

ADMINISTRATIVE PANEL DECISION

Jupiter Investment Management Group Limited v. MD FIROZ JEWEL,
Jupiter Finance

Case No. D2023-1428

1. The Parties

The Complainant is Jupiter Investment Management Group Limited, United Kingdom, represented by Reddie & Grose, United Kingdom.

The Respondent is MD FIROZ JEWEL, Jupiter Finance, Singapore.

2. The Domain Name and Registrar

The disputed domain name <jupiter-finance.com> is registered with FastDomain, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 3, 2023. On April 4, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 4, 2023, 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 (Domain Privacy Service FBO Registrant) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 5, 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 April 13, 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 April 14, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 4, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 5, 2023.

The Center appointed Miguel B. O'Farrell as the sole panelist in this matter on May 10, 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, Jupiter Investment Management Group Limited ("JIMGL"), is a private limited company, incorporated under the laws of the United Kingdom and part of the JUPITER group of companies, which includes several other entities including Jupiter Asset Management Limited, Jupiter Unit Trust Managers Limited and Jupiter Fund Management Plc. References to the Complainant are references to JIMGL or one of the other entities that forms part of the JUPITER group of companies.

The Complainant is an established investment fund and asset management company. It was founded in 1985 and has since expanded to manage investments on behalf of institutional and retail investors around the world.

The Complainant uses JUPITER as its house brand in reference to its investment and asset management business and owns numerous trademark registrations for JUPITER, or containing JUPITER, in several jurisdictions worldwide, including the following.

- United Kingdom Trademark Registration No. 00002449502 JUPITER, registered on September 14, 2007 and renewed on March 14, 2027, in classes 35 and 36;
- China Trademark Registration No. 14.637.064 JUPITER, registered on August 14, 2017, in class 36;
- Australia Trademark Registration No. 1.996.578 JUPITER, registered on March 18, 2019, in class 36;
- Switzerland Trademark Registration No. 558.389 JUPITER, registered on May 16, 2021, in class 36;
- Chile Trademark Registration No. 1.361.536 JUPITER, registered on December 29, 2021 in class 36; and
- European Union Trademark Registration No. 641.712 JUPITER, registered on March 16, 1999, in classes 35 and 36.

The Complainant also owns the domain name <jupiteram.com> registered on July 24, 2002, which it uses to promote its services.

The disputed domain name was registered on July 8, 2021, and resolves to a website related to cryptocurrency trading. The website contains several references to services in the Complainant's field, such as "trading", "comprehensive trading capabilities", "buy or sell your assets", "digital asset market" and others.

5. Parties' Contentions

A. Complainant

The Complainant, in essence, claims that the disputed domain name is confusingly similar to the trademark JUPITER in which the Complainant has common law and registered rights and that the Respondent has no rights or legitimate interests in the disputed domain name, which was registered and is being used in bad faith.

More specifically, as far as the Complainant is aware, the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant has not authorized the Respondent to use the disputed domain name, nor is the Complainant connected with the Respondent. The Respondent is not making a legitimate non-commercial fair use of the disputed domain name, but on the contrary is seeking to confuse and mislead consumers, and free ride off the reputation and goodwill established in the Complainant's name and trademarks.

The Complainant's use and rights in the name and trademark JUPITER predate the date of registration of the disputed domain name by over three decades.

Finally, the Complainant requests the Panel to issue a decision ordering that the disputed domain name be transferred to the Complainant

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the disputed domain name, the Complainants must prove each of the following, namely that:

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

A. Identical or Confusingly Similar

As set forth in section 1.7 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") the standing test for confusing similarity involves a reasoned but relatively straightforward comparison between the trademark and the disputed domain name to determine whether the disputed domain name is confusingly similar with the trademark. The test involves a side-by-side comparison of the disputed domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name.

The Panel considers that the disputed domain name is confusingly similar to the Complainant's JUPITER trademark.

The disputed domain name incorporates the Complainant's trademark JUPITER in its entirety with the addition of a dash and the term "finance", which do not prevent a finding of confusing similarity.

Section 1.8 of [WIPO Overview 3.0](#) provides that when the relevant trademark is recognizable within the disputed domain name -as it occurs in this case- the addition of other terms would not prevent a finding of confusing similarity under the first element.

The ".com" generic Top-Level Domain ("gTLD") is viewed as a standard registration requirement and is generally disregarded under the first element confusing similarity test, as set forth in section 1.11.1 of [WIPO Overview 3.0](#).

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the trademark JUPITER in which the Complainant has rights and that the requirements of paragraph 4(a)(i) of the Policy are fulfilled.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, a respondent may establish rights to or legitimate interests in a domain name by demonstrating any of the following non-exclusive defenses:

- (i) before any notice to it of the dispute, the 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) the respondent has been commonly known by the domain name, even if it has acquired no trademark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain, to misleadingly divert consumers.

Although the Policy addresses ways in which a respondent may demonstrate rights or legitimate interests in a disputed domain name, it is well established, as it is put in section 2.1 of [WIPO Overview 3.0](#), that a complainant is required to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the domain name. Once such *prima facie* case is made, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

There is no evidence in the present case that the Respondent has been commonly known by the disputed domain name, enabling it to establish rights or legitimate interests therein.

Furthermore, there is no evidence in the file to prove any of the circumstances mentioned in paragraph 4(c) of the Policy, nor any other circumstances to suggest that the Respondent has rights or legitimate interests in the disputed domain name.

As established in section 2.5 of [WIPO Overview 3.0](#): "Fundamentally, a respondent's use of a domain name will not be considered 'fair' if it falsely suggests affiliation with the trademark owner; the correlation between a domain name and the complainant's mark is often central to this inquiry." Here, the nature of the disputed domain name carries a risk of implied affiliation.

The Panel finds that the Complainant has made out a *prima facie* case, a case calling for an answer from the Respondent. The Respondent has not responded and the Panel is unable to conceive of any basis upon which the Respondent could sensibly be said to have any rights or legitimate interests in respect of the disputed domain name.

The Panel finds that the Respondent has no rights nor legitimate interests in the disputed domain name and that the requirements of 4(a)(ii) of the Policy are fulfilled.

C. Registered and Used in Bad Faith

The Panel is satisfied that the Respondent must have been aware of the Complainant and its trademark JUPITER mentioned in paragraph 4 above ("Factual Background") when it registered the disputed domain name on July 8, 2021, many years after the Complainant had registered and used the JUPITER trademark.

In accordance with section 3.1.4 of [WIPO Overview 3.0](#), the Panel considers that the inclusion of the Complainant's JUPITER trademark in the disputed domain name creates a presumption of bad faith.

The Respondent when registering the disputed domain name has targeted the Complainant's trademark JUPITER and added the term "finance" to confuse Internet users and lead them to believe that the website to which the disputed domain name resolves is the official website of the Complainant, and thereby capitalize on the fame of the Complainant's trademark for its own monetary benefit.

The clear absence of rights or legitimate interests coupled with no credible explanation for the Respondent's choice of the disputed domain name is also a significant factor to consider that the disputed domain name was registered in bad faith (as stated in section 3.2.1 of [WIPO Overview 3.0](#)).

Furthermore, the fact that the website to which the disputed domain name resolves offers services related to those offered by the Complainant is evidence of bad faith use.

The Panel finds that the Respondent has registered and uses the disputed domain intentionally to attempt to attract for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's JUPITER trademark as to the source, sponsorship, affiliation, or endorsement. This amounts to bad faith under paragraph 4(b)(iv) 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 name <jupiter-finance.com> be transferred to the Complainant.

/Miguel B. O'Farrell/

Miguel B. O'Farrell

Sole Panelist

Date: May 15, 2023