

## **ADMINISTRATIVE PANEL DECISION**

JACQUEMUS SAS v. 付奎王

Case No. D2023-3401

### **1. The Parties**

The Complainant is JACQUEMUS SAS, France, represented by DBK Law Firm, France.

The Respondent is 付奎王, China.

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

The disputed domain name <lebisoujacquemus.com> is registered with Dynadot, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 9, 2023. On August 9, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 10, 2023, 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 (Super Privacy Service LTD) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 10, 2023, 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 August 11, 2023.

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 August 14, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 3, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 4, 2023.

The Center appointed Anna Carabelli as the sole panelist in this matter on September 8, 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**

The Complainant is a French company, which manufactures and markets clothing and fashion accessories under the trademark JACQUEMUS since 2013. The Complainant's products are sold in 50 countries worldwide.

The Complainant is the owner of various JACQUEMUS trademarks registered worldwide, including the following:

- International registration No. 1211398, registered on February 5, 2014, for goods in classes 9, 18 and 25,
- European Union registration No. 018080381, registered on October 18, 2019 for goods in classes 14, 24 and 28;
- French registration No. 4057016, registered on April 18, 2014 for goods in classes 9, 18, 25.

In addition, the Complainant owns the French trademark LE BISOU, No.4943093 registered on June 23, 2023, for goods in class 18.

The Complainant is also the owner of the domain name <jacquemus.com>, registered in 2010, which resolves to "www.jacquemus.com", the Complainant's official website.

The disputed domain name was registered on June 25, 2023 and resolves to a parking website containing links to third parties' sites offering goods/services which appear unrelated with the Complainant and its business.

Before filing its Complaint, the Complainant sent a cease-and-desist letter to the Registrar, which remained unanswered.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant submits and contends that:

I) The disputed domain name is confusingly similar to the Complainant's registered and well-known JACQUEMUS and LE BISOU marks. Indeed, the disputed domain name consists of the Complainant's trademarks JACQUEMUS and LE BISOU alongside each other, followed by the generic Top-Level Domain("gTLD") "com". This choice of addition will be understood by Internet users as a new website dedicated to JACQUEMUS's Le Bisou bags.

II) The Respondent has no rights or legitimate interests in the disputed domain name. The Complainant has not licensed, authorized or permitted the Respondent to register the disputed domain name or otherwise use its trademarks. The Respondent is not making a legitimate noncommercial or fair use of the disputed domain name nor is he using it in connection with a *bona fide* offering of goods or services, so as to confer a right or legitimate interest in it in accordance with paragraph 4(c)(i) of the Policy. Indeed, the disputed domain name points to a parking website and, as held by previous panels, registering a domain name and park it to earn rental revenues is not by itself to be considered a *bona fide* use of the domain name.

III) The disputed domain name was registered and is being used in bad faith. Given the Complainant's worldwide reputation and presence on the Internet, the Respondent knew or should have known of the Complainant's marks when registering the disputed domain name. Past panels have already recognized the reputation of the Complainant's trademarks in previous decisions regarding domain names using the JACQUEMUS trademark (see *Jacquemus SAS v. Contact Privacy Inc. Customer 1245862480 / Jacob Inch* WIPO Case No. [D2019-3144](#); *Jacquemus SAS v. Contact Privacy Inc. Customer 0155835558 / Rimk Le Boss Binks, Jacquemus Ventes Privees*, WIPO Case No. [D2019-2765](#); *Jacquemus SAS v. wenben zhou* WIPO Case No. [D2020-2073](#); *Jacquemus SAS v. Perklis Georgopoulos, The Project Garments*, WIPO Case No. [DEU2020-0024](#); *Jacquemus SAS v. Peng Li*, WIPO Case No. [D2021-3296](#)).

The Respondent selected the disputed domain name to take advantage of the reputation of the Complainant's trademarks to intentionally attempt to attract for commercial gain Internet users to the website linked to the disputed domain name, which is a parking website displaying sponsored links. Previous panels have found the registration and use of domain names reproducing a famous trademark to constitute bad faith pursuant to paragraph 4(b)(iv) of the Policy where, as here, the disputed domain name is associated with monetized parking pages.

Finally, the Complainant contends that the following circumstances are also indicative of the Respondent's bad faith registration and use:

- when registering the disputed domain name, the Respondent employed a privacy service to hide his identity and
- there is no address and legal information regarding the company operating the website linked to the disputed domain name.

Based on the above, the Complainant requests that the disputed domain name be transferred to the Complainant.

## **B. Respondent**

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

## **6. Discussion and Findings**

Paragraph 15(a) of the Rules instructs the panel to decide the complaint based on the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

Under paragraph 4(a) of the Policy, the complainant must prove each of the following:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (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.

Paragraph 4(b) of the Policy sets out four illustrative circumstances, which for the purposes of paragraph 4(a)(iii) of the Policy, shall be evidence of registration and use of a domain name in bad faith.

Paragraph 4(c) of the Policy sets out three illustrative circumstances any one of which, if proved by the respondent, shall be evidence of the respondent's rights to or legitimate interests in a disputed domain name for the purpose of paragraph 4(a)(ii) of the Policy above.

## A. Identical or Confusingly Similar

The Panel finds that the Complainant has established rights over the trademarks JACQUEMUS and LE BISOU based on the evidence submitted in the Complaint.

As recorded in section 1.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([WIPO Overview 3.0](#)), the gTLD such as “.com” is viewed as a standard registration requirement and as such is typically disregarded under the first element confusing similarity test. Therefore, the relevant comparison to be made is with the second-level portion of the disputed domain name, *i.e.*, “lebisoujacquemus”. The threshold test for confusing similarity typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name (see section 1.7 of the of the [WIPO Overview 3.0](#)). The disputed domain name consists of the Complainant’s trademarks LE BISOU and JACQUEMUS, which are reproduced alongside each other and are clearly recognizable within the disputed domain name.

Accordingly, the Panel finds that disputed domain name is confusingly similar to a mark in which the Complainant has rights. Therefore, the Complainant has established paragraph 4(a)(i) of the Policy.

## B. Rights or Legitimate Interests

Under paragraph 4(c) of the Policy, a respondent may demonstrate its rights or legitimate interests in a domain name by showing any of the following circumstances, in particular but without limitation:

- (i) before any notice to it of the dispute, its use of, or demonstrable preparation to use the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services;
- (ii) it has been commonly known by the domain name, even if it has acquired no trademark or service mark rights;
- (iii) it is making a 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.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name, based on the following: (a) the Complainant holds prior rights in the registered and well-known JACQUEMUS mark and in the LE BISOU trademark, (b) the Respondent has not been authorized to use the Complainant’s trademarks in any way, (c) the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name nor is he using it in connection with a *bona fide* offering of goods or services.

According to section 2.1 of the [WIPO Overview 3.0](#), while 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.

Here the Panel finds that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. By not submitting a response, the Respondent has failed to invoke any circumstance, which could have demonstrated any rights or legitimate interests in the disputed domain name under paragraph 4(c) of the Policy.

According to the evidence submitted by the Complainant - which has not been challenged by the Respondent – the disputed domain name is being used to direct Internet users to a parking website displaying sponsored links to third parties' services which appear unrelated with the Complainant and its business. In the Panel's view this indicates an intention to confuse Internet users seeking or expecting the Complainant, or the Complainant's website dedicated to JACQUEMUS' Le Bisou bags. It is irrelevant that Internet users, having seen the content of the website may realize that it is unconnected with the Complainant.

Based on the above, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name and the Complainant has satisfied the requirement under paragraph 4(a)(ii) of the Policy.

### **C. Registered and Used in Bad Faith**

According to paragraph 4(a)(iii) of the Policy, the Complainant must establish that the disputed domain name has been registered and is being used in bad faith.

The evidence filed with the Complaint indicates that the Complainant has a growing reputation in the fashion sector. The Complainant's products appear regularly in numerous fashion magazines worldwide and are used by relevant celebrities and influencers. The reputation of the Complainant's has also been recognized in previous UDRP decisions regarding domain names using the JACQUEMUS trademark.

Given the distinctiveness and well-established reputation of the Complainant's trademarks JACQUEMUS and LE BISOU, in all likelihood the Respondent knew or should have known the Complainant's marks when registering the disputed domain name. The disputed domain name entirely reproduces the Complainant's JACQUEMUS mark alongside the trademark LE BISOU, also owned and used by the Complainant in connection with its line of bags called, precisely, "Le Bisou". This indicates that the Respondent targeted the Complainant marks and suggests that the disputed domain name was registered in bad faith (see [WIPO Overview 3.0](#), section 3.2.2).

In the Panel's view, the circumstances of the case indicate that the Respondent selected the disputed domain name to intentionally misappropriate the Complainant's trademarks as a way of directing Internet users trying to locate the Complainant or the Complainant's Le Bisou bags, to a website featuring sponsored links to third parties' goods/services. The Respondent is probably deriving some income from each click on those links thereby capitalizing on the Complainant's trademarks and goodwill for its own profit. The Panel finds the use of the confusingly similar disputed domain name to lure Internet users to websites hosting sponsored links is evidence of bad faith. By using the disputed domain names in such a manner, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its websites, by creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation, or endorsement of the links displayed on the websites to which the disputed domain names resolve, and to take advantage of the traffic so generated.

The above constitutes use in in bad faith pursuant to paragraph 4(b)(iv) of the Policy.

Accordingly, the Panel finds that disputed domain name has been registered and is being used in bad faith. Therefore, the Complainant has established 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 <lebisoujacquemus.com> be transferred to the Complainant.

*/Anna Carabelli/*

**Anna Carabelli**

Sole Panelist

Date: September 21, 2023