

ADMINISTRATIVE PANEL DECISION

Jacquemus SAS v. Whois Agent, Domain Protection Services, Inc. / Kndsnj Uncn

Case No. D2022-3209

1. The Parties

Complainant is Jacquemus SAS, France, represented by DBK Law Firm, France.

Respondent is Whois Agent, Domain Protection Services, Inc., United States of America / Kndsnj Uncn, Hong Kong, China.

2. The Domain Name and Registrar

The disputed domain names <salejacquemus.com> and <shopjacquemus.xyz> (the “Domain Names”) are registered with Name.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 30, 2022. On August 31, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. On September 1, 2022, the Registrar transmitted by email to the Center its verification response registrant and contact information for the Domain Names, which differed from the named Respondent and contact information in the Complaint. The Center sent an email to Complainant on September 2, 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 September 5, 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 September 6, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 26, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on October 3, 2022.

The Center appointed Robert A. Badgley as the sole panelist in this matter on October 7, 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 clothing and apparel designer and manufacturer based on Paris, France. Complainant was founded in 2013 by Simon Porte Jacquemus, said in the Complaint to be “one of the most important designers in the fashion industry.” Complainant’s clothing and accessories are sold in more than 50 countries.

Complainant holds several registered trademarks in various jurisdictions, including French Reg. No. 4057016, registered on December 24, 2013, and International Reg. No. 1211398, registered on February 5, 2014. Annexed to the Complaint are various magazine articles demonstrating that JACQUEMUS is a well-known mark within the fashion industry.

Complainant has operated a commercial website for several years at the domain name <jacquemus.com>.

The Domain Names were registered on July 6, 2022. The Domain Names resolve to websites, almost identical in content and layout, and containing the same contact information. According to Complainant, counterfeit JACQUEMUS products are offered for sale at these websites. The products are suspected to be counterfeit based on the fact that they are offered for sale at process far lower than Complainant’s prices.

Respondent does not dispute any of the foregoing allegations.

5. Parties’ Contentions

A. Complainant

Complainant contends that it has established all three elements required under the Policy for a transfer of the Domain Names.

B. Respondent

Respondent did not reply to Complainant’s contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements, which Complainant must satisfy with respect to each of the Domain Names:

- (i) the 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 Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Panel concludes that Complainant has rights in the trademark JACQUEMUS through registration and use demonstrated in the record. The Panel also concludes that the Domain Names are confusingly similar to that mark. The JACQUEMUS mark is clearly recognizable within the Domain Names, and the additional

words “sale” and “shop” do nothing to prevent a finding of confusing similarity between the mark and the Domain Names.

Complainant has established Policy paragraph 4(a)(i).

B. Rights or Legitimate Interests

For each of the Domain Names, pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

- (i) before any notice to you [Respondent] of the dispute, your use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services; or
- (ii) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Domain Name, even if you have acquired no trademark or service mark rights; or
- (iii) you [Respondent] are making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel concludes that Respondent lacks rights or legitimate interests in respect of the Domain Names. Respondent has not come forward in this proceeding to dispute the serious and plausible allegations raised in the Complaint. The Panel would normally expect an innocent respondent in a UDRP proceeding accused of peddling counterfeit goods to step up and declare his innocence. On this undisputed record, the Panel finds it more likely than not that Respondent registered the Domain Names to free-ride on the renown of Complainant’s mark and try to sell counterfeit goods to unwitting consumers. Such use of the Domain Names is manifestly illegitimate.

The Panel concludes that Complainant has established Policy paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

For each of the Domain Names, paragraph 4(b) of the Policy provides that the following circumstances, “in particular but without limitation,” are evidence of the registration and use of the Domain Name in “bad faith”:

- (i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or
- (ii) that Respondent has registered the Domain Name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that Respondent has engaged in a pattern of such conduct; or
- (iii) that Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or
- (iv) that by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent’s website or other online location, by creating a likelihood of confusion with Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of Respondent’s website or location or of a product or service on Respondent’s website or location.

The Panel concludes that Respondent has registered and used the Domain Names in bad faith. The Panel

incorporates its discussion above in the “Rights or Legitimate Interests” section. This is a clear case of cybersquatting, specifically within the meaning of the above-quoted Policy paragraph 4(b)(iv).

Complainant has established Policy 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 Domain Names <salejacquemus.com> and <shopjacquemus.xyz> be transferred to Complainant.

/Robert A. Badgley/

Robert A. Badgley

Sole Panelist

Date: October 20, 2022