

ADMINISTRATIVE PANEL DECISION

Les Grands Chais de France v. web master, Expired domain caught by auction winner.***Maybe for sale on Dynadot Marketplace***

Case No. D2024-0262

1. The Parties

The Complainant is Les Grands Chais de France, France, represented by Romy Boesch, France.

The Respondent is web master, Expired domain caught by auction winner.***Maybe for sale on Dynadot Marketplace***, Hong Kong, China.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 22, 2024. On January 22, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On February 22, 2024, 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 (web master, Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 23, 2024, 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 January 23, 2024.

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 January 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 15, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 21, 2024.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on February 23, 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 to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is French wholesale wine and spirits' merchant. It was founded in 1979. The Complainant employs more than 3.000 people. Its annual turnover in 2018 was 1,1 billion euros, 80% of which came from exports in more than 173 countries. One of its products is the wine brand JP. CHENET. It was launched in 1984. The product is set out in eight ranges of still wines, three ranges of sparkling wines and two of special wines. The wine is present almost all over the world. Recently, the Complainant has launched JP. CHENET FIZZY for sparkling wines sold in cans.

The Complainant is the registered owner of a large number of trademarks consisting or including the wording JP. CHENET, such as European Union trademark no. 018088423 (registered on October 12, 2019) and Hong Kong trademark no. 199609139 (registered on November 10, 1994). The Complainant has applied for a trademark in JP. CHENET FIZZY and device on August 25, 2023.

The Complainant owns domain names reflecting its trademark, such as <jpchenet.com> and <jpchenet.eu>.

The Domain Name was registered on August 29, 2023. The Complainant has documented that the Domain Name has been offered for sale for USD 2588 on a parked page. At the time of drafting the Decision, the Domain Name resolves to a parked page.

5. Parties' Contentions

A. Complainant

The Complainant provides evidence of trademark registrations and contends that the Domain Name is confusingly similar to the Complainant's trademarks as the Domain Name reproduces the entire trademark. The additional term "fizzy" is insufficient to avoid any likelihood of confusion.

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the Domain Name. The Complainant asserts that the Respondent has not been granted any authorization to use the Complainant's trademark. The Respondent is intentionally creating confusion and is not using the Domain Name to promote a bona fide offering of goods or services, nor to serve a noncommercial legitimate purpose. The Respondent never answered to the Complainant and has not uncovered any rights or legitimate interest in the Domain Name.

The Complainant believes that the Respondent knew or should have known of the Complainant's trademark. The Complainant's trademark is well known globally. Moreover, the composition of the Domain Name points to prior knowledge of the Complainant, as does the Respondent's concealment of identity and contact information. The Respondent has registered the Domain Name and put it directly for sale. The Complainant argues that it is clear that the Respondent has tried to take financial advantage and benefit from the Complainant's trademark.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the Domain Name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has established that it has rights in the trademark JP. CHENET. In this case, the Domain Name incorporates the Complainant's trademark with the addition of "fizzy". The addition does not prevent a finding of confusing similarity between the Domain Name and the trademark. [WIPO Overview 3.0](#), section 1.8. When assessing under paragraph 4(a)(i) of the Policy, the Panel may ignore the generic Top-Level Domain ("gTLD"); [WIPO Overview 3.0](#), section 1.11.1.

The Panel finds that the Domain Name is confusingly similar to a trademark in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which a respondent may demonstrate rights or legitimate interests in a disputed domain name. While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Based on the evidence, the Respondent is not affiliated or related to the Complainant in any way. There is no evidence that the Respondent has registered the Domain Name as a trademark or acquired trademark rights. There is no evidence of 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. The Respondent's use of the Domain Name is evidence of bad faith, see below. Finally, the Panel finds that the composition of the Domain Name carries a risk of implied affiliation with the Complainant.

The Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name in accordance with paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

The Respondent most likely knew of the Complainant when he registered the Domain Name. It follows from the composition and use of the Domain Name, and the fame of the Complainant. The Panel also notes that the Respondent registered the Domain Name only a few days after the Complainant applied for the trademark JP. CHENET FIZZY and this seems unlikely to be a mere coincidence and that the Respondent was not targeting the Complainant when registering the Domain Name. The Respondent's use of the Domain Name - offered for sale, see above - is clear evidence of bad faith. The Respondent has not offered any explanation to why it registered the Domain Name, nor provided any evidence of actual or contemplated good faith use of the Domain Name. It is implausible that the Respondent may put the Domain Name into any good faith use.

Based on the available record, the Panel finds that the Complainant has established the third element 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 the Domain Name <jpchenetfizzy.com> transferred to the Complainant.

/Mathias Lilleengen/

Mathias Lilleengen

Sole Panelist

Date: March 8, 2024