

ADMINISTRATIVE PANEL DECISION

Sánchez Romero Carvajal Jabugo S.A. v. jun cui
Case No. D2022-3225

1. The Parties

Complainant is Sánchez Romero Carvajal Jabugo S.A., Spain, represented by Ubilibet, Spain.

Respondent is jun cui, China.

2. The Domain Name and Registrar

The disputed domain name <jamonescincojotas.com> is registered with Gname.com Pte. Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 31, 2022. On August 31, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 1, 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 Complainant on September 1, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on September 5, 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 Respondent of the Complaint, and the proceedings commenced on September 6, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 26, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on September 28, 2022.

The Center appointed Lorelei Ritchie as the sole panelist in this matter on October 4, 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

Complainant is a global company based in Spain. Since decades prior to the registration of the disputed domain name, Complainant has offered, among other products, high-end hams under the mark CINCO JOTAS. Complainant owns numerous trademark registrations for the CINCO JOTAS mark. These include, among others, Spain Trademark Registration No. M0787579 (registered February 18, 1977) and United States Trademark Registration No. 5742842 (registered May 7, 2019).

The disputed domain name was registered on September 5, 2020. The disputed domain name is not linked to an active website.

5. Parties' Contentions

A. Complainant

Complainant contends that (i) the disputed domain name is confusingly similar to Complainant's trademarks, (ii) Respondent has no rights or legitimate interests in the disputed domain name; and (iii) Respondent registered and is using the disputed domain name in bad faith.

Specifically, Complainant contends that it owns the distinctive CINCO JOTAS mark, which has a "strong reputation" globally for the high-end hams offered by Complainant under the mark. Complainant contends that Respondent has incorporated Complainant's well-known CINCO JOTAS mark into the disputed domain name, and merely added the descriptive term, "jamones," which consumers will understand to refer to the "jamones" (translated from Spanish to English language as "hams") provided by Complainant. Complainant contends that Respondent lacks rights or legitimate interest in the disputed domain name, and rather has registered and is using it in bad faith.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

The Panel must first determine whether the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights in accordance with paragraph 4(a)(i) of the Policy. The Panel finds that it is. The disputed domain name incorporates Complainant's CINCO JOTAS mark and merely adds the term, "jamones" – translated from Spanish to English language as "hams." Numerous UDRP panels have agreed that supplementing or modifying a trademark with terms, does not prevent a finding of "identical or confusingly similar" for purposes of satisfying this first prong of paragraph (4)(a)(i) of the Policy. See, for example, *Inter Ikea Systems B.V. v. Polanski*, WIPO Case No. [D2000-1614](#) (transferring <ikeausa.com>); *General Electric Company v. Recruiters*, WIPO Case No. [D2007-0584](#) (transferring <ge-recruiting.com>); *Microsoft Corporation v. Step-Web*, WIPO Case No. [D2000-1500](#) (transferring <microsofthome.com>); *CBS Broadcasting, Inc. v. Y2K Concepts Corp.*, WIPO Case No. [D2000-1065](#) (transferring <cbsone.com>).

The Panel therefore finds that the disputed domain name is identical or confusingly similar to a trademark in which Complainant has rights in accordance with paragraph (4)(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Panel next considers whether Complainant has shown that Respondent has no “rights or legitimate interest,” as must be proven to succeed in a UDRP dispute. Paragraph 4(c) of the Policy gives examples that might show rights or legitimate interests in a domain name. These examples include: (i) use of the domain name “in connection with a *bona fide* offering of goods or services;” (ii) demonstration that respondent has been “commonly known by the domain name;” or (iii) “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.”

No evidence has been presented to the Panel that might support a claim of Respondent’s rights or legitimate interests in the disputed domain name, and Respondent has no license from, or other affiliation with, Complainant.

Therefore, the Panel finds that Complainant has provided sufficient evidence of Respondent’s lack of “rights or legitimate interests” in accordance with paragraph 4(a)(ii) of the Policy which Respondent has not rebutted.

C. Registered and Used in Bad Faith

There are several ways that a complainant can demonstrate that a domain name was registered and used in bad faith. As noted in Section 4 of this Panel’s decision, the disputed domain name is not currently linked to an active website. It is nevertheless well established that having a passive website does not necessarily shield a respondent from a finding of bad faith. See [WIPO Overview 3.0](#), Section 3.3, which notes that the “non-use of a domain name” does not necessarily negate a finding of bad faith.

Rather, a panel must examine “the totality of the circumstances,” including, for example, whether a complainant has a well-known trademark, and whether a respondent conceals his/her identity and/or replies to the complaint. Respondent here did not respond to the Complaint. Given Complainant’s global use of its CINCO JOTAS mark in association with “jamones” (or “hams”), the Panel finds sufficient evidence that Respondent was likely aware of Complainant’s rights at the time of registering the disputed domain name.

Therefore, the Panel finds that Respondent registered and used the disputed domain names in bad faith for purposes 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 name <jamonescincojotas.com> be transferred to Complainant.

/Lorelei Ritchie/

Lorelei Ritchie

Sole Panelist

Date: October 18, 2022