

## **ADMINISTRATIVE PANEL DECISION**

JPW Industries Inc. v. Fvxcsh Evcw

Case No. D2023-0903

### **1. The Parties**

The Complainant is JPW Industries Inc., United States of America (“United States” or “U.S.”), represented by Waller Lansden Dortch & Davis, LLP, United States.

The Respondent is Fvxcsh Evcw, China.

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

The disputed domain names <jettoolsoutlet.com> and <jetwoodworking.store> are registered with Name.com, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 28, 2023. On March 1, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On March 2, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Domain Protection Services, Inc) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 3, 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 an amendment to the Complaint on March 6, 2023.

The Center verified that the Complaint together with the amendment to the 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 March 14, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 3, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 6, 2023.

The Center appointed George R. F. Souter as the sole panelist in this matter on April 17, 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 U.S. corporation which has been trading in tools, tool accessories and other material-handling products under its JET trademark since 1960. The Complainant trades in the United States and internationally, and is the proprietor of various registrations of its JET trademark, including U.S. registration number 713132, registered on March 28, 1961, and International trademark registration number 806142, registered on October 23, 2002.

The disputed domain names were registered on August 12, 2022, and resolve to websites in which goods confusingly similar to those traded in by the Complainant are offered for sale.

#### **5. Parties' Contentions**

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

The Complainant alleges that the disputed domain names are confusingly similar to its JET trademark, containing its JET trademark in its entirety, together with mere descriptive or non-distinctive elements.

The Complainant alleges that the Respondent lacks rights or legitimate interests in the disputed domain names, in particular that the Respondent is not generally known by either of the disputed domain names, and that the Complainant has never granted permission to the Respondent to use its JET trademark in connection with the registration of a domain name, or otherwise.

The Complainant alleges that the disputed domain names were registered in bad faith, and are being used in bad faith, in connection with the websites described above.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

Paragraph 4(a) of the Policy lists three elements that the Complainant must prove to merit a finding that the disputed domain name be transferred to the Complainant;

- (i) the disputed domain names are 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 names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

### **A. Confusing similarity**

The Panel finds that the Complainant has rights to JET trademark for the purposes of these proceedings.

It is well established in prior decisions under the UDRP, with which the Panel agrees, that a generic Top-Level Domain (“gTLD”) may generally be disregarded when comparing a trademark with a disputed domain name. The Panel considers the “.com” and “.store” gTLDs to be irrelevant in the circumstances of the present case, and finds that they may be disregarded here.

The Complainant’s JET trademark is clearly recognizable in both disputed domain names, rendering the disputed domain names confusingly similar to the Complainant’s trademark. The additional terms, “outlet” and “woodworking”, in either disputed domain name do not prevent this finding.

Accordingly, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy in connection with the disputed domain names at issue.

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

The Panel considers that the Complainant’s allegations are sufficient to provide a *prima facie* case under this heading.

It is the consensus view of UDRP panels, with which the Panel agrees, that a *prima facie* case advanced by the complainant will generally be sufficient for the complainant to be deemed to have satisfied the requirement of paragraph 4(a)(ii) of the Policy, provided the respondent does not come forward with evidence demonstrating rights or legitimate interests in a domain name and the complainant has presented a sufficient *prima facie* case to succeed under paragraph 4(a)(ii) of the Policy.

The Respondent did not advance any claim of rights or legitimate interests in either disputed domain name to rebut this *prima facie* case. Moreover, the use of the confusingly similar disputed domain names to mislead unsuspecting Internet users expecting to find the Complainant to websites offering competing products does not amount to a *bona fide* offering and does not vest in the Respondent any rights or legitimate interests.

Accordingly, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(ii) of the Policy.

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

The Panel is of the view that the finding that a respondent has no rights or legitimate interests in a disputed domain name can lead, in appropriate circumstances, to a finding of registration of a disputed domain name in bad faith. The circumstance of the present case, in which the Panel regards it as self-evident that the Complainant’s JET trademark was deliberately appropriated in the disputed domain names are such that the Panel concludes that a finding of registration in bad faith is justified, in connection with the disputed domain names and so finds.

It is well-established in prior decisions under the Policy, that the use of a disputed domain name in connection with a website offering goods for sale competing with those offered by a complainant constitutes use of the disputed domain name in bad faith, and, in the circumstances of the present case, the Panel so finds.

Accordingly, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(iii) 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, <jettoolsoutlet.com> and <jetwoodworking.store>, be transferred to the Complainant.

*/George R. F. Souter/*

**George R. F. Souter**

Sole Panelist

Date: May 1, 2023