

ADMINISTRATIVE PANEL DECISION

Jacquemus SAS v. Darline Bonilla
Case No. D2024-1331

1. The Parties

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

The Respondent is Darline Bonilla, United States of America.

2. The Domain Name and Registrar

The disputed domain name <jacquemusstore.shop> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 28, 2024, concerning two disputed domain names. On March 28, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 30, 2024, 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 (Redacted for privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 9, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Center sent an email communication to the Complainant on April 23, 2024, disclosing multiple underlying registrants revealed by the registrars and requesting the Complainant to either file a separate complaint for the disputed domain name associated with the different underlying registrant or alternatively, demonstrate that the underlying registrants are in fact the same entity. The Complainant filed an amended Complaint on April 25, 2024 concerning the disputed domain name <jacquemusstore.shop>.

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 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 16, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 27, 2024.

The Center appointed Gonalo M. C. Da Cunha Ferreira as the sole panelist in this matter on May 30, 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 the French company Jacquemus SAS which manufactures and markets since 2013 clothing and fashion accessories under the trademark JACQUEMUS which is known worldwide in the fashion industry and their products are sold in 50 different countries around the world.

The Complainant is the owner of JACQUEMUS numerous trademarks in the world, namely:

- International trademark JACQUEMUS registered on November 19, 2019, under no. 1513829 in classes 14, 24, and 28;
- European Union trademark JACQUEMUS registered on October 18, 2019, under no. 018080381 in classes 14, 24, and 28;
- French trademark JACQUEMUS registered on April 18, 2014, under No. 4057016 in classes 9, 18, and 25.

The Complainant is also the owner of the domain name <jacquemus.com> registered in 2010.

The disputed domain name <jacquemusstore.shop> registered on February 1, 2024.

According to the Complainant's evidence, the disputed domain name used to point to a website displaying the Complainant's JACQUEMUS trademark and selling alleged the Complainant's goods at heavily discounted prices (in some cases with an apparent 91% discount).

At the time of the Decision, the disputed domain name is active.

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:

1. is the owner of several trademarks in the world duly exploited notably for clothing in class 24 and 25.
2. JACQUEMUS trademarks are well-known throughout the world, notably in the fashion industry.
3. the disputed domain name <jacquemusstore.shop> consist of the trademarks in their entirety followed by the term "store" with the generic Top-Level ".shop".
4. the disputed domain name is confusingly similar to the Complainant's trademarks.
5. has never authorized the Respondent to register and/or use the disputed domain name. The Complainant has not granted any license, nor any authorization to use the trademarks, including as a domain name.
6. the Respondent has no rights or legitimate interests to use the disputed domain name.
7. the choice of the disputed domain name does not seem to be a mere coincidence, but on the contrary seems to have been done on purpose to generate a likelihood of confusion with the Complainant's domain name and their trademarks.

8. the use of the trademarks on a website which looks like JACQUEMUS original website and the selling of alleged counterfeit products, it is unquestionable that the Respondent use of trademarks has been done in bad faith.
9. the Respondent's willingness to remain anonymous, which demonstrates his bad faith.

B. Respondent

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

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 names. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[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. Accordingly, the disputed domain names is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other term here "store" may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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.

Furthermore, panels have held that the use of a domain name for illegal activity here, claimed sale of counterfeit goods can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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.

In the present case, the Panel notes that the Respondent had necessarily the Complainant's trademark in mind when it registered the disputed domain name, considering that the Complainant has established goodwill and reputation in the JACQUEMUS trademark, and that the disputed domain name incorporates that trademark in its entirety.

In fact, because of the use of the trademarks on a website which looks like JACQUEMUS original the Respondent knew or should have known of the Complainant's trademarks and deliberately registered the disputed domain names. [WIPO Overview 3.0](#), section 3.2.2. Such finding is reinforced by the fact that the Complainant submitted printouts showing that the disputed domain name resolves to a website displaying the Complainant's trademark and purportedly offering for sale the Complainant's products at heavily discounted prices. It appears therefore that the Respondent, by referring to the JACQUEMUS trademark in the disputed domain name, is trying to create a likelihood of confusion to attract, for commercial gain, Internet users to its own website. Accordingly, the Panel finds that the Respondent registered the disputed domain name with the Complainant in mind and with the intention of profit from the reputation of the Complainant's trademarks within the meaning of paragraph 4(b)(iv) of the Policy.

In addition, panels have held that the use of a domain name for illegal activity here, claimed sale of counterfeit constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

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 that the disputed domain name <jacquemusstore.shop> be transferred to the Complainant.

/Gonçalo M. C. Da Cunha Ferreira/

Gonçalo M. C. Da Cunha Ferreira

Sole Panelist

Date: June 13, 2024