

## **ADMINISTRATIVE PANEL DECISION**

The Pink Pig SA and Jorge Pork Meat, SL v. amina acadey, Emperor  
Case No. D2024-1332

### **1. The Parties**

The Complainants are The Pink Pig SA and Jorge Pork Meat, SL, Spain, represented by Integra, Spain.

The Respondent is amina acadey, Emperor, Ukraine

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

The disputed domain name <thepinkpigs.com> is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 28, 2024. On March 28, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 28, 2024, 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 (Hidden for privacy reasons) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 2, 2024, 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 April 2, 2024.

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 April 5, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 25, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 28, 2024.

The Center appointed John Swinson as the sole panelist in this matter on May 2, 2024. 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 Complainants are part of the international Spanish meat group known as Grupo Jorge.

The Complainants own the domain name <thepinkpig.es> which redirects to the Grupo Jorge website located at “jorgesl.com”.

The Second Complainant, Jorge Pork Meat, SL owns European Union trademark number 018021517 for a device mark showing a happy pink pig in cartoon format, and the words “THE PINK PIG” in large letters and “GRUPO JORGE” in smaller letters. This trademark was filed on February 11, 2019 and registered on October 28, 2020.

The disputed domain name was registered on March 13, 2024.

The Respondent did not file a Response, so little information is known about the Respondent. According to the Registrar’s records, the Respondent provided an address in Kyiv, Ukraine.

The disputed domain name resolves to a website that is titled “The Pink Pig” and that includes the Complainants’ pig logo. This website gives the impression of being a website operated by the Complainants. It includes the First Complainant’s legal name as the operator of this website, the history of the First Complainant’s business, and an address in Zaragoza, Spain.

The Complainants successfully enforced their rights against a series of infringing domain names apparently controlled by the same person or group of people as the disputed domain name, including via the Spanish authority Red.es and the Center. Further details are set out in *The Pink Pig SA, Jorge Pork Meat, SL v. PINK PIG*, WIPO Case No. [D2023-4912](#).

In this decision, the First Complainant and the Second Complainant will be referred to as “the Complainant”.

#### **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 has been registered and used as part of a scheme to defraud customers and potential customers of the Complainant. The Complainant asserts that GRUPO JORGE and associated companies have been attacked since the end of 2022 by the Respondent (or the person or people who are behind the Respondent), who are creating and copying fraudulent web pages in which they pretend to be some of the companies of GRUPO JORGE (The Pink Pig SA, Fortune Pig SL or Le Porc Gourmet SL among others). Accordingly, it is submitted that the real persons or companies behind all the infringing domain names have Spanish origin, having detected real frauds to customers who have bought product containers thinking that they were buying from GRUPO JORGE.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

##### **A. Preliminary consideration**

Under paragraph 10 of the Rules, the Panel is required to ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case, and also that the administrative proceeding takes place with due expedition.

Since the Respondent's mailing address is stated to be in Ukraine, which is subject to an international conflict at the date of this Decision that may affect case notification, it is appropriate for the Panel to consider, in accordance with its discretion under paragraph 10 of the Rules, whether the proceeding should continue.

Having considered all the circumstances of the case, the Panel is of the view that it should. The Center sent the Notification of Complaint by email to Respondent at its email address as registered with the Registrar, to the email addresses available on the website at the disputed domain name and to a postmaster email address as specified by the Rules. There is no evidence that the case notification email to the disclosed Respondent email addresses was not successfully delivered.

The Panel also notes that the Complainant has specified in the Complaint that any challenge made by the Respondent to any decision to transfer or cancel the disputed domain name shall be referred to the jurisdiction of the Courts of the location of the principal office of the concerned registrar. In this case, the principal office of the Registrar is in the United States.

The Panel further notes that, for reasons set out below, the Panel has no serious doubt (albeit in the absence of any Response) that the Respondent registered and has used the disputed domain name in bad faith.

The Panel concludes that the Parties have been given a fair opportunity to present their case, and decides that the administrative proceeding should continue (for a similar procedural decision, see *Netbet Entreprises Ltd v. Privacy Service provided by Withheld for Privacy ehf / Vladimir Vladimir, Crowd inc*, WIPO Case No. [D2022-1420](#)).

To succeed, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied in respect of each disputed domain name, namely:

- (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 respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The Complainants are related corporate entities and have a common legal interest sufficient to justify consolidation. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 4.11.1.

#### **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 3.0](#), section 1.7.

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

Assessment of identity or confusing similarity involves comparing the (alpha-numeric) domain name and the textual components of the relevant mark. To the extent that design (or figurative/stylized) elements would be incapable of representation in domain names, these elements are largely disregarded for purposes of assessing identity or confusing similarity under the first element. Thus, the Panel disregards design element

of the Complainant's trademark for the purposes of the confusing similarity check. [WIPO Overview 3.0](#), section 1.10.

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.

Although the addition of other terms (here, "sa") may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds 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.

Panels have held that the use of a domain name for illegal activity here, impersonation and passing off of the Complainant can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel finds no evidence that the Respondent has been commonly known by the disputed domain name.

The Panel finds 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.

The Panel is of the view that the Respondent was aware of the Complainant when the disputed domain name was registered. By registering the disputed domain name, which is identical to the First Complainant's corporate name, and then using the disputed domain names for a website that impersonates the Complainant, demonstrates that the Respondent specifically knew of and targeted the Complainant. The Panel also considers that the record of this case reflects that 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 the Respondent's website or location.

Paragraph 4(b)(iv) of the Policy, and [WIPO Overview 3.0](#), section 3.1.4.

Panels have held that the use of a domain name for illegal activity (here, impersonation and passing off, and potentially fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

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 <thepinkpigsa.com> be cancelled.

*/John Swinson/*

**John Swinson**

Sole Panelist

Date: May 16, 2024