

ADMINISTRATIVE PANEL DECISION

Meljac v. “Skat Pro” LLC
Case No. D2023-4911

1. The Parties

The Complainant is Meljac, France, represented by IPAZ Selarl, France.

The Respondent is “Skat Pro” LLC, Russian Federation.

2. The Domain Name and Registrar

The disputed domain name <meljac.pro> (the “Domain Name”) is registered with RU-CENTER-MSK (Regional Network Information Center, JSC dba RU-CENTER) (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 27, 2023. On November 27, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On November 28, 2023, the Registrar transmitted by email to the Center its verification response, confirming that the Respondent is listed as the registrant.

The Center verified that 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 the Respondent of the Complaint, and the proceedings commenced on December 14, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 3, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 8, 2024.

The Center appointed Piotr Nowaczyk as the sole panelist in this matter on January 24, 2024. 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 specialized in the manufacture of luxury electrical equipment, including brass switches and sockets.

The Complainant is the owner of numerous MELJAC trademark registrations, including:

- the International Trademark Registration for MELJAC (word) No. 904520, registered on July 13, 2006;
- the European Union Trademark Registration for MELJAC (word) No. 005013107, registered on March 1, 2007; and
- the French Trademark Registration for MELJAC (word) No. 3404241, registered on June 23, 2006.

The Complainant claims that it is also the owner of several domain names incorporating its MELJAC trademark, including <meljac.com>.

The Domain Name was registered on October 12, 2023.

As of the date of this Decision and at the time of submission of the Complaint, the Domain Name resolved to a website in Russian displaying the Complainant's trademark and purportedly offering for sale the Complainant's products (the "Website"). According to the Complainant, once the Internet user sends a request regarding the order of the Complainant's product via the Website, that customer is offered the goods of the Complainant's competitors.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

First, the Complainant submits that the Domain Name is identical to the trademark in which the Complainant has rights.

Second, the Complainant argues that the Respondent has neither rights nor legitimate interests in the Domain Name.

Third, the Complainant contends that the Domain Name was registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy places a burden on the Complainant to prove the presence of three separate elements, which can be summarized as follows:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in the Domain Name; and

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

The requested remedy may only be granted if the above criteria are met. At the outset, the Panel notes that the applicable standard of proof in UDRP cases is the “balance of probabilities” or “preponderance of the evidence”. See section 4.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”).

A. Identical or Confusingly Similar

Under the first element, the Complainant must establish that the Domain Name is identical or confusingly similar to the trademark in which the Complainant has rights.

The Complainant holds valid MELJAC trademark registrations. The Domain Name incorporates this trademark in its entirety. As numerous UDRP panels have held, incorporating a trademark in its entirety is sufficient to establish that a domain name is identical or confusingly similar to that trademark (see *PepsiCo, Inc. v. PEPSI, SRL (a/k/a P.E.P.S.I.) and EMS COMPUTER INDUSTRY (a/k/a EMS)*, WIPO Case No. [D2003-0696](#)).

The generic Top-Level Domain “.pro” in the Domain Name is viewed as a standard registration requirement and as such is disregarded under the first element test. See section 1.11.1 of the [WIPO Overview 3.0](#).

Given the above, the Panel finds that the Domain Name is identical to the Complainant’s MELJAC trademark for purposes of the Policy. Thus, the Complainant has satisfied the requirements under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under the second element, the Complainant must prove that the Respondent has no rights or legitimate interests in the Domain Name.

The Respondent may establish a right or legitimate interest in the Domain Name by demonstrating in accordance with paragraph 4(c) of the Policy any of the following:

- (i) that it has used or made 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 prior to the dispute; or
- (ii) that it is commonly known by the Domain Name, even if it has not acquired any trademark rights; or
- (iii) that it 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.

Although given the opportunity, the Respondent has not submitted any evidence indicating that any of the circumstances foreseen in paragraph 4(c) of the Policy are present in this case.

On the contrary, it results from the evidence on record that the Complainant’s MELJAC trademark registrations predate the Respondent’s registration of the Domain Name. There is no evidence in the case record that the Complainant has licensed or otherwise permitted the Respondent to use the MELJAC trademark or to register the Domain Name incorporating this trademark. There is also no evidence to suggest that the Respondent has been commonly known by the Domain Name.

Moreover, it results from the evidence on record that the Respondent does not make use of the Domain Name in connection with a bona fide offering of goods or services, nor does it make a legitimate noncommercial or fair use of the Domain Name. On the contrary, as of the date of this Decision, as well as at the time of submission of the Complaint, the Domain Name resolved to the Website in Russian purportedly offering for sale the Complainant’s products and displaying the MELJAC trademark together with the

Complainant's official product images. According to the Complainant, once the Internet user sends a request regarding the order of the Complainant's product via the Website, that customer is offered the goods of the Complainant's competitors. Such use of the Domain Name does not confer rights or legitimate interests on the Respondent.

The Respondent could make a bona fide offering of goods or services as a reseller or distributor of the Complainant's products, and thus have a legitimate interest in the Domain Name, if this use would have met certain requirements as set out in *Oki Data Americas, Inc. v ASD, Inc.*, WIPO Case No. [D2001-0903](#). While taking into consideration the composition (and use) of the Domain Name as compared to the trademark, which as expressed below impersonates the Complainant and thus cannot constitute fair use, the Panel will for completeness analyze the "fair use" factors enumerated under the above-referenced "Oki Data test". These requirements are that: (1) the Respondent must actually be offering the goods or services at issue; (2) the Respondent must use the Website to sell only the trademarked goods, otherwise, it could be using the trademark to bait Internet users and then switch them to other goods; (3) the Website must accurately disclose the Respondent's relationship with the trademark owner; and (4) the Respondent must not try to corner the market in all domain names, thus depriving the trademark owner of the possibility to reflect its own mark in the Domain Name.

In the present case, the above referred requirements are not met.

First, the Domain Name and the Website suggest at least an affiliation with the Complainant and its MELJAC trademark. The Panel believes that the use of the Complainant's trademark in the Domain Name and on the Website misleads consumers regarding the relationship between the Respondent and the Complainant, as Internet users may falsely believe that the Respondent is an official/endorsed distributor of the Complainant's products. At the same time, the relationship between the Respondent and the Complainant (or a lack thereof) is not disclosed on the Website. This further perpetuates the false impression of a relationship between the Respondent and the Complainant.

Second, the Complainant claims that once the Internet user sends a request regarding the order of the Complainant's product via the Website, that customer is offered the goods of the Complainant's competitors. The Respondent has not denied the Complainant's contentions. Thus, the Panel believes that the Respondent could be using the MELJAC trademark to bait Internet users and then switch them to other goods.

Finally, the composition of the Domain Name, identical to the MELJAC trademark, carries a high risk of implied affiliation. See section 2.5.1 of the [WIPO Overview 3.0](#).

Given the above, the Respondent has failed to invoke any circumstances, which could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights or legitimate interests in respect of the Domain Name. Thus, there is no evidence in the case file that refutes the Complainant's prima facie case. The Panel concludes that the Complainant has also satisfied the requirement under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Under the third element, the Complainant must prove that the Domain Name has been registered and is being used in bad faith.

Bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark. See section 3.1 of the [WIPO Overview 3.0](#).

Under paragraph 4(b) of the Policy, evidence of bad faith registration and use includes without limitation:

- (i) circumstances indicating the domain name was registered or acquired primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the owner of a trademark or to a competitor of the trademark owner, for valuable consideration in excess of the documented out-of-pocket costs directly related to the domain name; or

- (ii) circumstances indicating that the domain name was registered in order to prevent the owner of a trademark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) circumstances indicating that the domain name was registered primarily for the purpose of disrupting the business of a competitor; or
- (iv) circumstances indicating that the domain name has intentionally been used in an attempt to attract, for commercial gain, Internet users to a website or other online location, by creating a likelihood of confusion with a trademark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on a website or location.

As indicated above, the Complainant's rights in the MELJAC trademark predate the registration of the Domain Name. This Panel finds that the Respondent was or should have been aware of the Complainant's trademark at the time of registration. This finding is supported by the content of the Website allegedly offering for sale the Complainant's products and displaying the MELJAC trademark together with the Complainant's official marketing materials. Moreover, it has been proven to the Panel's satisfaction that the Complainant's MELJAC trademark is well known and unique to the Complainant. Thus, the Respondent could not reasonably likely ignore the reputation of goods under this trademark. In sum, the Respondent in all likelihood registered the Domain Name with the expectation of taking advantage of the reputation of the Complainant's MELJAC trademark.

In addition, the Panel notes that the Domain Name has been registered several days after the issuance and service of the decision in another UDRP proceedings involving the Parties, namely *MELJAC v. Skat Pro LLC*, WIPO Case No. [DME2023-0009](#). The Panel in that case found the abusive domain name registration on the part of the Respondent with respect to the disputed domain name <meljac.me>. Thus, the Respondent has engaged in the pattern of bad faith conduct.

Furthermore, the Domain Name has been used in bad faith by the Respondent to resolve to the Website. The Respondent presumably intended to earn profit from the confusion created among Internet users. In consequence, the Panel finds that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Website by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the Website.

For the reasons discussed above, the Panel finds that the Complainant has satisfied the requirements under paragraph 4(a)(iii) 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 Domain Name <meljac.pro> be transferred to the Complainant.

/Piotr Nowaczyk/

Piotr Nowaczyk

Sole Panelist

Date: January 31, 2024