

## **ADMINISTRATIVE PANEL DECISION**

Juratoys v. Whois Agent, Domain Protection Services, Inc. / Zhelan Hao  
Case No. D2022-1979

### **1. The Parties**

Complainant is Juratoys, France, represented by GUIU IP, France.

Respondent is Whois Agent, Domain Protection Services, Inc., United States of America (“United States”) / Zhelan Hao, China.<sup>1</sup>

### **2. The Domain Name and Registrar**

The disputed domain name <janodsoldes.com> is registered with Name.com, Inc. (Name.com LLC) (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 2, 2022. On June 2, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 2, 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 June 7, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on June 8, 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 Respondent of the Complaint, and the proceedings commenced on June 9, 2022. In accordance with the Rules, paragraph 5, the due date

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<sup>1</sup> It is evident from the case file that Whois Agent, Domain Protection Services, Inc, United States, is a privacy protection service and that Zhelan Hao, China, is the underlying registrant of the disputed domain name. Therefore, unless otherwise indicated, the term “Respondent” is used by the Panel in the case at hand to refer to the latter underlying registrant only.

for Response was June 29, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on June 30, 2022.

The Center appointed Stephanie G. Hartung as the sole panelist in this matter on July 5, 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 is a company organized under the laws of France that is active in the toys, games, and playthings industry.

Complainant has provided evidence that it is the registered owner of numerous trademarks relating to its brand JANOD, *inter alia*, but not limited to, the following:

- Word mark JANOD, International Registration (World Intellectual Property Organization), registration number: 1080282, registration date: May 13, 2011, status: active;
- Word mark JANOD, European Union trademark (European Union Intellectual Property Office), registration number: 010042869, registration date: November 15, 2011, status: active.

Moreover, Complainant has demonstrated to own since 1997 the domain name <janod.com>, which resolves to Complainant's official website at "www.janod.com", used to promote Complainant's products and related services in the toys, games, and playthings industry.

Respondent, according to the disclosed Whois information for the disputed domain name, is a resident of China who registered the disputed domain name on November 19, 2021. By the time of the rendering of this decision, the disputed domain name does not resolve to any relevant content on the Internet. Complainant, however, has provided evidence that, at some point before the filing of the Complaint, the disputed domain name resolved to a website at "www.janodsoldes.com" set up in the French language, reproducing Complainant's JANOD trademark (both as a logo and as a word trademark) as well as reproducing images of Complainant's games and toys. Furthermore, the website contains a portal designed to collect sensitive credit card details.

Complainant requests that the disputed domain name be transferred to Complainant.

#### **5. Parties' Contentions**

##### **A. Complainant**

Complainant submits that the disputed domain name is confusingly similar to Complainant's JANOD trademark, as it includes the entirety of this trademark together with the generic non-distinctive term "soldes" (French word for "sales"), therefore designating a special offer of goods at reduced prices. Moreover, Complainant asserts that Respondent has no rights or legitimate interests in respect of the disputed domain name since (1) Respondent is not an authorized dealer, licensee or commercial partner of Complainant and has never been granted authorization for registering and using Complainant's JANOD trademark as a domain name, and (2) Respondent is using the disputed domain name to engage in a fraudulent phishing scheme which clearly demonstrates Respondent's intention that unsuspecting Internet users accessing Respondent's website under the disputed domain name will be deceived or confused as to the source of the ownership of such websites. Finally, Complainant argues that Respondent has registered and is using the disputed domain name in bad faith since (1) it is inconceivable that Respondent was unaware of Complainant's JANOD trademark when registering the disputed domain name, (2) the association of Complainant's JANOD trademark with the French word "soldes" is a further hint of Respondent's intention to

organize mislead Internet users, and (3) the choice of the disputed domain name and the reproduction of Complainant's JANOD trademark and images of goods cannot be the result of mere hazard, but demonstrate that Respondent tries to intentionally attract Internet users to such website, thereby undertaking "phishing" activities which are very detrimental to the brand image of Complainant.

## **B. Respondent**

Respondent did not reply to Complainant's contentions.

## **6. Discussion and Findings**

Under paragraph 4(a) of the Policy, Complainant carries the burden of proving:

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

Respondent's default in the case at hand does not automatically result in a decision in favor of Complainant, however, paragraph 5(f) of the Rules provides that if Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute solely based upon the Complaint. Further, according to paragraph 14(b) of the Rules, the Panel may draw such inferences from Respondent's failure to submit a Response as it considers appropriate.

### **A. Identical or Confusingly Similar**

The Panel concludes that the disputed domain name is confusingly similar to the JANOD trademark in which Complainant has rights.

The disputed domain name incorporates Complainant's JANOD trademark in its entirety. Numerous UDRP panels have recognized that where a domain name incorporates a trademark in its entirety, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that trademark (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7). Moreover, it has been held in many UDRP decisions and has become a consensus view among panelists (see [WIPO Overview 3.0](#), section 1.8), that the addition of other terms (whether e.g. descriptive or otherwise) would not prevent the finding of confusing similarity under the first element of the UDRP. Accordingly, the addition of the term "soldes" (French word for "sales") does not dispel the confusing similarity arising from the incorporation of Complainant's JANOD trademark in the disputed domain name.

Therefore, Complainant has established the first element under the Policy as set forth by paragraph 4(a)(i).

### **B. Rights or Legitimate Interests**

The Panel is further convinced on the basis of Complainant's undisputed contentions that Respondent has not made use of the disputed domain name in connection with a *bona fide* offering of goods or services, nor has Respondent been commonly known by the disputed domain name, nor can it be found that Respondent has made a legitimate noncommercial or fair use thereof without intent for commercial gain.

Respondent has not been authorized to use Complainant's JANOD trademark, either as a domain name or in any other way. Also, there is no reason to believe that Respondent's name somehow corresponds with the disputed domain name and Respondent does not appear to have any trademark rights associated with the term "janod" on its own. To the contrary, at some point in the past, Respondent has been running a website under the disputed domain name at "www.janodsoldes.com" set up in the French language,

reproducing Complainant's JANOD trademark (both as a logo and as a word trademark) as well as reproducing images of Complainant's games and toys. Moreover, the website contains a portal designed to collect sensitive credit card details. Such making use of the disputed domain name obviously neither qualifies as *bona fide* nor as legitimate noncommercial or fair within the meaning of the Policy.

Accordingly, Complainant has established a *prima facie* case that Respondent has no rights or legitimate interests in respect of the disputed domain name. Now, the burden of production shifts to Respondent to come forward with appropriate evidence demonstrating to the contrary (see [WIPO Overview 3.0](#), section 2.1). Given that Respondent has defaulted, it has not met that burden.

Therefore, the Panel finds that Complainant has also satisfied paragraph 4(a)(ii) and, thus, the second element of the Policy.

### **C. Registered and Used in Bad Faith**

The Panel finally holds that the disputed domain name was registered and is being used by Respondent in bad faith.

The disputed domain name was registered long after Complainant first registered and began using its JANOD trademark. The circumstances of this case leave no doubt that Respondent was fully aware of Complainant's rights in the JANOD trademark when registering the disputed domain name and that the latter is clearly directed thereto. Moreover, using the disputed domain name, which is confusingly similar to Complainant's JANOD trademark, to run a website which is set up in the French language, reproducing Complainant's trademark (both as a logo and as a word trademark) as well as reproducing images of Complainant's games and toys, is a clear indication that Respondent intentionally attempted to attract, for commercial gain, Internet users to its own website by creating a likelihood of confusion with Complainant's JANOD trademark as to the source, sponsorship, affiliation or endorsement of Respondent's website. Such circumstances are evidence of registration and use of the disputed domain name in bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

In this context, it also carries weight in the eyes of the Panel that Respondent obviously provided false or incomplete contact information in the Whois register for the disputed domain name since, according to the email correspondence between the Center and the postal courier DHL, the Written Notice on the Notification of Complaint dated June 9, 2022 could not be delivered. This fact at least throws a light on Respondent's behavior which supports the Panel's bad faith finding.

Therefore, the Panel concludes that Complainant has also satisfied the third element under the Policy set forth by paragraph 4(a)(iii).

## **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, <janodsoldes.com>, be transferred to Complainant.

*/Stephanie G. Hartung/*

**Stephanie G. Hartung**

Sole Panelist

Date: July 13, 2022