

ADMINISTRATIVE PANEL DECISION

JBS S.A. v. searajbs global
Case No. D2022-4784

1. The Parties

Complainant is JBS S.A., Brazil, represented internally, Brazil.

Respondent is searajbs global, Brazil.

2. The Domain Name and Registrar

The disputed domain name <searajbsglobal.com> is registered with Hosting Concepts B.V. d/b/a Registrar.eu. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on December 13, 2022. On December 14, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 15, 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 December 16, 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 December 16, 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 December 28, 2022. In accordance with the Rules, paragraph 5, the due date for Response was January 17, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on January 18, 2023.

The Center appointed Gabriel F. Leonardos as the sole panelist in this matter on January 25, 2023. 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 JBS S.A., a Brazilian global leader in the food industry, present in over 20 countries.

Complainant has a diversified portfolio, including Complainant's most popular products branded as SEARA, managed by Complainant's subsidiary company Seara Alimentos Ltda.

Complainant owns trademark registrations for the trademarks JBS and SEARA, such as:

Registration No.	Trademark	Jurisdiction	International Class	Date of Registration
906233550	JBS	Brazil	18	February 23, 2016
826207650	JBS	Brazil	29	July 15, 2008
1583491	SEARA	International	29	December 5, 2022
1583491	SEARA	European Union	29	January 28, 2021
921607334	SEARA	Brazil	29	October 26, 2021

The disputed domain name was registered on September 5, 2021, and it resolves to a webpage with a reproduction of Complainant's official services of selling and distributing food products.

5. Parties' Contentions

A. Complainant

Complainant pleads that the disputed domain name is confusingly similar to the registered trademarks JBS and SEARA, since it fully incorporates Complainant's referred trademarks.

Complainant affirms that the disputed domain name uses both trademarks JBS and SEARA in their entirety with the addition of the term "global" – which would not avoid a confusingly similarity between the disputed domain name and Complainant, and lead consumers to confusion as they may believe that the disputed domain name is a Complainant's global official source.

Therefore, according to Complainant, the disputed domain name is confusingly similar with Complainant's trademarks, fulfilling paragraph 4(a)(i) of the Policy and paragraphs 3(b)(viii) and 3(b)(ix)(1) of the Rules.

In addition, Complainant states that Respondent would not have any rights or legitimate interests in respect of the disputed domain name, nor is Respondent commonly known by the disputed domain name. Further,

Respondent has not been authorized, or licensed to use Complainant's trademarks JBS and SEARA as a domain name nor is Respondent associated with Complainant.

Complainant observes that Respondent does not make a legitimate noncommercial fair use of the disputed domain name, as it would suggest a non-existent affiliation with Complainant's business. Accordingly, Complainant states that no legitimate use of the disputed domain name could be reasonably claimed by Respondent, thus paragraph 4(a)(ii) of the Policy and paragraph 3(b)(ix)(2) of the Rules have been fulfilled.

Finally, Complainant states that (i) Respondent intentionally attracts Complainant's customers to fraudulently obtain commercial gain; (ii) Respondent is undermining Complainant's trademark and reputation by creating an unauthorized and illicit association with the Complainant; and (iii) Complainant's trademarks SEARA and JBS are well-known internationally, thus, Respondent was aware of Complainant's trademarks and trade name at the time of registration.

Therefore, according to Complainant, the requirements for the identification of a bad faith registration and use of the disputed domain name have been fulfilled, pursuant to paragraph 4(b)(iv) of the Policy.

Complainant requests the transfer of the disputed domain name to Complainant.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

To succeed in a UDRP complaint, Complainant must demonstrate that all the elements listed in paragraph 4(a) of the Policy have been satisfied, as following:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) 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 burden of proving these elements is upon Complainant.

Respondent had 20 days to submit a response in accordance with paragraph 5(a) of the Rules and failed to do so. Paragraph 5(f) of the Rules establishes that if a respondent does not respond to the complaint, in the absence of exceptional circumstances, the panel's decision shall be based upon the Complaint.

A. Identical or Confusingly Similar

Complainant has duly proven that it owns prior registered trademark rights for JBS and SEARA, and that the disputed domain name is constituted by the trademarks JBS and SEARA in their entirety with the sole addition of the term "global".

The addition of the term "global" does not prevent a finding of confusing similarity with Complainant's trademarks JBS and SEARA – since both trademarks are fully integrated, and recognizable, in the disputed domain name.

Thus, the Panel finds that the disputed domain name <searajbsglobal.com> is confusingly similar to Complainant's trademarks JBS and SEARA, and so the requirement of the first element of paragraph 4(a) of the Policy is satisfied.

B. Rights or Legitimate Interests

The consensus view of UDRP panels on the burden of proof under paragraph 4(a)(ii) of the Policy is summarized in section 2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") as follows: "[w]hile 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 often impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element."

In this case, noting the facts and contentions listed above, the Panel finds that Complainant has made out a *prima facie* case showing that Respondent lacks rights or legitimate interests in the disputed domain name, so the burden of production shifts to Respondent. As Respondent has not replied to Complainant's contentions, the Panel has considered Complainant's un rebutted *prima facie* case to be sufficient to demonstrate that Respondent has no rights or legitimate interests in the disputed domain name.

It should be noted that Respondent's lack of response (in the broader context of the case), according to the above-mentioned guidelines from [WIPO Overview 3.0](#), section 2.1, suggests that Respondent has no rights or legitimate interests in the disputed domain name that it could put forward.

Furthermore, Respondent has not used the disputed domain name in the context of a *bona fide* that could demonstrate legitimate interests, since the evidence shows that the confusingly similar disputed domain name resolves to a website in which Respondent clearly tries to impersonate Complainant and its services in the food industry (as duly proven on Annex 4 to the Complaint). Moreover, the Panel notes that the disputed domain name is composed of Complainant's trademarks together with the term "global" which suggests a non-existent affiliation with Complainant. See section 2.5.1 of the [WIPO Overview 3.0](#).

Therefore, the Panel finds that the requirement of the second element of paragraph 4(a) of the Policy is also satisfied.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy lists a number of circumstances that, without limitation, are deemed evidence of registration and use of a domain name in bad faith.

Respondent has registered the disputed domain name that fully incorporates Complainant's trademarks JBS and SEARA, plus the addition of the term "global", which does not prevent a confusing similarity but rather suggests an official affiliation with Complainant's business, even though such affiliation does not exist.

The Panel finds that it was duly demonstrated that Respondent was probably aware of Complainant's rights to trademarks JBS and SEARA at the time of the registration – as Respondent uses the referred trademark in the content of the website to try to impersonate Complainant (including even Complainant's address and contact information in the website's "Contact" session, as per Annex 4 of the complaint), as discussed further below, proving that Respondent was more likely than not aware of Complainant's products and business at the time of registration.

In addition, the use of the disputed domain name in the present circumstances allows a finding of bad faith registration and use, since Respondent's website tries to reproduce Complainant's official webpage under a domain name that wholly incorporates Complainant's trademarks with the word "global" in an apparent attempt to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the trademarks of Complainant.

As concluded by the Panel in *All-Clad Metalcrafters LLC v. Eugene Preston*, WIPO Case No. [D2021-0799](#), the attempt to impersonate Complainant by using its registered trademark and allegedly offering its products/services is an indicative of bad faith:

“This point is further confirmed by Respondent’s use of the Domain Names. The evidence indicates that Respondent has used the Domain Name <all-clad.store> in an attempt to impersonate Complainant, by displaying Complainant’s logo and copying pictures of Complainant’s products on Respondent’s site, and then attempting to profit from the confusion by offering Complainant’s products (or counterfeits) for sale at a discounted price. Respondent’s actions create a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of this Domain Name, and Respondent is using the fame of Complainant’s ALL-CLAD mark to improperly increase traffic to the site linked to this Domain Name for Respondent’s own commercial gain. Further, Respondent’s use of the Domain Names <all-clad.club>, <allclad.online> and <all-cladus.online> disrupts Complainant’s business because they are confusingly similar to Complainant’s ALL-CLAD mark and the websites linked to them are being used to offer either competing or counterfeit goods.

The Panel finds that Respondent has intentionally attempted to attract for commercial gain Internet users to Respondent’s online location by creating a likelihood of confusion with Complainant’s ALL-CLAD marks as to the source, sponsorship, affiliation, and endorsement of Respondent’s scheme.”

In the present case, the Panel finds that the circumstances allows a finding of bad faith in the registration and use of the disputed domain name, considering that Respondent tries to obtain commercial gain by using a misleading domain name to resolve to a webpage in which Complainant’s services are being impersonated.

Moreover, the Panel finds it relevant that Respondent has not provided any evidence of good faith registration or use, or otherwise participated in this dispute. Complainant has put forward serious claims regarding the apparent bad faith use of the disputed domain name that the Panel would expect any legitimate party would seek to refute.

In light of the above, the Panel finds that the disputed domain name has been registered and is being used in bad faith. Therefore, the requirement of the third element of paragraph 4(a) of the Policy is satisfied.

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 <searajbsglobal.com> be transferred to Complainant.

/Gabriel F. Leonardos/

Gabriel F. Leonardos

Sole Panelist

Date: February 8, 2023