

ADMINISTRATIVE PANEL DECISION

EPSE Joueclub Entente des Professionnels Specialistes de l'Enfant v. Scott Jackson, White Knight Marketing
Case No. D2024-5357

1. The Parties

The Complainant is EPSE Joueclub Entente des Professionnels Specialistes de l'Enfant, France, represented by CMC Avocats, France.

The Respondent is Scott Jackson, White Knight Marketing, Canada.

2. The Domain Name and Registrar

The disputed domain name <jouetsclub.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 December 31, 2024. On January 2, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 January 3, 2025, 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 January 7, 2025.

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 January 8, 2025. In accordance with the Rules, paragraph 5, the due date for Response was January 28, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 29, 2025.

The Center appointed Theda König Horowicz as the sole panelist in this matter on February 5, 2025. 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 that operates as a co-operative of traders and retailers specializing in the distribution and retail of toys. It was established in 1952 and since then it has been operating a significant number of retail stores (particularly in France), a distribution network and a website under the name "JOUÉCLUB".

The Complainant has held trademark registrations for the JOUÉCLUB Mark (in various formats) in numerous jurisdictions since 1983 for toys and related retail services including French trademark registration No. 1227507 registered since February 15, 1983.

The Complainant has also been the owner of the domain names and <jouclub.fr> since September 11, 1997 and <jouclub.com> since December 10, 2001. Both domain names are linked to its official website on which the trademark JOUÉCLUB is prominently used.

The disputed domain name was registered on February 21, 2017. It redirects Internet users to a Registrar's webpage indicating that the disputed domain name is open for sale.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is similar to its prior trademarks and domain names. The disputed domain name consists of a misleading spelling of the JOUÉCLUB trademark on which the Complainant has exclusive rights. From a phonetical point of view, the disputed domain name is actually identical to the JOUÉCLUB trademark.

The Complainant also contends that the Respondent has no rights or legitimate interests in the disputed domain name. More specifically, the Complainant has not granted any license or authorization for the Respondent to use the JOUÉCLUB trademark. The Respondent is not commonly known by the disputed domain name, nor does it use the disputed domain name for a bona fide purpose or legitimate noncommercial purpose. Rather the Respondent seems not to have used the disputed domain name at all over the years and it is currently for sale on the Registrar's platform for an amount of CAD 4,197.92 + taxes. Furthermore, the Respondent who seems to be active in a business named "White Knight Marketing" does not use "jouetsclub" in this frame according to Internet searches made by the Complainant. This underlines the absence of legitimate interests of the Respondent.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. The Respondent registered the disputed domain name more than 30 years after the Complainant adopted the JOUÉCLUB trademark and a simple Internet search by the Respondent would have shown him the existence of said trademark. The combination in the disputed domain name of the terms "jouets" and "club" by the Respondent cannot be coincidental and are a clear indication that the Respondent knew the JOUÉCLUB trademark prior registering the disputed domain name which is almost identical. The "typosquatting" combined with the fact that the disputed domain name is offered for sale for a significant price are indications of bad faith use.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

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. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of the trademark JOUÉCLUB for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel notes that the design elements in the JOUÉCLUB Mark can be disregarded for purposes of assessing identity or confusing similarity under the first element as they would be incapable of being reproduced in a domain name. [WIPO Overview 3.0](#), section 1.10.

Furthermore, the different spelling of the first word in the disputed domain name ("jouets" instead of "joué") does not prevent the Complainant's trademark from being recognizable within the disputed domain name, being underlined that "jouets" and "joué" are identical from a phonetical point of view in the French language and can both be translated in English as "toy". Thus, they have the exact same meaning. [WIPO Overview 3.0](#), section 1.9.

The Panel finds that the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, 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 (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Specifically, the Panel considers that the record of this case reflects that the Respondent did not use, nor has it made 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. Paragraph 4(c)(i) of the Policy, and [WIPO Overview 3.0](#), section 2.2.

Furthermore, the Respondent (as an individual, business, or other organization) has not been commonly known by the disputed domain name. The Respondent remained silent in these proceedings and has not provided any evidence in this regard. Paragraph 4(c)(ii) of the Policy, and [WIPO Overview 3.0](#), section 2.3.

Finally, the Respondent is not 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. Paragraph 4(c)(iii) of the Policy, and [WIPO Overview 3.0](#), section 2.4.

The Panel therefore finds that the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the case file shows that the Respondent chose to combine the words “jouets” with “club” which is conceptually identical to the combination in the Complainant’s trademark JOUÉCLUB, both “jouets” and “joué” being similar. The Respondent thus obviously knew about the Complainant’s trademark when registering the disputed domain name which is an indication of bad faith registration of the disputed domain name.

Furthermore, in terms of use, the disputed domain name is being offered for sale on the Registrar’s website for the amount of CAD 4,197.92 + taxes. Even if such selling might be automatically generated by the Registrar, the Respondent cannot disclaim responsibility for it, particularly due to the nature of the disputed domain name which reproduces the Complainant’s trademark with a misspelling and the failure of the Respondent to present a rationale for registering the disputed domain name. [WIPO Overview 3.0](#), sections 3.1.1. and 3.5.

The Panel finds that the Complainant has established the third element 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 name <jouetsclub.com> be transferred to the Complainant.

/Theda König Horowicz/

Theda König Horowicz

Sole Panelist

Date: February 26, 2025