

ADMINISTRATIVE PANEL DECISION

Jacquemus SAS v. YUAN JIAFENG

Case No. D2023-1163

1. The Parties

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

The Respondent is YUAN JIAFENG, United States of America (“United States” or “US”).

2. The Domain Names and Registrar

The disputed domain names <jacquemusuk.shop> and <jacquemus.us.shop> are registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 15, 2023. On March 15, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On March 17, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names, which differed from the named Respondent (Registration Private, Domains By Proxy LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 20, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on March 22, 2023.

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 March 28, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 17, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 19, 2023.

The Center appointed Pablo A. Palazzi as the sole panelist in this matter on May 1, 2023. 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 is a French company that manufactures and markets clothing and fashion accessories under the trademark JACQUEMUS since the year 2013. The Complainant 's products are sold in 50 countries worldwide.

The Complainant is the owner of various JACQUEMUS trademarks registered worldwide, including the following:

- International registration No. 1211398, registered on February 5, 2014, for goods in classes 9, 18, and 25, designating, among others the United States;
- European Union registration No. 018080381, registered on October 18, 2019, for goods in classes 14, 24, and 28;
- International registration No. 1513829, registered on November 19, 2019 for goods in classes 14, 24, and 28, designating, among others, the United States.

The Complainant is also the owner of the domain name <jacquemus.com>, registered in 2010 and used to promote the Complainant's goods under its JACQUEMUS trademark.

The disputed domain names were both registered on February 13, 2023, and resolves to two websites offering for sale different types of products such as bags and sport suits.

5. Parties' Contentions

A. Complainant

The disputed domain names are confusingly similar to the Complainant's JACQUEMUS trademarks.

The Respondents have no rights or legitimate interests in respect of the disputed domain names.

The Respondents have no rights to the Complainant's marks and are not commonly known by the disputed domain names.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that the Complainant must prove each of the following elements with respect to each disputed domain name:

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

The burden of proof of each element is borne by the Complainant. The Respondent's default does not by itself mean that the Complainant is deemed to have prevailed. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.3.

A. Identical or Confusingly Similar

Based on the evidence presented, the Panel finds that the Complainant has rights in the JACQUEMUS trademarks.

The disputed domain name <jacquemusuk.shop> wholly incorporates the JACQUEMUS mark as its initial element. The disputed domain name <jacquemus.us.shop> wholly incorporates the JACQUEMUS mark as its initial element. Both disputed domain names also incorporate the geographic terms “UK” and “US” respectively. However, the addition of these terms does not avoid a finding of confusing similarity because the Complainant’s marks remain clearly recognizable within the disputed domain names. See [WIPO Overview 3.0](#), section 1.8.

For the above reasons, the Panel finds that the disputed domain names are each confusingly similar to a trademark in which the Complainant has rights. The Complainant has satisfied the first condition in paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets out the following circumstances which, without limitation, if found by the Panel, shall demonstrate that the Respondent has rights to, or legitimate interests in, a disputed domain name, for the purposes of paragraph 4(a)(ii) of the Policy:

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

With respect to the first circumstance set out above, the disputed domain names resolves to two websites offering for sale different types of products such as bags and sport suits.

It is clear from the Complaint that the Respondent has no license or authorization from the Complainant to use its trademarks. Regardless of whether the products offered for sale on the Respondent’s websites are genuine products from the Complainant, the websites did not display a disclaimer clarifying the lack of relationship between the Respondent, on one hand, and the Complainant and its related companies, on the other hand. Rather, the websites gave the false impression that they were operated by the Complainant’s related companies.

With regard to the second circumstance set out above, the Respondent is identified in the Registrar’s Whois database as “YUAN JIAFENG” for both disputed domain names. Even if this name is false, nothing on the record indicates that the Respondent has been commonly known by the disputed domain names.

With regard to the third circumstance set out above, the disputed domain names resolved to commercial websites. That is not a legitimate noncommercial or fair use of the disputed domain names.

In summary, the Panel considers that the Complainant has made a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain names. The Respondent failed to rebut that *prima facie* case because it did not respond to the Complaint.

Therefore, based on the record of this proceeding, the Complainant has satisfied the second element in paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that certain circumstances, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith. The fourth circumstance is as follows:

- (iv) by using the [disputed] domain name, [the respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the respondent's] website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of [the respondent's] website or location or of a product or service on [the respondent's] website or location.

As regards registration, the disputed domain names were registered on the same day by the Respondent containing the Complainant's trademark with the addition of a geographic terms "US" or "UK". In view of these circumstances, the Panel has reason to find that the Respondent had the Complainant's marks in mind when it registered the disputed domain names.

As regards use, the disputed domain names resolves to two websites offering for sale different types of products such as bags and sport suits. Given these circumstances and the findings in Section 6.2B above, the Panel considers that by using the disputed domain names, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its websites, by creating a likelihood of confusion with the Complainant's marks as to the source, sponsorship, affiliation, or endorsement of its websites and products on those websites within the terms of paragraph 4(b)(iv) of the Policy.

Therefore, the Panel finds that the disputed domain names have been registered and are being used in bad faith. The Complainant has satisfied the third element in paragraph 4(a) of the Policy.

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 names, <jacquemusuk.shop> and <jacquemus.us.shop>, be transferred to the Complainant.

/Pablo A. Palazzi/

Pablo A. Palazzi

Sole Panelist

Date: May 15, 2023