

ADMINISTRATIVE PANEL DECISION

JConcepts, Inc. v. Guangze Chen
Case No. D2023-1225

1. The Parties

The Complainant is JConcepts, Inc., United States of America (“United States”), represented by Upscale Law, LLC, United States.

The Respondent is Guangze Chen, China.

2. The Domain Name and Registrar

The disputed domain name <jconceptspart.com> is registered with Name.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 21, 2023. On March 21, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 22, 2023, 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 (Whois Agent, Domain Protections Services, Inc.) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 24, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed the amendments to the Complaint on March 28, and April 8, 2023.

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 11, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 1, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 4, 2023.

The Center appointed Miguel B. O'Farrell as the sole panelist in this matter on May 11, 2023. 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 Florida based Radio Control (R/C) design and manufacturing company founded in 2001 and claims to have been manufacturing and selling quality bodies, tires, wheels and accessories to R/C racers around the world using the name JConcepts since at least 2003.

The Complainant is the owner of United States Trademark Registration No. 4,022,603 JCONCEPTS as used in connection with "Toy cars and parts and accessories therefore; Toy trucks and parts and accessories therefore", registered on September 6, 2011, in class 28, with a claimed date of first use in commerce of October 1, 2003.

Also, the Complainant currently maintains a website at <jconcepts.net> first registered on August 2, 2001, where it sells a wide variety of R/C bodies, tires, wheels and accessories and also features a "JConcepts Video Blog" where the founder of JConcepts posts videos on topics of interest and discusses developments in the R/C community.

The Complainant sponsors a JConcepts Race Team to promote products manufactured by the Complainant. Members of the race team compete in R/C racing events throughout the United States and the world.

The disputed domain name <jconceptspart.com> was registered on December 7, 2022 and resolves to a website purporting to offer for sale R/C parts and accessories at discounted prices which the Complainant believes to be counterfeit.

5. Parties' Contentions

A. Complainant

The Complainant, in essence, claims that the disputed domain name is confusingly similar to the trademark JCONCEPTS in which the Complainant has common law and registered rights and that the Respondent has no rights or legitimate interests in the disputed domain name, which was registered and is being used in bad faith.

More specifically, there is no relationship between the Respondent and the Complainant. The Respondent is neither licenced by the Complainant or otherwise authorized to use the Complainant's JCONCEPTS mark or to sell its R/C products.

The disputed domain name leads to a separate but very similar website offering for sale R/C parts and accessories which the Complainant believes to be counterfeit.

The Respondent's use of the disputed domain name and the Complainant's logo deliberately infringes upon the Complainant's trademark rights and trades on the substantial goodwill the Complainant has developed in its mark to drive web traffic to the Respondent's website for generating revenue that would otherwise would be made by the Complainant.

Finally, the Complainant requests the Panel to issue a decision ordering that the disputed domain name be transferred to the Complainant.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the disputed domain name, the Complainant must prove each of the following, namely that:

- (i) the disputed domain name is identical or confusingly similar with a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name was registered and is being used in bad faith.

A. Identical or Confusingly Similar

As set forth in section 1.7 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") the standing test for confusing similarity involves a reasoned but relatively straightforward comparison between the trademark and the disputed domain name to determine whether the disputed domain name is confusingly similar with the trademark. The test involves a side-by-side comparison of the disputed domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name.

The Panel considers that the disputed domain name is confusingly similar with the Complainant's JCONCEPTS trademark.

The disputed domain name incorporates the Complainant's trademark JCONCEPTS in its entirety with the addition of the term "part", which does not prevent a finding of confusing similarity. Section 1.8 of [WIPO Overview 3.0](#) provides that when the relevant trademark is recognizable within the disputed domain name - as it occurs in this case- the addition of a term would not prevent a finding of confusing similarity under the first element.

The ".com" generic Top-Level Domain ("gTLD") is viewed as a standard registration requirement and is generally disregarded under the first element confusing similarity test, as set forth in section 1.11.1 of [WIPO Overview 3.0](#).

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the trademark JCONCEPTS in which the Complainant has rights and that the requirements of paragraph 4(a)(i) of the Policy are fulfilled.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, a respondent may establish rights to or legitimate interests in a domain name by demonstrating any of the following non-exclusive defenses:

- (i) before any notice to it of the dispute, 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; or
- (ii) the respondent has been commonly known by the domain name, even if it has acquired no trademark or service mark rights; or

(iii) the respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain, to misleadingly divert consumers.

Although the Policy addresses ways in which a respondent may demonstrate rights or legitimate interests in a disputed domain name, it is well established, as it is put in section 2.1 of [WIPO Overview 3.0](#), that a complainant is required to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the domain name. Once such *prima facie* case is made, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

There is no evidence in the present case that the Respondent has been commonly known by the disputed domain name, enabling it to establish rights or legitimate interests therein.

Furthermore, there is no evidence in the file to prove any of the circumstances mentioned in paragraph 4(c) of the Policy, nor any other circumstances to suggest that the Respondent has rights or legitimate interests in the disputed domain name.

Likewise, and as further discussed under Section 6.C of this Decision, it does not seem that the Respondent is making any legitimate noncommercial or fair use of the disputed domain name.

As established in section 2.5 of [WIPO Overview 3.0](#): “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.” Here, the nature of the disputed domain name carries a risk of implied affiliation.

The Panel finds that the Complainant has made out a *prima facie* case, a case calling for an answer from the Respondent. The Respondent has not responded and the Panel is unable to conceive of any basis upon which the Respondent could sensibly be said to have any rights or legitimate interests in respect of the disputed domain name (*Telstra Corporation Ltd. v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)).

The Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name and that the requirements of paragraph 4(a)(ii) of the Policy have been fulfilled.

C. Registered and Used in Bad Faith

The Panel is satisfied that the Respondent must have been aware of the Complainant and the Complainant’s trademark JCONCEPTS mentioned in Section 4 above (Factual Background) when it registered the disputed domain name on December 7, 2022.

In accordance with section 3.1.4 of [WIPO Overview 3.0](#), the Panel considers that the inclusion of the Complainant’s JCONCEPTS trademark in the disputed domain name creates a presumption of bad faith.

The Complainant has submitted evidence to support that the trademark JCONCEPTS mentioned in Section 4 above was registered and widely used many years before the Respondent registered the disputed domain name.

The Respondent when registering the disputed domain name has targeted the Complainant’s trademark JCONCEPTS with the intention to confuse Internet users and capitalize on the fame of the Complainant’s name and trademark.

The addition of the term “part” to the Complainant’s trademark JCONCEPTS in the disputed domain name only contributes to create confusion among Internet consumers which could think that the website to which the disputed domain name resolves belongs to or is sponsored by the Complainant.

The clear absence of rights or legitimate interests coupled with no credible explanation for the Respondent's choice of the disputed domain name is also a significant factor to consider that the disputed domain name was registered in bad faith (as stated in section 3.2.1 of [WIPO Overview 3.0](#)).

The Panel finds that the Respondent has registered and uses the disputed domain name in bad faith and that the requirements of paragraph 4(a)(iii) of the Policy have been fulfilled.

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, <jconceptspart.com>, be transferred to the Complainant.

/Miguel B. O'Farrell/

Miguel B. O'Farrell

Sole Panelist

Date: May 25, 2023