

ADMINISTRATIVE PANEL DECISION

Jott Market & Distribution v. Mark Kean
Case No. D2022-3921

1. The Parties

Complainant is Jott Market & Distribution, France, represented by Fidal, France.

Respondent is Mark Kean, United States of America (“United States”).

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 19, 2022. On October 19, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On October 19, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to Complainant on October 23, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on October 24, 2022.

The Center verified that the Complaint together with the amendment to 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 Respondent of the Complaint, and the proceedings commenced on October 25, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 14, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on November 15, 2022.

The Center appointed Marina Perraki as the sole panelist in this matter on November 17, 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 French company active in the field of ready-to-wear clothing and in particular down jackets. It manufactures and sells since 2010 clothing and fashion accessories for men, women, and children, specializing in the design of clothing and particularly down jackets under the trademark JOTT and JUST OVER THE TOP. Complainant has more than 1,500 points of sale in France and abroad.

Complainant is the owner of JOTT trademarks in various countries and territories, including the international trademark registration No. 1486973, JOTT (figurative), registered on March 22, 2019, for goods and services in international classes 18, 25, and 35. Complainant is also the owner of various domain names for JOTT including <jott.gr>, <jott.co>, and <jott.pro>.

The Domain Name was registered on October 11, 2022, and leads to a website purportedly of Complainant selling ready-to-wear clothing and especially down jackets, using Complainant's JOTT trademark in texts on the website (the Website). Respondent's website contains no legal notice allowing it to be identified, while the contact email is constructed by using the Domain Name, namely "[...][@jottsolde.com](mailto:[...]@jottsolde.com)". The word DOUDOUNES which means down jackets in French appears predominantly on the Website. Down jackets are the key products of Complainant.

Complainant sent a cease and desist letter to Respondent, to which Respondent did not reply.

5. Parties' Contentions

A. Complainant

Complainant asserts that it has established all three elements required under paragraph 4(a) of the Policy for a transfer of the Domain Name.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

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

- (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 Domain Name incorporates Complainant's JOTT trademark in its entirety. This is sufficient to establish confusing similarity (*Magnum Piering, Inc. v. The Mudjackers and Garwood S. Wilson, Sr.*, WIPO Case No. [D2000-1525](#)).

The addition of the word “solde” (“soldes” means “sales” in French) does not prevent a finding of confusing similarity, as the JOTT trademark remains clearly recognizable within the Domain Name (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 1.8).

The generic Top-Level Domain (“gTLD”) “.com” is disregarded, as gTLDs typically do not form part of the comparison on the grounds that they are required for technical reasons (*Rexel Developpements SAS v. Zhan Yequn*, WIPO Case No. [D2017-0275](#); *Hay & Robertson International Licensing AG v. C. J. Lovik*, WIPO Case No. [D2002-0122](#)).

The Panel finds that the Domain Name is confusingly similar to Complainant’s JOTT trademark.

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

B. Rights or Legitimate Interests

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 Respondent of the dispute, Respondent’s 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) 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) Respondent is 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 Name.

Respondent has not submitted any response and has not claimed any such rights or legitimate interests with respect to the Domain Name. As per Complainant, Respondent was not authorized to register the Domain Name.

Respondent has not demonstrated any preparations to use, or has not used the Domain Name or a trademark corresponding to the Domain Name in connection with a *bona fide* offering of goods or services.

On the contrary, as Complainant demonstrated, the Domain Name was used to host the Website offering goods similar to those of Complainant and using Complainant’s trademark. A respondent’s use of a complainant’s mark to offer competing goods for its commercial gain would not support a claim to rights or legitimate interests ([WIPO Overview 3.0](#), section 2.5.3). Moreover, the disputed domain name carries a risk of implied affiliation to Complainant due to its incorporation of the JOTT trademark in its entirety, along with the descriptive addition of “solde” that conveys to Internet users the impression that the website connected to the disputed domain name will sell the Complainant’s goods, contrary to the fact. [WIPO Overview 3.0](#), section 2.5.1.

The Panel finds that these circumstances do not confer upon Respondent any rights or legitimate interests in respect of the Domain Name.

Complainant has established Policy, paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

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) 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) Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or

(iv) 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 Name in bad faith.

Because the JOTT mark had been used and registered by Complainant before the Domain Name registration, the Panel finds it more likely than not that Respondent had Complainant's mark in mind when registering the Domain Name (*Tudor Games, Inc. v. Domain Hostmaster*, Customer ID No. 09382953107339 dba *Whois Privacy Services Pty Ltd / Domain Administrator, Vertical Axis Inc.*, WIPO Case No. [D2014-1754](#); *Parfums Christian Dior v. Javier Garcia Quintas and Christiandior.net*, WIPO Case No. [D2000-0226](#)).

Respondent should have known about Complainant's rights, as such knowledge is readily obtainable through a simple browser search, also due to Complainant's nature of business, provided also online, namely online sales of clothing (see *Caesars World, Inc. v. Forum LLC*, WIPO Case No. [D2005-0517](#); *Compart AG v. Compart.com / Vertical Axis Inc.*, WIPO Case No. [D2009-0462](#)).

As regards bad faith use, Complainant demonstrated that the Domain Name was employed to host the Website which sells clothing items and in particular down jackets, which are the key products of Complainant, while using Complainant's trademark in text on the Website. Such use of a domain name to sell competing products and mislead Internet users expecting to find the Complainant constitutes evidence of a respondent's bad faith under paragraph 4(b)(iv) of the Policy.

Under these circumstances and on this record, the Panel finds that Respondent registered and used the Domain Name in bad faith.

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 disputed domain name <jottsolde.com> be transferred to Complainant.

/Marina Perraki/

Marina Perraki

Sole Panelist

Date: December 1, 2022