

## **ADMINISTRATIVE PANEL DECISION**

JACQUEMUS SAS v. Registration Private, Domains By Proxy, LLC / Wen Qi  
Case No. D2022-2537

### **1. The Parties**

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

The Respondent is Registration Private, Domains By Proxy, LLC, United States of America / Wen Qi, China.

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

The disputed domain name <newjacquemus.xyz> 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 12, 2022. On July 12, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 13, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on July 20, 2022, 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 26, 2022.

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 27, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 16, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 18, 2022.

The Center appointed Kiyoshi Tsuru as the sole panelist in this matter on August 29, 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 French company in the apparel business since 2013, whose products are sold in 50 different countries around the world.

The Complainant is the owner of several trademark registrations around the world, among others, the following:

Trademark	No. Registration	Jurisdiction	Date of Registration
JACQUEMUS	4057016	France	December 24, 2013
JACQUEMUS	018080381	European Union	October 18, 2019
JACQUEMUS	1211398	International Registration	February 5, 2014
JACQUEMUS	1513829	International Registration	November 19, 2019

The Complainant owns the domain name <jacquemus.com>, registered in 2010.

The Respondent registered the disputed domain name on May 6, 2022, which resolves to a website that operates an online store that offers apparel products.

#### 5. Parties' Contentions

##### A. Complainant

###### I. Identical or Confusingly Similar

That the Complainant owns trademark registrations in classes 18, 24, and 25, among others.

That the disputed domain name is phonetically and visually highly similar to the Complainant's trademark since it includes the trademark in its entirety. Additionally, it adds the term "new" which does not prevent a finding of confusing similarity.

That the use of the disputed domain name leads the public into believing that the disputed domain name is owned by the Complainant.

That the addition of the generic Top-Level Domain ("gTLD") ".xyz" is a technical requirement which should be disregarded in the study of confusing similarity.

###### II. Rights or Legitimate Interests

That the Complainant has never authorized the Respondent to register and/or use any domain name incorporating the JACQUEMUS trademark.

That the Complainant has not granted any license, nor any authorization to use said trademark in the disputed domain name.

That the disputed domain name resolves to a website that allegedly offers counterfeited products. That the prices displayed, the lack of legal information, and the reproduction of original pictures of the Complainant therein are an indicator that said products infringe the Complainant's trademark.

That, on May 13, 2022, the Complainant sent a cease and desist letter to the Respondent, to which no response was received.

### III. Registered and Used in Bad Faith

That the Complainant's trademark registrations predate the date of registration of the disputed domain name. That, therefore, the registration of the disputed domain name does not seem to be a mere coincidence, but that on the contrary, it seems to have been registered in order to generate confusing similarity between the disputed domain name and the Complainant's trademark.

That the disputed domain name resolves to a website that offers allegedly counterfeited products. That the prices displayed, the lack of legal information, and the reproduction of original pictures of the Complainant, clearly indicate that said products infringe the Complainant's trademark.

That the purpose of registering the disputed domain name has been to create confusing similarity with the Complainant's trademark in order to sell the Complainant's products, which origin and authenticity are questionable.

That the disputed domain name was registered and used to increase traffic to the disputed domain name.

### B. Respondent

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

## 6. Discussion and Findings

In accordance with paragraph 4(a) of the Policy, the Complainant is required to prove that each of the three following elements is satisfied:

(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 was registered and is being used in bad faith.

Given the Respondent's failure to submit a formal Response, the Panel may decide this proceeding based on the Complainant's undisputed factual allegations, in accordance with paragraphs 5(f), 14(a), and 15(a) of the Rules, (see *Joseph Phelps Vineyards LLC v. NOLDC, Inc., Alternative Identity, Inc., and Kentech*, WIPO Case No. [D2006-0292](#)).

### A. Identical or Confusingly Similar

The disputed domain name is confusingly similar to the Complainant's trademark JACQUEMUS, as it incorporates the trademark in its entirety, with the addition of the term "new".

Generally, previous panels have found that the inclusion of additional terms in a disputed domain name does not prevent a finding of confusing similarity under the first element of the Policy (see sections 1.7, and 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). In the present case, the addition of the term "new" does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark.

The addition of the generic Top-Level Domain ("gTLD") ".xyz" to the disputed domain name constitutes a technical requirement of domain name registration. Therefore, it has no significance in the analysis of the first element in the present case (see *CARACOLITO S SAS v. Nelson Brown, OXM.CO*, WIPO Case No. [D2020-0268](#), and *Société Air France v. Registration Private, Domains By Proxy, LLC, DomainsByProxy.com / Carolina Rodrigues*, WIPO Case No. [D2019-0578](#)).

In light of the above, the first element of the Policy has been met.

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

Paragraph 4(c) of the Policy sets forth the following examples as circumstances where a respondent may have rights or legitimate interests in the disputed domain name:

(i) before any notice to the respondent of the dispute, the use by the respondent of, or demonstrable preparations to use, the disputed 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 (as an individual, business, or other organization) has been commonly known by the disputed domain name, even if it did not acquire 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 or to tarnish the trademark or service mark at issue.

The Complainant has proven to be the owner of several registrations for the JACQUEMUS trademark in different jurisdictions.

The Complainant has asserted that it has not granted any license or authorization to the Respondent to use its trademark JACQUEMUS (see *Beyoncé Knowles v. Sonny Ahuja*, WIPO Case No. [D2010-1431](#), and *Six Continents Hotels, Inc. v. IQ Management Corporation*, WIPO Case No. [D2004-0272](#)). The Respondent did not contest this allegation.

According to the evidence filed by the Complainant, the website to which the disputed domain name resolves seems to be an online store through which apparel products are being sold. Taking this into consideration, as well as the fact that the disputed domain name consists of the Complainant's trademark JACQUEMUS plus the term "new", it can be inferred that the disputed domain name carries a risk of implied affiliation, since Internet users may think that the website to which the disputed domain name resolves is the Complainant's official website or is otherwise affiliated to or sponsored by the Complainant (see section 2.5.1 of the [WIPO Overview 3.0](#), see also *Euro Sko Norge AS v. Whoisguard Inc. / Shier Dede, Shier Dede*, WIPO Case No. [D2020-0194](#), *Bechtel Group, Inc. v. Raman Shuk*, WIPO Case No. [D2020-1469](#), *Biofarma v. Dawn Mason*, WIPO Case No. [D2019-1952](#)).

Furthermore, according to the evidence submitted by the Complainant, the website to which the disputed domain name resolves predominantly displays the Complainant's JACQUEMUS trademark, and reproduces images of the Complainant's official products. This shows that the Respondent has attempted to impersonate the Complainant. A finding of impersonation prevents a determination of a *bona fide* offering of goods or services (see sections 2.5.1, and 2.13.1 of the [WIPO Overview 3.0](#); see also *Self-Portrait IP Limited v. Franklin Kelly*, WIPO Case No. [D2019-0283](#)).

The Complainant has made a *prima facie* case asserting that there is no evidence of the Respondent's use of the disputed domain name in connection with a *bona fide* offering of goods or services and that the Respondent has not been commonly known by the disputed domain name.

In light of the above, the second element of the Policy has been fulfilled.

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

Bad faith under the Policy is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark. According to paragraph 4(b) of the Policy, the following circumstances, in particular but without limitation, shall be evidence of registration and use in bad faith:

(i) circumstances indicating that the respondent has registered or has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant

who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or

(iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

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

As previously stated, the Complainant has proven that it owns registrations for the trademark JACQUEMUS in several different jurisdictions.

The fact that the Respondent chose to register the disputed domain name, which entirely incorporates the Complainant's JACQUEMUS trademark, and which resolves to a website that displays the Complainant's trademark, reproduces images which rights, according to the Complainant, belong to it, and sells apparel and fashion accessories, suggests that the Respondent knew the Complainant, its trademarks, and its business when registering the disputed domain name. Therefore, the Respondent has targeted the Complainant, which constitutes opportunistic bad faith (see section 3.2.1 of the [WIPO Overview 3.0](#); see also *L'Oréal v. Contact Privacy Inc. Customer 0149511181 / Jerry Peter*, WIPO Case No. [D2018-1937](#); and *Gilead Sciences Ireland UC / Gilead Sciences, Inc. v. Domain Maybe For Sale c/o Dynadot*, WIPO Case No. [D2019-0980](#)).

These facts also show that the Respondent has intentionally used the disputed domain name to attract, for commercial gain, Internet users to the website to which the disputed domain name resolves, by creating the impression among Internet users that said website is related to, associated with, or endorsed by the Complainant, which conduct constitutes bad faith under paragraph 4(b)(iv) of the Policy (see section 3.1.4 of the [WIPO Overview 3.0](#); see also *trivago GmbH v. Whois Agent, Whois Privacy Protection Service, Inc. / Alberto Lopez Fernandez, Alberto Lopez*, WIPO Case No. [D2014-0365](#); and *Jupiter Investment Management Group Limited v. N/A, Robert Johnson*, WIPO Case No. [D2010-0260](#)).

According to the evidence submitted by the Complainant, the Respondent has used the disputed domain name in an attempt to impersonate the Complainant for commercial gain, which constitutes bad faith under the Policy (see also *Self-Portrait IP Limited v. Franklin Kelly, supra*; and *Friedman and Soliman Enterprises, LLC v. Gary Selesko, M&B Relocation and Referral, LLC*, WIPO Case No. [D2016-0800](#)).

Therefore, the third element of the Policy has been met.

## 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, <newjacquemus.xyz>, be transferred to the Complainant.

/Kiyoshi Tsuru/

**Kiyoshi Tsuru**

Sole Panelist

Date: September 12, 2022