

ADMINISTRATIVE PANEL DECISION

Jindal Stainless Limited and Jindal Stainless (Hisar) Limited v. Domains by Proxy, LLC. / Akanksha Sharma, EY-CS
Case No. D2022-1953

1. The Parties

The Complainants are Jindal Stainless Limited, India, and Jindal Stainless (Hisar) Limited, India, represented by Sarad Kumar Sunny, India.

The Respondent is Domains by Proxy, LLC., United States of America / Akanksha Sharma, EY-CS, India.

2. The Domain Name and Registrar

The disputed domain name <jindalstainless.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 30, 2022. On May 30, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 1, 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 Complainants on June 1, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amended Complaint on June 6, 2022.

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 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 July 4, 2022.

The Center appointed Ashwinie Kumar Bansal as the sole panelist in this matter on July 13, 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 No. 1 and the Complainant No. 2 are a part of group companies promoted by O.P. Jindal Group. The Complainant No. 1 is functioning as an integrated stainless steel manufacturing company, which was established in the year 1980. Since, its inception in 1980, the Complainant No. 1 has been using the Trademark JINDAL STAINLESS in connection with their services and products.

The Complainant No. 2 is also a company, which was established in the year 2013. It deals with production of slabs and booms, hot rolled coils, etc. Prior to incorporation of the Complainant No. 2, the trademark rights in JINDAL STAINLESS was held by the Complainant No. 1. Subsequent to incorporation of the Complainant No. 2, the Complainant No. 1 (being the group company of Complainant No. 2), transferred its trademark rights in the Trademark JINDAL STAINLESS to the Complainant No. 2. Hence, at present, the Trademark JINDAL STAINLESS is owned by the Complainant No. 2. Likewise, the Complainant No. 2 is the owner of Trademark JINDAL in India. See, for example, India Trademark Reg. Nos. 3161577 and 3161578.

The Respondent has registered the disputed domain name on May 16, 2022. The disputed domain name resolves to an inactive website.

5. Parties' Contentions

A. Complainant

The Complainants in their Complaint has, *inter alia*, raised the following contentions:

The Complainant No. 2 is the registered owner, user, and proprietor of the Trademark JINDAL STAINLESS. The use of the Trademark and tradename JINDAL STAINLESS by the Complainants and its predecessors in business dates back to 1970. Henceforth, acquiring the status of exclusive association of their Trademark. The Complainants contend on account of the highly distinctive nature, the Trademark JINDAL STAINLESS has acquired an excellent reputation and exclusively denotes the conglomeration of members forming the O. P. JINDAL Group, which is well known for its high quality of products manufactured and/or services rendered under the Trademark JINDAL STAINLESS.

The Complainant No. 2 by the virtue of being proprietor of the Trademark JINDAL STAINLESS is also the holder of 32.02% shares in the Complainant No. 1. The Complainant No. 1 and the Complainant No. 2 are a part of group companies that are promoted by O.P. Jindal Group. On account of firstly, the shareholding of the Complainant No. 2 in the Complainant No. 1 and secondly, they being a part of O.P. Jindal Group - are group companies-, the Complainant No. 1 has been permitted/authorized by the Complainant No. 2 to use the Trademark JINDAL STAINLESS as part of its business activities including its/Complainant No. 1's domain name.

The Complainants further contend that the disputed domain name is nothing but a case of misspelling of the Complainants' registered Trademark JINDAL STAINLESS and the Complainant No. 1's website "jindalstainless.com". Therefore, it is substantially and confusingly similar in comparison to the registered Trademarks of the Complainants in which the Complainants have the statutory rights as well as rights in common law by virtue of being a long time and continuous user and a registered proprietor thereof. Moreover, the Complainants contend that their website called "jindalstainless.com" had been registered on August 15, 1999, and has produced the Whois report to substantiate their argument. By merely adding the letter "L" after "jindal" in Complainants' website "jindalstainless.com", the Respondent has registered the

disputed domain name. The Respondent is most likely to trade by exploiting the Complainants through the common error by unsuspecting users when entering the URL address, hence, citing a clear example of typosquatting. The Respondent has registered and used this typographical misspelling for his own commercial advantage. The Complainants have further contended that the Respondent's choice of the misspelled version of Complainants' domain name is deliberate and is bound to cause confusion for the consumers as to the sponsorship of the Respondent's domain. The Complainants submit that typosquatting is by itself is strong evidence of bad faith in registration and use of domain name.

The Complainants have relied on *Viacom International Inc. v. Mo-Team*, WIPO Case No. [D2009-1420](#), wherein it was held that applying established UDRP principles, if one looks at the disputed domain name from the viewpoint of whether or not when viewed as a whole it contains differences from the trademark so insignificant that they go unnoticed by the Internet users, it typically follows that the disputed domain name is identical or confusingly similar to the relevant mark to that for which the Complainant has protection. Further, the Complainants contend that the Respondent cannot claim or show any rights to the disputed domain name that are superior to the Complainants' rights, goodwill and reputation as established by way of documentary evidence which are being filed along with the present Complaint.

The Complainants contend having spent substantial time, effort, and money of theirs in advertising and promoting their Trademark JINDAL STAINLESS throughout the world. As an outcome, the Trademark JINDAL STAINLESS has become famous and it has developed an enormous amount of goodwill. The Complainants further contend that the sole purpose of the Respondent, in registering the domain name is to misappropriate the reputation associated with the Complainants' famous Trademark JINDAL STAINLESS so as to encash upon the goodwill attached thereto.

The Respondent has no legitimate rights and interests in the disputed domain name because the Respondent is not acting out of *bona fide* since the Respondent is trading on the fame and recognition of the Complainants' Trademark JINDAL STAINLESS in order to cause initial interest confusion. The Complainants contend that the Respondent has made it crystal clear that their intention is that of commercially exploiting the Complainants' Trademark. The sole motive of the Respondent behind this act is to cause irreparable damage and injury to the Complainants' goodwill and reputation, resulting in dilution of the Complainants' Trademark and/or service mark. In fact, by acquiring the disputed domain name, the Respondent has shown crass opportunism in encashing the typographical mistakes of the Internet users and the popularity of the Complainants' services, which are available to the Internet users in the form of "www.jindalstainless.com".

The Respondent is neither a licensee of the Complainants nor have the Complainants granted any permission or consent to the Respondent to use the Trademark JINDAL STAINLESS or any variation thereof in any manner or to incorporate the same in the disputed domain name.

The Complainants contend that the Respondent has an ulterior motive of taking advantage of typographical errors that Internet users might make while opening the official website of the Complainants, *i.e.*, "jindalstainless.com". In other words, when an Internet user makes a typographical error while typing into their Internet browsers, they are bound to mistakenly arrive at disputed domain name. Such an act of the Respondent is with the sole purpose of deceiving or confusing the Internet users.

B. Respondent

The Respondent did not reply to the Complainants' contentions.

6. Discussion and Findings

As per paragraph 5(e) of the Rules, where a respondent does not submit a substantive response, in the absence of exceptional circumstances, the Panel may decide the dispute based upon the complaint. The Panel does not find any exceptional circumstances in this case preventing it from determining the dispute

based upon the Complaint, notwithstanding the failure of the Respondent to file a substantive response. As per paragraph 14(b) of the Rules, where a party does not comply with any provision of the Rules, the Panel is to draw such inferences there from as it considers appropriate.

It remains incumbent on the Complainant to make out its case in all respects under paragraph 4(a) of the Policy, which sets out the three elements that must be present for the proceeding to be brought against the Respondent, which the Complainant must prove to obtain a requested remedy. It provides as follows:

“Applicable Disputes. You are required to submit to a mandatory administrative proceeding in the event that a third party (a ‘complainant’) asserts to the applicable Provider, in compliance with the Rules of Procedure, that

- (i) your domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- (ii) you have no rights or legitimate interests in respect of the domain name; and
- (iii) your domain name has been registered and is being used in bad faith.

In the administrative proceeding, the complainant must prove that each of these three elements are present.”

The Panel will address all the three aspects of the Policy listed above hereunder:

A. Identical or Confusingly Similar

The Panel has considered and examined documents submitted by the Complainants in support of this Complaint. The Complainants have provided registration certificates granted by the Registrar of Trade Marks, Government of India, in its favor in respect of the Trademark JINDAL STAINLESS along with its various combinations and permutations. The Complainants have also been using the Trademark JINDAL STAINLESS since long before the Complainant’s registration, and the Complainants have also registered the Trademark JINDAL as per certificates of registration granted by the Trade Mark Registry.

The WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 1.9 provides the view of panelists: “A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element (...) This stems from the fact that the domain name contains sufficiently recognizable aspects of the relevant mark. Under the second and third elements, panels will normally find that employing a misspelling in this way signals an intention on the part of the Respondent (typically corroborated by infringing website content) to confuse users seeking or expecting the complainant.”

The Respondent has incorporated the entire JINDAL and JINDAL STAINLESS Trademarks of the Complainants in the disputed domain name with a minor misspelling, *i.e.*, addition of the letter “l” after the element “jindal”. The mere addition of an extra letter “l” does not make the Trademark JINDAL STAINLESS non-recognizable in the disputed domain name <jindallstainless.com>.

The disputed domain name incorporates the Complainants’ Trademark JINDAL STAINLESS in its entirety besides usage of an extra letter “l”, whose addition does not prevent a finding of confusing similarity. The Panel finds that the Trademark JINDAL STAINLESS is recognizable in the disputed domain name. The generic Top-Level Domain (“gTLD”) “.com” may be disregarded for the purposes of comparison under this element. Hence, the Complainants have successfully established the first element of paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

The *onus* lies on the Complainants for establishing that the Respondent has no rights or legitimate interests in the disputed domain name. Nevertheless, it is well settled that the Complainants need only to make out a

prima facie case, after which the burden of production shifts to the Respondent to rebut such *prima facie* case by demonstrating rights or legitimate interests in the disputed domain name.

The Respondent has registered the disputed domain name consisting of the entire Trademark JINDAL STAINLESS of the Complainants. Further, usage of an extra letter “I” in the disputed domain name *prima facie* appears to be similar hence is deceptive in all senses. The Complainants have been using the Trademark JINDAL STAINLESS for a very long time and they have received Trademark registrations.

Paragraph 4(c) of the Policy lists circumstances, in particular but without limitation, which, if found by the Panel to be proved, may demonstrate the Respondent’s rights or legitimate interests in a disputed domain name for the purposes of paragraph 4(a)(ii) of the Policy. [WIPO Overview 3.0](#), section 2.1 provides the view of panelists: “While the overall burden of proof in UDRP proceedings is on the Complainant, the 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 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.” The Respondent has failed to participate and thus rebut the Complainants’ *prima facie* case or to explain its rights or legitimate interests. In these circumstances, the intention of the Respondent in registering the dispute domain name *prima facie* seems to be with the intention of benefiting out of the goodwill of the Complainants.

The Respondent has thus failed to demonstrate any rights or legitimate interests in the disputed domain name as per paragraph 4(c) of the Policy. The Complainants have not authorized or permitted the Respondent to use their Trademark JINDAL STAINLESS, which means in the circumstances of this case the Respondent has no rights or legitimate interests in the said Trademark.

In light of the evidence submitted by the Complainants, the Panel finds that the Complainants have satisfied their burden to make out a *prima facie* case that the Respondent lacks rights or legitimate interest in the disputed domain name. The Panel is satisfied that the second element of the Policy has been met.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy identifies, in particular but without limitation, four circumstances which, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith. Each of the four circumstances in paragraph 4(b) of the Policy, if found, is evidence of “registration and use of a domain name in bad faith”. The Complainants are required to prove both that the disputed domain name was registered in bad faith and that it is being used in bad faith. Hence, circumstances at the time of registration and thereafter have to be considered by the Panel.

The Complainants have produced evidence of registration of the Trademark JINDAL STAINLESS in its favour given by the Trademark Registry. The Complainants’ Trademark JINDAL STAINLESS is a well-known and a distinctive mark, hence, the Respondent was likely to have prior knowledge of the Complainants’ rights in the Trademark. The Complainants have not granted the Respondent permission or a license of any kind to use its Trademark JINDAL STAINLESS and register the disputed domain name. Further, the Respondent has not given any response to the Complaint and has also failed to present credible evidence backed by rationale for registering the disputed domain name. In view of these facts, the disputed domain name is likely to cause confusion as to source, sponsorship, or affiliation, which constitutes bad faith registration and use under paragraph 4(b)(iv) of the Policy.

A mere glance at the disputed domain name gives rise to enormous confusion as to its origin since it uses the Trademark JINDAL STAINLESS in its entirety. Also, reinforcing the confusion and thus Respondent’s intent to target the Complainants is the fact that the website “jindalstainless.com” has already been registered and is being used by the Complainants for a long time on the Internet. On the contrary the

dispute domain name as per the Whois report has only been registered recently on May 16, 2022. A domain name acts as the address of a company on the Internet and can be termed as a web address or a web mark just like a trademark or service mark. The illegality in the registration of the disputed domain name also arises from the fact that domain names today are a part and parcel of the corporate identity. In these circumstances, the use of the disputed domain name by the Respondent is bound to lead to confusion amongst the public.

The act of registration of the disputed domain name by the Respondent containing the Complainants' Trademark JINDAL STAINLESS without any authorization from the Complainants constitutes evidence of registration of the disputed domain name in bad faith. The unauthorized registration by the Respondent suggests opportunistic bad faith. The Respondent's true purpose in registering and using the disputed domain name, which incorporates the entire Trademark of the Complainants is in the Panel's view, to capitalize on the reputation of the JINDAL STAINLESS Trademark.

The Panel therefore finds that the disputed domain name <jindalstainless.com> has been registered and is being used by the Respondent in bad faith.

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 <jindalstainless.com> be transferred to the Complainant No.1.

/Ashwinie Kumar Bansal/

Ashwinie Kumar Bansal

Sole Panelist

Date: July 26, 2022