

DISPUTE RESOLUTION SERVICE

D00021758

Decision of Independent Expert

Jones Lang LaSalle IP, Inc.

and

Mr Jason Hanley

1. The Parties:

Jones Lang LaSalle IP, Inc.
200 East Randolph Drive
Chicago, IL
US
60601
United States

Respondent:
Mr Jason Hanley
London
United Kingdom

2. The Domain Names:

eujll.co.uk
eujll.uk
("the Domain Names")

3. Procedural History:

I can confirm that I am independent of each of the parties. To the best of my knowledge and belief, there are no facts or circumstances, past or present, or that could arise in the foreseeable future, that need be disclosed as they might be of such a nature as to call in to question my independence in the eyes of one or both of the parties.

The procedural history is as follows:

16 August 2019 06:50 Dispute received
19 August 2019 12:51 Complaint validated
19 August 2019 12:58 Notification of complaint sent to parties
06 September 2019 02:30 Response reminder sent
06 September 2019 12:18 Response received
06 September 2019 12:18 Notification of response sent to parties
11 September 2019 02:30 Reply reminder sent
16 September 2019 13:29 No reply received
16 September 2019 14:49 Mediator appointed
20 September 2019 16:22 Mediation started
02 October 2019 15:26 Mediation failed
02 October 2019 15:26 Close of mediation documents sent
14 October 2019 02:30 Complainant full fee reminder sent
16 October 2019 10:01 Expert decision payment received

4. Factual Background

The Complainant is part of the international Jones Lang Lasalle group, which supplies property and corporate facility management services. The group, which trades under the names “Jones Lang Lasalle” and “JLL”, has a worldwide workforce of 90,000, with clients in over 80 countries.

The Complainant’s registered trade marks for “JONES LANG LASALLE” include EU trade mark no. 001126291, filed 1 April 1999, in classes 36, 37 and 42. The Complainant also owns a number of registered trade marks for “JLL” including EU trade mark no. 010603447, filed 31 January 2012, in classes 36, 37 and 42.

The Complainant operates websites at www.jll.com (domain name registered 1998), www.jll.co.uk (registered 1997) and www.jll.eu (registered 2006). The website at www.jll.com received some 828,000 visitors in August 2018.

The Complainant’s social media pages at Facebook (131,000 likes), Twitter (75,000 followers) and LinkedIn (729,000 followers) are all branded “JLL”.

The Respondent is a partner in a London office agency business called Monmouth Dean.

The Respondent registered the Domain Names <ejll.co.uk> and <ejll.uk> on 26 April 2010 and 4 June 2019 respectively. The Respondent also registered <ejll.com> on 26 April 2010.

As of 29 July 2019, the domain names <ejll.co.uk> and <ejll.com> redirected to the Complainant's websites at www.jll.co.uk and www.us.jll.com respectively.

The Respondent has listed <ejll.co.uk> for sale on Sedo.

Legal letters were sent to the Respondent dated 3 July, 15 July and 25 July 2019 on the Complainant's letterhead but signed "CSC Corporate Domains on behalf of [the Complainant]".

The Respondent emailed the Complainant on 17 July in response to the second legal letter. The Respondent questioned the authenticity of the letters given that they were written on the Complainant's letterhead. The Respondent added that he had approached the Complainant some years previously and was told that the domain names were not of interest to it. The Respondent said that he always tried to direct the domain names back to the Complainant's website. He added "Incidentally the letter is incorrect in so much I own www.ejll.co.uk. and www.ejll.com. In the letter the .com being detailed incorrectly by CSC and also the title thereto."

5. Parties' Contentions

Complaint

The following is a summary of the Complaint:

The Complainant has made significant investment to advertise and promote the "JLL" and "JONES LANG LASALLE" trade marks over the years and they are well recognized and respected worldwide.

The Domain Names are confusingly similar to the Complainant's "JLL" trade mark, merely adding the geographically descriptive term "EU". The use of "EU" underscores the confusing similarity because the Complainant has a significant presence in the EU.

The Domain Names are also confusingly similar to the Complainant's "JONES LANG LASALLE" trade mark, as they are an abbreviation of it.

The Domain Names constitute abusive registrations under paragraphs 5.1.1 and 5.1.2 of the Policy.

The Complainant has not authorised the Respondent to use its trade marks.

The Respondent registered the Domain Names after the Complainant filed for its "JONES LANG LASALLE" mark and, in the case of <eu.jll.uk>, after it filed for its "JLL" mark.

The Respondent registered the Domain Names to trade on the goodwill and reputation of the Complainant's trade mark, as shown by the fact that the Respondent created domain names confusingly similar to the Complainant's trade marks and domain names.

The Respondent cannot deny awareness of the Complainant. The Respondent's company, Monmouth Dean, is a competitor of the Complainant and has produced publications mentioning the Complainant. The Respondent has also redirected his domain names to the Complainant's websites, which itself constitutes abusive use by creating a likelihood of confusion because it misleads visitors as to the source of the redirecting domain name.

The Respondent's listing of <eu.jll.co.uk> on Sedo indicates that the Respondent registered it primarily for the purpose of sale to the Complainant or one of its competitors and/or to unfairly disrupt the Complainant.

The Domain Names are also abusive in that they block the Complainant from posting websites on those domain names.

The Respondent has no plausible legitimate reason for having registered the Domain Names.

The Complainant had no choice but to file the Complaint as the Complainant's efforts to resolve the matter amicably were unsuccessful.

Response

The following is a summary of the Response:

The Respondent has owned the Domain Names for almost ten years. He has never used them to damage the Complainant and the Complainant has not claimed otherwise.

The Complainant owns a very successful and professional international business. Its employees' email addresses are in the format "johnsmith@eu.jll.com" in the UK or "johnsmith@us.jll.com" in the US. So, while the Domain Names are similar, that does not mean that the Complainant has the right to own the Domain Names any more than tom.com can claim atom.com, even though there is only a one letter difference.

The Respondent has always planned, and he is at the stage of launching, a website called Japan Likes Lunch (JLL) which will detail peoples' eating experiences. The work invested in this over the last ten years will be wasted if the Domain Names are taken from him.

On several occasions in the past, the Respondent has questioned the idea of “Japan Likes Lunch” and he offered the domain names to the Complainant, who never showed interest until earlier this year.

Whilst developing “Japan Likes Lunch”, the Complainant has always forwarded any traffic to the Complainant to assist it and ensure that the domain names did not lie dormant. The Respondent never interfered with the Complainant’s email traffic or created an email account related to either domain name.

6. Discussions and Findings

To succeed, the Complainant has to prove in accordance with paragraph 2 of the DRS Policy on the balance of probabilities, first, that it has “Rights” (as defined in paragraph 1 of the DRS Policy) in respect of a name or mark identical or similar to the Domain Name and, second, that the Domain Name, in the hands of the Respondent, is an “Abusive Registration” (as defined in paragraph 1 of the DRS Policy).

Complainant’s Rights

The meaning of “rights” is defined in the DRS Policy as follows:

“Rights means rights enforceable by the Complainant, whether under English law or otherwise, and may include rights in descriptive terms which have acquired a secondary meaning”

The Complainant has established Rights in the name “JLL” by virtue of its registered trade marks as well as unregistered rights arising from its trading activities under that name.

The Domain Names include the same distinctive term “JLL” and differs only by addition of the descriptive term “EU”.

Accordingly, I am satisfied that the Complainant has established rights in a name or mark which is similar to the Domain Names.

Abusive Registration

Do the Domain Names constitute an Abusive Registration in the hands of the Respondent? Paragraph 1 of the DRS Policy defines “Abusive Registration” as a domain name which either:

“i. was registered or otherwise acquired in a manner which, at the time when the registration or acquisition took place, took unfair advantage of or was unfairly detrimental to the Complainant’s Rights; OR

ii. has been used in a manner which took unfair advantage of or was unfairly detrimental to the Complainant's Rights."

It is clear that the Respondent was aware of the Complainant when he registered the Domain Names. The Respondent has not denied this. Indeed, he works for a competitor of the Complainant. Also, he acknowledges that he has redirected at least one of the Domain Names to the Complainant's own website, which he claims was to help the Complainant.

The Respondent's defence is that he acquired the Domain Names not with reference to the Domain Names but for a different website branded "Japan Likes Lunch" which is intended to "detail peoples' eating experiences". He claims that he is now about to launch the website and that all of his work invested in this over the last ten years will be wasted if the Domain Names are taken from him.

I do not find the Respondent's explanation credible for the following reasons:

1. The Respondent has not supplied any convincing dated evidence showing preparations to use the Domain Names for the purpose claimed. Such information should be readily available if the Respondent has been working on the project for ten years. See paragraph 4.3 of the DRS Experts' Overview (version 3) on Nominet's website indicating that evidence of genuine preparations to use a domain name usually comprises correspondence with third parties (banks, lawyers, partners etc) in which the plans are identified.
2. The only document supplied by the Respondent – and not specifically referred to in the Response – is an undated 41-page pdf headed "Draft Text and imagery for Japan Like Lunch (JLL.co.uk)." The rest of the document is a long blog about food in Japan but there is nothing to show that this document was genuinely created in connection with the alleged project.
3. The Respondent has not explained why, for the purposes of his alleged project, it was necessary to preface "jll" with "eu" in the Domain Names. Indeed, as mentioned above, the document produced by the Respondent refers simply to "JLL.co.uk", which is in fact the Complainant's domain name.
4. The Respondent did not mention his alleged project in his email responding to the legal letters from the Complainant's representative.

In view of the fact that the Respondent has put forward an explanation for selection of the Domain Names which is not credible, that the Domain Names are closely associated with the Complainant's distinctive trade mark, that the Respondent does not dispute that he was aware of the Complainant when registering the Domain Names, that he works for a competitor for the Complainant, and that he redirected at least one of the Domain Names to the Complainant's own website, I find on balance that the Domain Names were registered in a manner which took unfair advantage of or was unfairly detrimental to the Complainant's Rights.

That suffices to constitute Abusive Registration, irrespective of the Respondent's exact motive. Given the Respondent's admission that he offered the Domain Names for sale to the Complainant at various unspecified times, it may be that that was his purpose in registering the Domain Names. However, it is not necessary to reach any conclusion on this point.

The Respondent says that he has never used the Domain Names "to damage" the Complainant. Whether or not that is correct, for the purposes of the Policy it is sufficient that the Respondent registered the Domain Names with the aim of targetting the Complainant's Rights as explained above, even if there is no evidence that actual damage has occurred.

Nor does it assist the Respondent if, for whatever reason, the Complainant at various times rejected the Respondent's attempts to sell the Domain Names to the Complainant. That would not of itself retrospectively justify the Respondent's registration of the Domain Names in the circumstances outlined above.

Finally, the Respondent claims that, while the Domain Names are similar to the Complainant's domain names, that does not give the Complainant any more right to the Domain Names than say <tom.com> would have to claim <atom.com>. However, in the Respondent's example, although there is only letter difference, on the face of it <tom.com> is substantially different to <atom.com>. Whereas here, the Domain Names consist of the Complainant's distinctive "JLL" trade mark / acronym prefaced by the geographical term "eu", implying that they denote some EU aspect of the Complainant's business. This close association of the Domain Names with the Complainant, in conjunction with the other factors mentioned previously, has led to the above conclusion that the Domain Names are Abusive Registrations.

7. Decision

I find that the Complainant has Rights in a mark which is similar to the Domain Names and that the Domain Names are, in the hands of the Respondent, Abusive Registrations. I therefore direct that the Domain Names <euJll.co.uk> and <euJll.uk> be transferred to the Complainant.

Signed: 

Dated: 8 November 2019