

## **ADMINISTRATIVE PANEL DECISION**

**EPSE JOUECLUB Entente des Professionnels Spécialistes de l'Enfant v.  
Suzette Vargo  
Case No. D2024-2706**

### **1. The Parties**

The Complainant is EPSE JOUECLUB Entente des Professionnels Spécialistes de l'Enfant, France, represented by CMC Avocats, France.

The Respondent is Suzette Vargo, United States of America.

### **2. The Domain Name and Registrar**

The disputed domain name <jourclub.com> (the "Disputed Domain Name") is registered with GoDaddy.com, LLC (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on July 2, 2024. On July 3, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On July 3, 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 (Registration Private, Domains By Proxy, LLC, DomainsByProxy.com) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 4, 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 July 8, 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 July 9, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 29, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 31, 2024.

The Center appointed Flip Jan Claude Petillion as the sole panelist in this matter on August 6, 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, EPSE JOUECLUB Entente des Professionnels Spécialistes de l'Enfant, is a French company operating in the distribution of children's toys and games.

The Complainant is the owner of several JOUECLUB trademarks, including:

- French figurative mark registered under No. 1227507 on February 15, 1983, in class 28:



- JOUECLUB, Lebanese word mark registered under No. 122661 on June 22, 2009, in classes 28, 35 and 41;

- International figurative mark registered under No. 796389 on February 4, 2003, in class 28:



The Complainant operates the following domain names:

- <joueclub.fr>;
- <joueclub.com>.

The Disputed Domain Name was registered on January 4, 2024. The Disputed Domain Name resolves to a parking page of the Registrar, offering the Disputed Domain Name for sale.

#### 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.

First, the Complainant contends that the Disputed Domain Name is confusingly similar to a trademark in which it claims to have rights.

Second, the Complainant claims that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name, as, according to the Complainant:

- the Respondent does not own any registered rights in any trademarks which comprise part or all of the Disputed Domain Name;
- it has not licensed or otherwise permitted the Respondent or any other to use its JOUECLUB trademark in a domain name;
- the website linked to the Disputed Domain Name directs Internet users to a parking page;
- the Respondent is not known by the term "JourClub";
- the Respondent is not making a legitimate noncommercial or fair use of the Disputed Domain Name without intent of commercial gain; and

- the registration of the Disputed Domain Name appears to be “typosquatting”.

Finally, the Complainant claims that the Disputed Domain Name was registered and is being used in bad faith. According to the Complainant:

- the Disputed Domain Name was registered more than 41 years after the Complainant began to use the trademark JOUECLUB;
- the term “JourClub” is not generic or descriptive. Given the seniority and the notoriety of the JOUECLUB trademarks, there is a strong presumption that at the time of reserving the Disputed Domain Name, the Respondent was aware of the existence of the Complainant as well as its trademark JOUECLUB;
- the platform where the Internet users are directed is written in French, which is the native language of the Complainant – and not the language used at the Respondent’s location;
- the Respondent has intentionally sought to attract, for commercial purposes, Internet users to its website by creating a likelihood of confusion with the Complainant’s trademark as to the source, sponsorship, use or endorsement of the website;
- the Disputed Domain Name results from a process called “typosquatting”;
- the Disputed Domain Name is not in use but directs Internet users to the Registrar’s resales platform;
- the Disputed Domain Name is offered for sale for EUR 109,99. In such circumstances, it is more likely than not that the Respondent has registered the Disputed Domain Name primarily for the purpose of selling the Disputed Domain Name to the Complainant;
- the fact that the Respondent is currently receiving no revenue from the Pay-Per-Click (“PPC”) link on the parking page because the page in question seems to be a “free” parking page of the Registrar is not sufficient to rule out bad faith;
- the registration of the Disputed Domain Name is intended to mislead and divert consumers to the Disputed Domain Name; and
- the fact that the Disputed Domain Name does not point to any active website is likely to damage the Complainant’s reputation.

## **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 typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ([“WIPO Overview 3.0”](#)), section 1.7.

Based on the available record, the Panel finds 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 Panel finds the Disputed Domain Name is confusingly similar to the textual element of the Complainant’s JOUECLUB mark for the purposes of the Policy. The Disputed Domain Name appears to be a misspelling of the Complainant’s JOUECLUB trademark: the Disputed Domain Name incorporates the Complainant’s JOUECLUB trademark in its entirety except for the letter “e” that is replaced by the letter “r”. This practice is commonly referred to as “typosquatting”. The Panel finds that this small change does not prevent the Disputed Domain Name from being confusingly similar to the Complainant’s JOUECLUB mark. [WIPO Overview 3.0](#), section 1.9.

It is well established that generic Top-Level-Domains (“gTLDs”), here “.com”, may be disregarded when considering whether the Disputed Domain Name is confusingly similar to a trademark in which the Complainant has rights. [WIPO Overview 3.0](#), section 1.11.1.

Based on the available record, 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 notes that the Respondent has not apparently been commonly known by the Disputed Domain Name, and that the Respondent does not seem to have acquired trademark or service mark rights. According to the information provided by the Registrar, the Respondent is named “Suzette Vargo”.

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. In this case, the Panel finds that the Disputed Domain Name can be considered as virtually almost identical or confusingly similar to the Complainant’s JOUECLUB trademark as it incorporates the Complainant’s JOUECLUB trademark in its entirety except for the letter “e” that is replaced by the letter “r”. In the Panel’s view, although the Disputed Domain Name is composed of two dictionary words from the French language ‘jour’ and ‘club’, the combination of these terms as used in the Disputed Domain Name is not common. In the circumstances of this case, the Panel finds that this combination rather points to a subtle misspelling of the Complainant’s mark, especially when considering the fact that the letters “e” and “r” are next to each other on both QWERTY and AZERTY keyboards. The Panel finds that this subtle misspelling is intended to impersonate the Complainant, and there is a risk that Internet users will not notice the difference between such misspelling and the Complainant’s mark. See *Banque et Caisse d’Epargne de l’Etat, Luxembourg, v. Domain Admin, Whoisprotection.cc / hans larsson*, WIPO Case No. [D2022-1505](#).

Moreover, the Panel is of the opinion that the Respondent is not making a legitimate noncommercial or fair use of the Disputed Domain Name. In fact, the Disputed Domain Name simply resolves to a registrar-standard parked webpage offering the Disputed Domain Name for sale for EUR 109,99 . Given the nature of the Disputed Domain Name (misspelling the Complainant’s mark), the Panel finds that the offering for sale does not constitute a legitimate noncommercial or fair use of the Disputed Domain Name. See section 2.5.1 of the [WIPO Overview 3.0](#).

The Respondent had the opportunity to demonstrate its rights or legitimate interests but did not do so. In the absence of a Response from the Respondent, the prima facie case established by the Complainant has not been rebutted.

Based on the available record, 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 finds that the following circumstances serve as indication of bad faith registration and use:

- some of the Complainant's trademarks predate the registration of the Disputed Domain Name by more than 20 years;
- the Complainant proves its JOUECLUB trademark benefits from a certain degree of notoriety; and
- the Disputed Domain Name consists of a misspelling of the Complainant's trademark and resolves to a parking page of the Registrar offering the Disputed Domain Name for sale. The Panel holds, based on the balance of probabilities, that the misspelling of the Complainant's mark in the Disputed Domain Name is a form of typosquatting, which is in an attempt to impersonate and target on the Complainant's domain name <jouclub.com> and is further evidence of bad faith. See *ESPN, Inc. v. XC2*, WIPO Case No. [D2005-0444](#); *WestJet Airlines Ltd. v. Taranga Services Pty Ltd*, WIPO Case No. [D2010-1814](#); and *Compagnie Générale des Etablissements Michelin v. Terramonte Corp, Domain Manager*, WIPO Case No. [D2011-1951](#).

Finally, the Respondent did not formally take part in the administrative proceedings. According to the Panel, this serves as additional indication of the Respondent's bad faith.

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 that the Disputed Domain Name <jourclub.com> be transferred to the Complainant.

*/Flip Jan Claude Petillion/*

**Flip Jan Claude Petillion**

Sole Panelist

Date: August 19, 2024