

ADMINISTRATIVE PANEL DECISION

Jacquemus SAS v. 士大夫 阿斯顿
Case No. D2024-0401

1. The Parties

1.1 The Complainant is Jacquemus SAS, France, represented by DBK Law Firm, France (the “Complainant”).

1.2 The Respondent is 士大夫 阿斯顿, United States of America (“United States” or “USA”) (the “Respondent”).

2. The Domain Name and Registrar

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

3. Procedural History

3.1 The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 29, 2024, regarding the Disputed Domain Name and other domain names. On January 30, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name and other domain names. On January 31, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Disputed Domain Name and other domain names which differed from the named Respondent (Not identified) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 1, 2024 with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar(s), requesting Complainant to either file separate complaint(s) for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all domain names are under common control. The Complainant filed an amended Complaint on February 13, 2024, removing other domain names from the proceeding.

3.2 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”).

3.3 In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on February 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 17, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 18, 2024.

3.4 The Center appointed Ike Ehiribe as the sole panelist in this matter on March 22, 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 Jacquemus SAS is a French company with its registered office in Paris registered with the Paris corporations register under identification number 793555368. The Complainant has manufactured and marketed clothing and fashion accessories since 2013 under the trademark JACQUEMUS. The JACQUEMUS trademark is well known worldwide in the fashion industry such that JACQUEMUS products are now sold in 50 countries around the world.

The Complainant is the owner of numerous trademarks in the world including: (1) the French trademark JACQUEMUS registered on April 18, 2014 under no. 4057016 in classes 9, 18, and 25; (2) the international trademark JACQUEMUS registered on February 5, 2014 under no. 1211398 in classes 9, 18, and 25; and (3) the international trademark JACQUEMUS registered on November 19, 2019 under no. 1513829 in classes 14, 24, and 28, designating among others the USA. The Complainant is also the owner of the domain name <jacquemus.com> which was registered in 2010.

The Respondent in this administrative proceeding is 士大夫 阿斯顿, based at an address in the United States. According to the Whois record, the Disputed Domain Name <jacquemuss.shop> was registered on November 7, 2023.

At the time of filing of the Complaint, the Disputed Domain Name resolved to a website with pay-per-click links. The Disputed Domain Name currently resolves to a parking page.

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 Disputed Domain Name.

Notably, the Complainant contends that the Disputed Domain Name consists wholly of the Complainant's JACQUEMUS trademark with the addition of the letter "s" and the generic Top-Level Domain ("gTLD") "shop". The Complainant asserts that the additional elements do not prevent a finding of confusing similarity. Therefore, the Disputed Domain Name will be certainly mistaken by Internet users as a website dedicated to purchasing the Complainant's products considering that the Complainant's trademark is clearly recognisable in the Disputed Domain Name. The Complainant therefore submits that numerous previous UDRP decisions have held that where a disputed domain name incorporates the entirety of a trademark or where a dominant feature of the relevant trademark is recognisable, the disputed domain name will be considered to be confusingly similar to that mark under the UDRP. See decisions in cases such as *Jacquemus SAS v. Peng Li*, WIPO Case No. [D2021-3296](#) regarding <jacquemusbagshop.com>.

Furthermore, it submitted that the gTLD would not normally be taken into account when conducting a confusing similarity enquiry following *GSI AISBL v. ding jian long, kun shan shi kian yin tong bao zhuang cai liao you xian gong si*, WIPO Case No. [D2020-3029](#). Therefore, it is asserted that the Disputed Domain Name is confusingly similar to the Complainant's JACQUEMUS trademark.

The Complainant further contends that the Respondent does not have any rights or legitimate interests in the Disputed Domain Name as the Complainant has never authorised the Respondent to register and or use the Disputed Domain Name nor did the Complainant permit the Respondent to include its JACQUEMUS trademark in any domain name. Therefore, the Respondent's unauthorised use of the Complainant's trademark does not qualify as a bona fide use following *Guerlain S.A. v. Peikang*, WIPO Case No. [D2000-0055](#).

With particular reference to bad faith registration and use, the Complainant identifies three main factors that demonstrates the Respondent created the Disputed Domain Name in bad faith and has continued to engage in bad faith use. First of all, the Complainant contends that since the Complainant's trademarks have acquired an extensive worldwide reputation already recognised in numerous previous UDRP decisions, the Respondent's choice of the Disputed Domain Name could not have been by mere coincidence, but seems to be a deliberate choice designed to generate a likelihood of confusion between the Disputed Domain Name and the Complainant's trademark. Secondly, since the Disputed Domain Name resolves to a parking page, that in itself is clear evidence of bad faith use if other relevant circumstances are also considered following *Tommy Bahama Group Inc v. Russell Pike*, WIPO Case No. [D2020-0502](#) and *Skyscanner Limited v. Kadeer Razeem*, WIPO Case No. [D2019-2825](#). See also WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 3.3. The third factor is the fact that the Respondent has deliberately hidden its identity as the Whois database indicates that the Respondent is anonymous. In addition the Complainant contends that after a search conducted on the Internet, it appears the address provided by the Respondent in registering the Disputed Domain Name does not exist; therefore the Complainant contends that the Respondent's willingness to remain anonymous demonstrates bad faith following *Farouk Systems Inc. v. David*, WIPO Case No. [D2009-1245](#).

B. Respondent

The Respondent did not reply to the Complainant's contentions, and therefore the Panel shall draw such adverse inferences from the failure of the Respondent to reply as deemed appropriate.

6. Discussion and Findings

A. Identical or Confusingly Similar

It is well accepted that 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 Disputed Domain Name. [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the Disputed Domain Name with an additional letter "s" and a gTLD "shop". The Panel finds the mark is recognisable within the Disputed Domain Name. Accordingly, the Disputed Domain Name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a Disputed Domain Name.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). 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.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the Disputed Domain Name. The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Disputed Domain Name such as those enumerated in the Policy or otherwise.

The Panel finds the second element of the Policy has been established.

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 Panel notes that the Disputed Domain Name is a misspelling of the Complainant’s well-known trademark JACQUEMUS (adding a letter “s” at the end of the trademark). Panels have consistently found that the mere registration of a domain name that is confusingly similar (particularly domain names comprising typos) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4.

The Disputed Domain Name, at the time of filing of the Complaint, resolved to a website displaying pay-per-click links. Such use constitutes bad faith. [WIPO Overview 3.0](#), section 3.5.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

The Disputed Domain Name currently resolves to a parking page without substantive content. Panels have found that the non-use of a domain name (including a blank or “coming soon” page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the Disputed Domain Name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant’s mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Complainant’s trademark, and the composition of the Disputed Domain Name, and finds that in the circumstances of this case the passive holding of the Disputed Domain Name does not prevent a finding of bad faith under the Policy.

The Panel finds that the Complainant has established the third element of the Policy.

7. Decision

7.1 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 <jacquemuss.shop> be transferred to the Complainant.

/Ike Ehiribe/

Ike Ehiribe

Sole Panelist

Date: April 5, 2024