

ADMINISTRATIVE PANEL DECISION

Dousset Holdings, LLC v. Manh Tuyen Do
Case No. D2022-4293

1. The Parties

The Complainant is Dousset Holdings, LLC, United States of America (“United States”), represented by Stubbs, Alderton & Markiles, LLP, United States.

The Respondent is Manh Tuyen Do, Viet Nam.

2. The Domain Name and Registrar

The disputed domain name <juliadousset.com> 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 November 11, 2022. On November 11, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 16, 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 (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 16, 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 November 21, 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 November 29, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 19, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 20, 2022.

The Center appointed Marilena Comanescu as the sole panelist in this matter on December 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 United States limited liability company founded in 2010 by Jean Dousset, the descendant of an iconic internationally renowned jeweler. The Complainant is a premier jewelry house that specializes in handcrafted engagement rings and fine jewelry.

The Complainant holds trademark registrations for JEAN DOUSSET, such as the following:

- the United States word trademark JEAN DOUSSET, registration No. 3450224, filed on December 28, 2006, and registered on June 17, 2008, for goods in International Class 14; and
- the United States word trademark OUI BY JEAN DOUSSET, registration No. 5869494, filed on June 29, 2018, and registered on September 24, 2019, for goods in International Class 14.

The Complainant holds since April 16, 2004 the domain name <jeandousset.com> where it promotes its products.

The disputed domain name <juliadousset.com> was registered on September 13, 2022 by a physical person. At the time of filing the Complaint, the disputed domain name resolved to a commercial website nearly identical to the Complainant's official website, reproducing the text, photographs and videos from its website, featuring a photograph of Mr. Dousset and presenting him as "Julia Dousset", and also prominently featuring the Complainant's trademark OUI BY JEAN DOUSSET.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to its trademark JEAN DOUSSET, that the Respondent has no rights or legitimate interests in the disputed domain name, and that the Respondent registered and is using the disputed domain name in bad faith. The Complainant requests the transfer of the disputed domain name to it.

B. Respondent

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

6. Discussion and Findings

In view of the Respondent's default, the discussion and findings will be based upon the contentions in the Complaint and any reasonable position that can be attributable to the Respondent. Under paragraph 4(a) of the Policy, the Complainant can only succeed in this administrative proceeding under the Policy if the following circumstances are met:

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

The Panel will further analyze the concurrence of the above circumstances.

A. Identical or Confusingly Similar

The Panel finds that the Complainant holds rights in the JEAN DOUSSET trademark.

The disputed domain name contains the elements “julia” and “dousset”, the later being the dominant element of the JEAN DOUSSET trademark.

In accordance with section 1.7 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), it is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the complainant’s trademark and the disputed domain name. Panels view the first element as a threshold test concerning a trademark owner’s standing to file a complaint, *i.e.*, to ascertain whether there is a sufficient nexus to assess the principles captured in the second and third elements. This test 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. In cases where at least a dominant feature of the relevant mark is recognizable in the disputed domain name, it will normally be considered confusingly similar to that mark for purposes of UDRP standing.

Also, numerous UDRP panels have considered that the addition of other terms (whether descriptive, pejorative, meaningless or otherwise) to trademarks in a domain name does not prevent a finding of confusing similarity. See section 1.8 of the [WIPO Overview 3.0](#).

Further, it is well established in decisions under the UDRP that the generic Top-Level Domain (“gTLD”) (*e.g.*, “.com”, “.info”, “.shop”) is typically disregarded for the purposes of consideration of confusing similarity between a trademark and a domain name. See section 1.11 of the [WIPO Overview 3.0](#).

Given the above, the Panel finds that the disputed domain name is confusingly similar to the Complainant’s trademark, pursuant to the Policy, paragraph 4(a)(i).

B. Rights or Legitimate Interests

The Complainant asserts that the Respondent does not hold any trademark rights, license, or authorization whatsoever to use the mark JEAN DOUSSET, that the Respondent is not commonly known by the disputed domain name, and that the Respondent has not used the disputed domain name in connection with a legitimate noncommercial or fair use or a *bona fide* offering of goods or services.

Under the Policy, “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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element”. See section 2.1 of the [WIPO Overview 3.0](#).

The Respondent has not replied to the Complainant’s contentions and has not come forward with relevant evidence to rebut the Complainant’s *prima facie* case.

There is nothing in the record suggesting that the Respondent has ever been commonly known by the disputed domain name or that the Respondent has made a *bona fide* offering of goods or services or a legitimate noncommercial or fair use under the disputed domain name.

According to the evidence provided in Annex 7 to the Complaint, the Respondent has used the disputed domain name in connection with a website copying the look and feel of the Complainant’s website, providing products identical to those of the Complainant, reproducing the Complainant’s trademark, product images, videos and using a name similar to the Complainant’s trademark. In this regard, UDRP panels have

categorically held that the use of a domain name for illegal activity (such as swindle, fraud, identity theft, phishing and impersonation/passing off) can never confer rights or legitimate interests in a respondent. See section 2.13 of the [WIPO Overview 3.0](#).

Consequently, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name, pursuant to the Policy, paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

The Complainant holds registered trademark rights for JEAN DOUSSET since at least 2006 and the trademark reflects the name of its founder, Jean Dousset.

The disputed domain name was registered in 2022 and reproduces the Complainant's mark with an unsubstantial alteration, *i.e.* the change of the first name from Jean to Julia. Further, the website at the disputed domain name features the Complainant's OUI BY JEAN DOUSSET trademark, depicts official images and videos, and purportedly offers "Jean Dousset" products.

From the above, the Panel finds that the disputed domain name was registered in bad faith, knowing the Complainant and targeting its trademark.

At the time of filing the Complaint, the Respondent was using without permission the Complainant's distinctive trademark in order to get traffic on its web portal and to obtain commercial gain from the false impression created for the Internet users with regard to a potential connection with the Complainant.

Paragraph 4(b)(iv) of the Policy provides that the use of a domain name to intentionally attempt "to attract, for commercial gain, Internet users to [the respondent's] 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 [the respondent's] website or location" is evidence of registration and use in bad faith.

Given that the disputed domain name incorporates the Complainant's trademark with an unsubstantial alteration and the website operated under the disputed domain name displays the Complainant's trademark, visuals and product images, purportedly offers "Jean Dousset" branded goods and even changes the name of the Complainant's founder from Jean to Julia in its content, indeed in this Panel's view, the Respondent has intended to attract Internet users accessing the website corresponding to the disputed domain name who may be confused and believe that the website is held, controlled by, or somehow affiliated with or related to the Complainant, for the Respondent's commercial gain. This activity may also disrupt the Complainant's business and tarnish its trademark.

The Respondent has not participated in the present proceeding in order to put forward any arguments in its favor and provided inaccurate contact information in the Whois. Such facts, together with all the other elements in this case, supports, in the eyes of this Panel, a finding of bad faith behavior.

For all the above reasons, the Panel finds that the Respondent registered and is using the disputed domain name in bad faith, pursuant to the Policy, paragraph 4(a)(iii).

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 <juliadousset.com> be transferred to the Complainant.

/Marilena Comanescu/

Marilena Comanescu

Sole Panelist

Date: January 12, 2023