

ADMINISTRATIVE PANEL DECISION

Jindal Stainless Limited, Jindal Stainless (Hisar) Limited v. Haramohan Biswal

Case No. D2022-1956

1. The Parties

The Complainants are Jindal Stainless Limited (the “Complainant No. 1”), India and Jindal Stainless (Hisar) Limited (the “Complainant No. 2”), India, represented by Sarad Kumar Sunny, India.

The Respondent is Haramohan Biswal, India.

2. The Domain Name and Registrar

The disputed domain name <jindalstainles.com> is registered with BigRock Solutions Pvt Ltd. (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 May 31, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 the Respondent of the Complaint, and the proceedings commenced on June 24, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 14, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 4, 2022.

The Center appointed Maninder Singh as the sole panelist in this matter on August 10, 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 was incorporated under Companies Act, 1956 of India and the Complainant No. 2 was incorporated under Companies Act, 2013 of India. The Complainant No. 1, stated to have been founded in 1980, claims to be India's largest and only fully integrated stainless-steel manufacturer. The Complainant No. 1, since its incorporation in 1980, claims to have continuously used the mark JINDAL STAINLESS in connection with its products and services. The Complainant No. 1 also claims to have used the above trademark as a part of its official domain name <jindalstainless.com> since August 15, 1999. The Complainant No. 2, founded in 2013, claims to be the world's largest producer of slabs & blooms, hot rolled coils, strips, plates, coin blanks, precision strips and cold rolled coils. Subsequently to incorporation of the Complainant No. 2, the Complainant No. 1, transferred its rights in JINDAL STAINLESS trademark to the Complainant No. 2. The Complainant No. 2 thus owns several trademark registrations for JINDAL STAINLESS, e.g., Indian trademark registrations nos. 3161577 and 3161590 (figurative trademarks) both registered on January 18, 2016. The Complainant No. 2 is also the holder of 32.02% shares in the Complainant No. 1. Both Complainants are a part of O.P. Jindal Group.

The disputed domain name was registered on May 10, 2022, and does not resolve to an active website.

5. Parties' Contentions

A. Complainants

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

- The Complainant No. 2 has permitted the Complainant No. 1 to use the trademark JINDAL STAINLESS as part of its business activities including in the domain name of the Complainant No.1. The Complainant No. 2 also hosts its range of products on the official website of the Complainant No. 1 at the domain name <jindalstainless.com>.

Contentions of the Complainants regarding the disputed domain name being confusingly similar to the Complainants' trademark:

- The Complainants contend that the disputed domain name is a misspelling of the Complainants' registered trademark JINDAL STAINLESS and hence is confusingly similar the trademark in which the Complainants have statutory rights as well as rights in common law by virtue of long and continuous use. The Complainants contend that by merely removing the letter "s" from "jindalstainless", the Respondent has registered the disputed domain name to trade on the Complainants' mark by exploiting likely mistakes by unsuspecting users when entering the URL address associated with the Complainants, hence citing a clear example of typosquatting.
- The Complainants also contend that the trademark JINDAL STAINLESS has acquired fame and is exclusively associated with the Complainants' goods and services. As such, the use of the disputed domain name by the Respondent would be understood as a reference to the Complainants, thus perpetuating confusion among consumers. The Complainants, in this regard, have placed reliance on the decision in *Viacom International Inc. v. Mo-Team*, WIPO Case No. [D2009-1420](#).
- The Complainants contend that the Respondent cannot claim or show any rights in the disputed domain name that are superior to the Complainants' rights, goodwill, and reputation.

Contentions regarding the Respondent having no rights or legitimate interests in the disputed domain name:

- The Complainants contend that since the disputed domain name is a misspelling of the famous trademark JINDAL STAINLESS, it is evident that the Respondent can have no rights or legitimate

interests in the disputed domain name and the sole purpose of registering the disputed domain name was to misappropriate the reputation associated with the Complainants' famous trademark JINDAL STAINLESS so as to encroach upon the goodwill attached thereto. The Complainants further contend that the Respondent has attempted to sell the disputed domain name for profit or in the alternative to prevent the Complainants from registering a domain name in which the Complainants have rights.

- The Complainants also contend that the Respondent is not commonly known by the disputed domain name. The Complainants contend the Respondent has no rights or legitimate interests in the disputed domain name as:
 - (i) The Respondent is not a licensee of either of the Complainants and neither 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 a domain name;
 - (ii) The Respondent has not shown any demonstrable preparation to use the disputed domain name in connection with a *bona fide* offering of goods or services. The Respondent's actions are not *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 submit that the Respondent has made obvious his intention to commercially exploit the Complainants' trademark for the sole purpose of causing irreparable damage to the Complainants' goodwill and reputation, resulting in dilution of the Complainants' trademark.
- The Complainants further contend that by registering 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 offered at their domain name <jindalstainless.com>.
- The Complainants also contend that the Respondent is clearly trying to associate himself with the Complainants when no such association or affiliation exists. Therefore, the Respondent does not have and cannot be considered as having any rights or legitimate interests in the disputed domain name as the same has been registered to make unlawful monetary gains.

Contentions regarding bad faith registration and use of the disputed domain name by the Respondent:

- The Complainants contend that the bad faith of the Respondent in registering the disputed domain name can be simply established from the fact that the Respondent has merely removed the last letter "s" from the Complainants' trademark. Such act of the Respondent is intended to trick users into visiting the disputed domain name. The disputed domain name is a deliberate misspelling of the Complainants' legitimate domain name *i.e.* <jindalstainless.com>. The disputed domain name is a typographical and phonetic misspelling of the Complainants' trademark JINDAL STAINLESS, 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 Complainants' trademark in order to cause initial interest confusion.
- The Complainants contend that the Respondent was aware of the commercial value of the Complainants' trademark. This is nothing but an act of opportunistic bad faith registration on the part of the Respondent. The Respondent is seeking illegal commercial gratification. Such an act of the Respondent is bound to deceive or confuse the Internet users.
- The Complainants contend that typosquatting is strong evidence of bad faith in registration and use of a domain name. Reliance has been placed on the UDRP panel's decision in *The Sportsman's Guide Inc. Vs. Vipercom*, WIPO Case No. [D2003-0145](#).
- The Complainants have also referred to and relied upon various prior UDRP decisions reiterating similar findings viz. *Joanne Rowling V. Alvaro Collazo*, WIPO Case No. [D2004-0787](#), *Oxygen Media LLC v. Primary Source*, WIPO Case No. [D2000-0362](#), *Yahoo Inc. v. Eitan Zviely, et al*, WIPO Case No. [D2000-0273](#), *Pfizer Inc. v. Seocho and Vladimir Snezko*, WIPO Case No. [D2001-1199](#),

Dell Computer Corporation v. Clinical Evaluations, WIPO Case No. [D2002-0423](#), *Wal-Mart Stores, Inc v. Longo*, WIPO Case No. [D2004-0816](#), *Longs Drug Stores California, Inc v. Shep Dog*, WIPO Case No. [D2004-1069](#), *Autosales Incorporated dba Summit Racing Equipment v. John Zuccarini*, WIPO Case No. [D2001-0230](#) and *ESPN, Inc v. XC2*, WIPO Case No. [D2005-0444](#).

- The Complainants contend that the Respondent has been aware prior to its registration of the disputed domain name that there is substantial reputation and goodwill associated with the Complainants' trademark which inures and continues to inure to the Complainants.

B. Respondent

The Respondent did not reply to the Complainants' contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainants have furnished evidence of their rights in the trademark JINDAL STAINLESS, through trademark registrations and common law rights which have accrued through their long and substantial use of the mark.

The Panel finds that the disputed domain name, reproducing the Complainant's trademark JINDAL STAINLESS, but removing a single letter "s", is confusingly similar to the Complainants' trademark since the trademark remains sufficiently recognizable in the disputed domain name.

The Panel, in this regard, finds it useful to refer to the following UDRP decisions:

- (i) In *Arthur Guinness Son & Co. (Dublin) Limited v. Dejan Macesic*, WIPO Case No. [D2000-1698](#), it has been held that a close misspelling of a complainant's trademark does not prevent a finding of confusing similarity;
- (ii) In *America Online Inc., v. Yotech Communications Inc.*, WIPO Case No. [D2001-0055](#), it was held that past UDRP decisions clearly support the principle that the adaptation of a recognized trademark in a domain name by variation in spelling or by the deletion, addition, or insertion of letters, words, or acronyms does not escape a finding of confusing similarity.

The Complainant has therefore succeeded in establishing the first element of the test in paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

The Panel, having regard to the averments contained in the Complaint and also noted above, observes that the Complainants have made out a case proving their rights in the trademark JINDAL STAINLESS. The Complainants enjoy goodwill and reputation for that mark. The Panel has no doubt that the disputed domain name essentially incorporates the well-known and famous trademark JINDAL STAINLESS of the Complainants by merely deleting a single letter "s".

The Panel has observed that registration of the Complainants' trademark JINDAL STAINLESS as well as adoption of same in their domain name <jindalstainless.com> preceded the registration of the disputed domain name. The Panel observes that the Respondent is not affiliated with the Complainants in any way nor has he been authorized by the Complainants to use their trademark, or to seek registration of any domain name incorporating said mark.

The Respondent has not furnished any reply. Having regard to the website content and the documents filed along with the Complaint, the Panel also observes that the Respondent has not made any *bona fide* offering of goods or services, or legitimate noncommercial or fair use, through the disputed domain name, which does not resolve to an active website.

In the facts and circumstances of the present case, the Panel concludes that nothing in the record suggests the Respondent may have rights or legitimate interests in the disputed domain name and the Respondent has failed to submit any response to the contentions made by the Complainants.

The Complainant has therefore succeeded in establishing the second element of the test in paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

The Panel observes that the trademark of the Complainants JINDAL STAINLESS is well known and there is every likelihood that Internet users would believe that there is some connection, affiliation, or association between the Complainant and the disputed domain name.

The Panel observes that the disputed domain name was registered by the Respondent only on May 10, 2022. The Panel is of the view that being fully aware of the commercial value and significance of the Complainants' trademark JINDAL STAINLESS and incorporation thereof in a domain name, the Respondent has registered the disputed domain name to take unfair advantage of the Complainants' trademark.

The Panel observes that the disputed domain name has been registered by the Respondent subsequently to the Complainants' relevant trademark registrations. In this regard the Panel would also like to refer to the following observations made in:

- (i) *Consitex S.A. Lanificio Ermenegildo Zegna & Figli S.p.A. Ermenegildo Zegna Corporation v. Mr. Lian Ming*, WIPO Case No. [DWS2003-0001](#) – holding that a respondent could not ignore the existence of a well-known trademark at the time of registering a domain name; and
- (ii) *Research In Motion Limited v. Dustin Picov*, WIPO Case No. [D2001-0492](#) – holding that when a domain name is so obviously connected with a complainant, its very use by a registrant with no connection to the complainant may suggest “opportunistic bad faith”.

As mentioned above, the Complaint has remained un rebutted on account of non-furnishing of any reply by the Respondent. Moreover, the Panel notes the strong reputation of the Complainants' trademark JINDAL STAINLESS, in particular in India where the Respondent is located, and finds it implausible that the Respondent could make any good faith use of the dispute domain name incorporating a typographical error of such trademark. Accordingly, the fact that the disputed domain name does not resolve to an active website, in the circumstances of this case, does not prevent a finding of bad faith under the doctrine of passive holding.

In view of the above, the Panel finds that the disputed domain name was 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 <jindalstainles.com> be transferred to the Complainant.

/Maninder Singh/

Maninder Singh

Sole Panelist

Date: August 25, 2022