

## **ADMINISTRATIVE PANEL DECISION**

J. Crew International, Inc. v. shilei and Huade Wang  
Case No. D2022-1580

### **1. The Parties**

The Complainant is J. Crew International, Inc., United States of America (“United States”), represented by Cowan, Liebowitz & Latman, P.C., United States.

The Respondents are shilei, China; and Huade Wang, China.

### **2. The Domain Names and Registrars**

The disputed domain names <jcrewrewards.com>, <jcrewwards.com>, <jcrewreards.com>, <jcrewrewads.com>, <jcrewrewars.com>, <jcrewrewrds.com>, <jcrewwards.com>, and <jcrewwwrewards.com> are registered with DNSPod, Inc. The disputed domain name <wwwjcrewrewards.com> is registered with NameSilo, LLC. DNSPod, Inc. and NameSilo, LLC are separately and collectively referred to below as the “Registrar”.

### **3. Procedural History**

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on May 1, 2022. On the following day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On May 2 and 7, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names that differed from the Respondent and contact information in the Complaint. On May 7, 2022, the Center sent an email communication to the Complainant 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 in English on May 10, 2022.

On May 7, 2022, the Center also transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On May 9, 2022, the Complainant submitted a request that English be the language of the proceeding. The Respondents did not comment on the language of the proceeding.

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 Respondents in English and Chinese of the Complaint, and the proceeding commenced on May 13, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 2, 2022. The Respondents did not submit any response. Accordingly, the Center notified the Respondents’ default on June 5, 2022.

The Center appointed Matthew Kennedy as the sole panelist in this matter on June 15, 2022. 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 retailer of fashion apparel and accessories. The Complainant owns multiple trademarks, including the following:

- United States trademark registration number 1,308,888 for J. CREW, registered on December 11, 1984, specifying goods and services in classes 18, 25 and 42, with a claim of first use in commerce on December 30, 1982 for services in class 42, and first use in commerce on January 6, 1983 for goods in classes 18 and 25;
- United States trademark registration number 5,744,918 for J. CREW REWARDS, registered on May 7, 2019 with a claim of first use in commerce on July 31, 2018, specifying services in class 35, and disclaiming the exclusive right to the word “rewards” apart from as shown in the mark.

The above trademark registrations remain current. According to corporate regulatory filings provided by the Complainant, its revenues from the J. CREW brand in fiscal year 2018 were over USD 1.7 billion. The Complainant has also registered the domain name <jcrew.com> (registered on December 16, 1994) that it uses in connection with an online store where it offers its products for sale. The website prominently displays the J. CREW mark and includes a page dedicated to its customer loyalty program that displays the J. CREW REWARDS mark.

The Respondents are named as two individuals both resident in China.

Apart from the disputed domain name <wwwjcrewrewards.com> registered on September 29, 2021, the remaining disputed domain names were all registered on September 30, 2021. They resolve to landing pages displaying pay-per-click (“PPC”) links including, in six cases, clothing stores or retailers and, in one case, loyalty programs.

#### **5. Parties’ Contentions**

##### **A. Complainant**

The disputed domain names are confusingly similar to the Complainant’s J. CREW mark and J. CREW REWARDS mark. The marks are deliberately misspelt or have additional letters in the disputed domain names.

The Respondents have no rights or legitimate interests in respect of the disputed domain names. The Respondents do not engage in any legitimate business under the disputed domain names. The Respondents are not commonly known by the disputed domain names. The Respondents are not licensees of the Complainant nor have they ever been authorized by the Complainant to register or use its marks, much less the disputed domain names.

The disputed domain names were registered and are being used in bad faith. The Respondents registered the disputed domain names with knowledge of the Complainant's pre-existing rights in the J. CREW mark and J. CREW REWARDS mark. The Respondents are using the disputed domain names to redirect Internet users to "parking" websites, which contain links to third-party businesses.

## **B. Respondents**

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

## **6. Discussion and Findings**

### **6.1 Preliminary Issues**

#### **A. Consolidation: Multiple Domain Name Registrants**

The amended Complaint initiates disputes in relation to two nominally different domain name registrants. The Complainant alleges that the disputed domain name registrants are under common control and requests consolidation of the disputes against them both pursuant to paragraph 10(e) of the Rules. The disputed domain name registrants did not comment on the Complainant's request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder. However, the Panel does not consider that paragraph 3(c) of the Rules was intended to enable a single person or entity to put a complainant to the unnecessary time, expense and effort of initiating multiple proceedings against technically different domain name registrants, particularly when each registration raises the same issues. In addressing the Complainant's request, the Panel will consider whether: (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See *Speedo Holdings B.V. v. Programmer, Miss Kathy Beckerson, John Smitt, Matthew Simmons*, WIPO Case No. [D2010-0281](#) and WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2.

As regards common control, the registrant of eight disputed domain names is the same person (*i.e.*, shilei) while the other disputed domain name (*i.e.*, <www.jcrewrewards.com>) is registered in a different name (*i.e.*, Huade Wang). The Panel notes that eight disputed domain names were registered on the same day, and the other disputed domain name <www.jcrewrewards.com> was registered one day earlier, and they all resolve to landing pages in an identical format evidently provided by the same hosting company. All nine disputed domain names incorporate a version (usually misspelt) of the same phrase (*i.e.*, jcrewrewards). In these circumstances, the Panel is persuaded that all nine disputed domain names are under common control.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes regarding shilei and Huade Wang (referred to below collectively and separately as the "Respondent") would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the Complaint regarding all nine disputed domain names.

#### **B. Language of the Proceeding**

Paragraph 11(a) of the Rules provides that "unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding". The Registrar confirmed that the Registration Agreements for the eight disputed domain names registered with DNSPod, Inc. are in Chinese while the Registration Agreement for the other disputed domain name registered with NameSilo, LLC is in English.

The Complainant requests that the language of the proceeding be English. Its main arguments are that the disputed domain names contain English words and resolve to landing pages in English, while translation of the Complaint would result in additional costs for the Complainant and delay the proceeding.

Paragraph 10(b) and (c) of the Rules require the Panel to ensure that the Parties are treated with equality, that each Party is given a fair opportunity to present its case and that the administrative proceeding take place with due expedition. Prior UDRP panels have decided that the choice of language of the proceeding should not create an undue burden for the Parties. See *Solvay S.A. v. Hyun-Jun Shin*, WIPO Case No. [D2006-0593](#); *Whirlpool Corporation, Whirlpool Properties, Inc. v. Hui'erpu (HK) electrical appliance co. ltd.*, WIPO Case No. [D2008-0293](#).

The Panel observes that the Complaint and amended Complaint in this proceeding were filed in English. Despite the Center having sent an email regarding the language of the proceeding, and the Notification of the Complaint and the Written Notice documents, in both Chinese and English, the Respondent did not comment on the language of the proceeding or express any interest in otherwise participating in this proceeding. Further, the Registration Agreement for one disputed domain name is in English, indicating that the Respondent understands that language, and the Panel has found in Section 6.1A above that all the disputed domain names are under common control. Therefore, the Panel considers that requiring the Complainant to translate the Complaint into Chinese would create an undue burden and delay whereas accepting the Complaint in English does not cause prejudice to either Party.

Having considered all the circumstances above, the Panel determines under paragraph 11(a) of the Rules that the language of this proceeding is English.

## **6.2 Substantive Issues**

Paragraph 4(a) of the Policy provides that the Complainant must prove each of the following elements with respect to each disputed domain name:

- (i) the disputed domain name is identical or confusingly similar to 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 has been registered and is being used in bad faith.

### **A. Identical or Confusingly Similar**

Based on the evidence presented, the Panel finds that the Complainant has rights in the J. CREW mark and the J. CREW REWARDS mark. For the purposes of this Decision, it suffices to compare the disputed domain names with the latter mark only.

The operative element of all but one of the disputed domain names is an obvious misspelling of the J. CREW REWARDS mark (minus the period after the “j”) that omits one letter (being a different letter in each case) or reverses two letters or duplicates a letter. These are examples of “typosquatting”. See [WIPO Overview 3.0](#), section 1.9. The J. CREW REWARDS mark remains almost entirely recognizable within these eight disputed domain names.

The other disputed domain name (<wwwjcrewrewards.com>) incorporates the J. CREW REWARDS mark (minus the period after the “j”), preceded only by the letters “www”. The addition of the prefix “www” without a period is a common typographical error in a URL. See *Compagnie Gervais Danone, Bonafont S.A de C.V v. PrivacyProtect.org*, WIPO Case No. [D2009-1659](#). The J. CREW REWARDS mark (minus the period) remains clearly recognizable within the disputed domain name.

The only additional element in all the disputed domain names is a generic Top-Level Domain (“gTLD”) extension (“.com”). As a mere standard requirement of domain name registration, this element may be disregarded in the comparison between the disputed domain names and the Complainant’s J. CREW REWARDS mark.

Therefore, the Panel finds that the disputed domain names are confusingly similar to a trademark in which the Complainant has rights. The Complainant has satisfied the first element in paragraph 4(a) of the Policy.

### **B. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy sets out the following circumstances which, without limitation, if found by the Panel, shall demonstrate that the respondent has rights to, or legitimate interests in, a disputed domain name, for the purposes of paragraph 4(a)(ii) of the Policy:

- (i) before any notice to [the respondent] of the dispute, [the respondent’s] use of, or demonstrable preparations to use, the [disputed] domain name or a name corresponding to the [disputed] domain name in connection with a *bona fide* offering of goods or services; or
- (ii) [the respondent] (as an individual, business, or other organization) [has] been commonly known by the [disputed] domain name, even if [the respondent has] acquired no trademark or service mark rights; or
- (iii) [the respondent is] making a legitimate noncommercial or fair use of the [disputed] domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

As regards the first circumstance set out above, each of the disputed domain names is evidently designed to attract Internet users who make a typographical error in or with the Complainant’s J. CREW REWARDS mark in a URL. Each disputed domain name resolves to a landing page that displays PPC links. The Complainant submits that the Respondent is not its licensee nor has the Respondent ever been authorized by the Complainant to register or use the disputed domain names. Accordingly, the Panel finds that this is not a use of the disputed domain names in connection with a *bona fide* offering of goods or services.

As regards the second circumstance, the Registrar has confirmed that the Respondent’s name is “shilei” or “Huade Wang”, not any of the disputed domain names. There is no evidence that the Respondent has been commonly known by any of the disputed domain names.

As regards the third circumstance, each disputed domain name resolves to a landing page displaying PPC links either for the commercial gain of the Respondent, if he is paid to direct traffic to the linked pages, or the operators of the linked websites, or both. They are all examples of typosquatting. This is not a legitimate noncommercial or fair use.

In view of the above circumstances, the Panel considers that the Complainant has made a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain names. The Respondent did not rebut that *prima facie* case because he did not respond to the Complaint.

Therefore, based on the record of this proceeding, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain names. The Complainant has satisfied the second element in paragraph 4(a) of the Policy.

### **C. Registered and Used in Bad Faith**

Paragraph 4(b) of the Policy provides that certain circumstances, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith. The fourth circumstance is as follows:

(iv) by using the [disputed] domain name, [the respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the respondent's] web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of [the respondent's] web site or location or of a product or service on [the respondent's] web site or location.

The disputed domain names were registered in 2021, after the Complainant acquired its registered trademark rights in J. CREW REWARDS. The operative element of eight disputed domain names is an obvious misspelling of that trademark while the other disputed domain name incorporates that mark (minus the period) in combination with the prefix "www" without a period, which is a common typographical error in a URL. The J. CREW REWARDS mark is an arbitrary combination of a name and a word. There appears to be no other reason to register the disputed domain names than to attract Internet users who are searching for the Complainant and its services and inadvertently make a typographical error in their browser. This all gives the Panel reason to find that the Respondent had the Complainant's mark in mind when he registered the disputed domain names.

The disputed domain names are used to attract Internet users who make a typographical error when typing the Complainant's J. CREW REWARDS mark in an Internet browser by creating a likelihood of confusion with that mark as to the source, sponsorship, affiliation, or endorsement of the webpages to which the disputed domain names resolve. This use is intentional and for the commercial gain of the Respondent, if he is paid to direct traffic to the linked websites, or the operators of the linked websites, or both. In each of these scenarios, the facts fall within the circumstance described in paragraph 4(b)(iv) of the Policy.

Therefore, the Panel finds that the disputed domain names have been registered and are being used in bad faith. The Complainant has satisfied the third element in paragraph 4(a) 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 names <jcrewerwards.com>, <jcrewwards.com>, <jcrewreards.com>, <jcrewrewads.com>, <jcrewrewars.com>, <jcrewrewrds.com>, <jcrewwards.com>, <jcrewrewards.com>, and <wwwjcrewrewards.com> be transferred to the Complainant.

*/Matthew Kennedy/*

**Matthew Kennedy**

Sole Panelist

Date: June 29, 2022