a deliberate misspelling of the Complainant’s legitimate domain name <jslgc.com>. The disputed domain name is a typographical and phonetic misspelling of the Complainant’s website, and its corporate name also expressed in abbreviated form as “jslgc”, which evidences bad faith on the part of the Respondent as by doing so the Respondent plans to trade on the fame and recognition of the Complainant’s corporate name in order to cause initial interest and confusion. By merely adding the letter “s” after “jslgc” in the Complainant’s domain name <jslgc.com>, the Respondent has deliberately undertaken a calculated move in order to trade on the Complainant’s name by exploiting likely mistakes by users when entering the URL address. The Respondent is aware of the commercial value and significance of the domain name <jslgc.com> and that is why the Respondent has grabbed the disputed domain name. This is nothing but an act of opportunistic bad faith registration on the part of the Respondent. The Respondent is seeking illegal commercial gratification.

The disputed domain name <jslgcs.com> is a common typographical misspelling of <jslgc.com>. The Respondent has registered and used this typographical misspelling for his own commercial advantage.

The Complainant submits that typosquatting is by itself strong evidence of bad faith in registration and use of a domain name. This was held by the panel in *The Sportsman’s Guide Inc. vs. Vipercom*, WIPO Case No. [D2003-0145](#), where the Respondents had registered two domain names <sportsmenguides.com> and <sportsmenguides.com> which were minor spelling variations. Similar findings were reiterated by various UDRP panels.

The Complainant submits that the Respondent has, no doubt, been aware prior to its registration of the disputed domain name that there is substantial reputation and goodwill associated with the Complainant’s

trademark which inures and continues to inure to the Complainant. The Complainant points to various email communications sent using the disputed domain name in an attempt to impersonate the Complainant for purposes of fraudulently requesting payments to accounts otherwise unaffiliated to the Complainant.

Accordingly, paragraph 4(a)(iii) of the UDRP, requiring that the disputed domain name has been registered and is being used in bad faith, is satisfied.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

6.1 Preliminary Issue: Language of the Proceeding

The language of the Registration Agreement of the disputed domain name is Japanese. On May 30, 2022, the Center transmitted an email communication to the Parties in English and Japanese regarding the language of the proceeding. On May 30, 2022, the Complainant submitted a request that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

Considering the following circumstances, the Panel, exercising its authority to determine the language of the proceeding under paragraph 11(a) of the Rules, has decided English as the language of the proceeding:

- the Complaint was filed in English;
- the Complainant is an entity in Singapore, and represented by an Indian law firm;
- the Respondent's address is in Germany;
- the Respondent did not comment on the language of the proceeding;
- the Respondent did not reply to the Complainant's contentions;
- there were pre-complaint correspondences written in English and sent from the disputed domain name, impersonating the Complainant; and
- ordering the translation of the Complaint would only result in extra delay of the proceeding and additional cost for the Complainant.

6.2. Substantive Issues

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of UDRP requires that the disputed domain name is identical similar or confusingly similar to a trademark or service mark in which the complainant has rights. In this case, the Complainant repeatedly asserts that the disputed domain name is confusingly similar to its corporate acronym, "jslgc", and thus its domain name <jslgc.com>. Therefore, the first question to be addressed in this case is whether the Complainant has rights in "jslgc" as trademark or service mark.

In this regard, the Complainant does not identify any trademark registration for "jslgc". Without any trademark registration, the Complainant must establish unregistered or common law trademark rights.

Section 1.3 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)) provides various elements for consideration when determining whether a complainant's mark

has become eligible for protection as unregistered or common law trademark.

However, protection of a trademark under the Policy is not precisely equivalent to that under the trademark law. Therefore, section 1.3 of [WIPO Overview 3.0](#) further states: “The fact that a respondent is shown to have been targeting the complainant’s mark (e.g., based on the manner in which the related website is used) may support the complainant’s assertion that its mark has achieved significance as a source identifier.”

The term “source” usually means the source of goods or services within the realm of the trademark law. However, here where impersonation of the Complainant by the Respondent is aimed at confusion of the domain name owner itself, “source” should be given a broader meaning in the proceedings under the Policy.

Only with the thin record presented here, the Panel finds that the Complainant does not have common law trademark in the trademark law sense. However, relying on the evidence that the Respondent unquestionably targeted the Complainant in a fraudulent email scheme whereby the Respondent has impersonated the Complainant in an effort to direct payments into an account presumably under the control of the Respondent, the Panel finds that the Complainant has rights in JSLGC for purposes of the Policy because JSLGC is used as identifier of the source of emails sent by the Complainant. Accordingly, the Respondent himself has recognized the JSLGC mark as a distinctive identifier for the Complainant, underscoring the Complainant’s rights thereto.

With the Complainant’s rights established, the Panel must next consider whether the disputed domain name is confusingly similar to the Complainant’s JSLGC mark. As prior panels have held, the addition of other letters to a complainant’s mark will not prevent a finding of confusing similarity pursuant to section 1.9 of the [WIPO Overview 3.0](#).

Accordingly, the Panel concludes that paragraph 4(a)(i) of the UDRP is satisfied.

B. Rights or Legitimate Interests

The Complainant has not granted the Respondent a license to use “jslgc” in any manner. There is no similarity between the disputed domain name and the Respondent’s name, and the Respondent has not replied to the Complainant’s contentions. Therefore, the Panel finds that the Respondent has never been known by the disputed domain name within the meaning of paragraph 4(c)(ii) of the Policy.

The Complainant does not assert any website that the disputed domain name resolves to. Instead, as mentioned in the next section, the Respondent uses the disputed domain name as part of its e-mail address, in an attempt to impersonate the Complainant. Under the circumstances, the Panel finds that the Respondent’s use of the disputed domain name for illegal activity cannot confer rights or legitimate interests upon the Respondent. See section 2.13 of the [WIPO Overview 3.0](#).

Accordingly, the Panel concludes that paragraph 4(a)(ii) of the UDRP is satisfied.

C. Registered and Used in Bad Faith

As mentioned with respect to the first element, the Respondent has registered and used the disputed domain name for purposes of the impersonation of the Complainant in a fraudulent email scheme whereby the Respondent requests payment to a bank account otherwise unaffiliated with the Complainant and thus presumably under the control of the Respondent. The impersonation provides conclusive evidence that the Respondent was aware of the Complainant, its domain name, and sought to use a typographical variation thereof in an effort to deceive unsuspecting recipients of its email that the sender was truly the Complainant.

The Panel accepts that the Complainant adopted “jslgc” as an abbreviation of the Complainant’s corporate name “JSL Global Commodities”. It is obvious that adding “s” at the end of “jslgc” is a typical example of typosquatting, and the impersonation of the Complainant by the Respondent proves that the Respondent was actually aware of the Complainant’s rights.

The Respondent obviously attempted to impersonate the Complainant, and to cause customers of the Complainant to remit payment to the Respondent's bank account. The Respondent's actions constitute fraud.

Therefore, the Panel finds that the Respondent registered, and has been using, the disputed domain name to impersonate the Complainant.

Accordingly, the Panel concludes that paragraph 4(a)(iii) of the UDRP 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 <jslgcs.com> be transferred to the Complainant.

/Keiji Kondo/

Keiji Kondo

Sole Panelist

Date: July 25, 2022