

## **ADMINISTRATIVE PANEL DECISION**

Jacquemus SAS v. Muhammad Touseef  
Case No. D2024-0359

### **1. The Parties**

Complainant is Jacquemus SAS, France, represented by DBK Law Firm, France.

Respondent is Muhammad Touseef, Pakistan.

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

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

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 26, 2024 regarding the disputed domain name and another domain name. On January 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name and another domain name. On January 29, 2024, the Registrar transmitted by email to the Center its verification response, disclosing registrant and contact information for the disputed domain name and another domain name which differed from named Respondent (REDACTED FOR PRIVACY, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to Complainant on February 7, 2024 with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar(s), requesting Complainant to either file separate complaint(s) for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all domain names are under common control. Complainant filed an amended Complaint on February 8, 2024 and requested a partial withdrawal of another domain name.

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 February 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 17, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on March 18, 2024.

The Center appointed Phillip V. Marano as the sole panelist in this matter on March 20, 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**

Complainant has manufactured and marketed clothing and fashion accessories designed by Simon Porte Jacquemus under the trademark JACQUEMUS since 2013, and currently sells its products in 50 countries around the world. Complainant owns valid and subsisting registrations for the JACQUEMUS trademark in numerous countries, including the trademark for JACQUEMUS (Reg. No. 4057016) in France, registered on April 18, 2014, as well as JACQUEMUS (International Reg. No. 1211398) registered on February 5, 2014, with designations in countries including India.

Respondent registered the disputed domain name on November 10, 2023. At the time the Complaint was filed, the disputed domain name resolved to an "Account Suspended" webpage indicating "This account has been suspended. Contact your hosting provider for more information." Previously, the disputed domain name resolved to an automated Wordpress sample page titled "My Blog", which advertised "Études is a pioneering firm that seamlessly merges creativity and functionality to redefine architectural excellence."

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

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

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Complainant asserts ownership of the JACQUEMUS trademark and has adduced evidence of trademark registrations in numerous countries and regions around the world, including in China, the European Union, France, India, Israel, and the United States of America, with earliest priority dating back to December 24, 2013. The disputed domain name is confusingly similar to Complainant's JACQUEMUS trademark, according to Complainant, because it is "entirely reproduced in the disputed domain name which generates a high risk of confusion."

Complainant further asserts that Respondent lacks any rights or legitimate interests in the disputed domain name based on: the lack of any authorization, association or license between Respondent and Complainant; the lack of any evidence that Respondent is known by the name "Jacquemus"; and the lack of any evidence Respondent has used the disputed domain name as part of a bona fide offering of goods or services.

Complainant argues that Respondent has registered and used the disputed domain name in bad faith for numerous reasons, including: the well-known nature of Complainant's JACQUEMUS trademark, as recognized in prior panel determinations under the Policy; suspension of Respondent's website content associated with the disputed domain name; Respondent's use of a proxy registration service and the lack of any contact information on Respondent's prior website; and Respondent's activation of mail exchanger ("MX") records to send email messages through the disputed domain name, which Respondent can use for phishing activities.

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

Respondent did not reply to Complainant's contentions.

## 6. Discussion and Findings

To succeed in its Complaint, Complainant must establish in accordance with paragraph 4(a) of the Policy:

- i. The disputed domain name is identical or confusingly similar to a trademark in which Complainant has rights;
- 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.

Although Respondent did not reply to Complainant's contentions, the burden remains with Complainant to establish by a balance of probabilities, or a preponderance of the evidence, all three elements of paragraph 4(a) of the Policy. A respondent's default would not by itself mean that the complainant is deemed to have prevailed; a respondent's default is not necessarily an admission that the complainant's claims are true. UDRP panels have been prepared to draw certain inferences in light of the particular facts and circumstances of the case, e.g., where a particular conclusion is prima facie obvious, where an explanation by the respondent is called for but is not forthcoming, or where no other plausible conclusion is apparent. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), sections 4.2 and 4.3; see also *The Vanguard Group, Inc. v. Lorna Kang*, WIPO Case No. [D2002-1064](#) ("The Respondent's default does not automatically result in a decision in favor of the complainant. The Complainant must still prove each of the three elements required by Policy paragraph 4(a)").

### A. Identical or Confusingly Similar

Ownership of a nationally or regionally registered trademark serves as prima facie evidence that Complainant has trademark rights for the purposes of standing to file this Complaint. [WIPO Overview 3.0](#), section 1.2.1. Complainant submitted evidence that the JACQUEMUS trademark has been registered in numerous jurisdictions with priority dating back to December 24, 2013. Thus, the Panel finds that Complainant's rights in the JACQUEMUS trademark have been established pursuant to the first element of the Policy.

The only remaining question under the first element of the Policy is whether the disputed domain name is identical or confusingly similar to Complainant's JACQUEMUS trademark. In this Complaint, the disputed domain name is identical to Complainant's JACQUEMUS trademark because, disregarding the ".ltd" generic Top-Level Domain ("gTLD"), the entirety of the trademark is contained within the disputed domain name. [WIPO Overview 3.0](#), section 1.7. ("This test 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. [...] [I]n cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar [...]"). In regards to gTLDs, such as ".ltd". in the disputed domain name, they are generally viewed as a standard registration requirement and are disregarded under the first element. [WIPO Overview 3.0](#), section 1.11.

In view of the foregoing, the Panel concludes that Complainant has established the first element of the Policy.

### B. Rights or Legitimate Interests

Complainant must make out a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name, shifting the burden of production on this element to Respondent to come forward with evidence demonstrating such rights or legitimate interests. Where, as in this Complaint, Respondent fails to come forward with any relevant evidence, Complainant is deemed to have satisfied the second element of the Policy. [WIPO Overview 3.0](#), section 2.1. As a threshold matter, it is evident from the record that Respondent is not commonly known by the disputed domain name or Complainant's JACQUEMUS trademark.

Based on the undisputed facts and circumstances in the record before it, the Panel finds that Respondent is not using the disputed domain names in connection with a bona fide offering of goods or services. This is especially the case where a disputed domain name is so obviously connected with a well-known complainant that the very use, by a registrant with no connection to a complainant, suggests opportunistic bad faith. The Panel concludes from the record that Respondent had Complainant's JACQUEMUS trademark in mind when registering the disputed domain name, and that Respondent most likely registered domain name in order to exploit and profit from Complainant's trademark rights. Indeed, Respondent who knowingly adopted Complainant's well-known mark as a domain name for the use of an inactive website cannot claim the benefit of paragraph 4(c)(i) of the Policy to establish rights to the disputed domain name in this case.

Furthermore, passively holding a domain name in and of itself does not constitute a bona fide offering of goods or services nor a legitimate noncommercial or fair use. *Philip Morris USA Inc. v. Gabriel Hall*, WIPO Case No. [D2015-1779](#); *Teachers Insurance and Annuity Association of America v. Wreaks Communications Group*, WIPO Case No. [D2006-0483](#) (“[A]bsent some contrary evidence from Respondent, passive holding of a Domain Name does not constitute legitimate noncommercial or fair use”). In this Complaint, Respondent previously configured the disputed domain name to resolve to an automated WordPress sample blog page, and the record is devoid of any further direct evidence of actual use by Respondent — apart from Respondent's proactive configuration of MX records and the suspension of Respondent's hosting account. As discussed below, these facts (coupled with Complainant's plausible and uncontroverted phishing allegations) establish a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name, to which Respondent did not rebut.

In view of the foregoing, the Panel concludes that Complainant has established the second element of the Policy.

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

Paragraph 4(b) of the Policy proscribes the following non-exhaustive circumstances as evidence of bad faith registration and use of the disputed domain name:

- i. Circumstances indicating that Respondent has registered or Respondent has acquired the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the disputed domain name registration to Complainant who is the owner of the trademark to a competitor of that Complainant, for valuable consideration in excess of Respondent's documented out of pocket costs directly related to the disputed domain name; or
- ii. Respondent has registered the disputed domain name in order to prevent the owner of the trademark from reflecting the mark in a corresponding domain name, provided that Respondent has engaged in a pattern of such conduct; or
- iii. Respondent has registered the disputed domain name primarily for the purpose of disrupting the business of a competitor; or
- iv. By using the disputed domain name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent's website or other online location, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website or location or of a product or service on Respondent's website or location.

Where a complainant's trademark is widely known, including in a particular industry, or highly specific, and respondents cannot credibly claim to have been unaware of complainant, panels have inferred that they knew, or should have known, that their registration would be identical or confusingly similar to a complainant's trademark. The mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith.

[WIPO Overview 3.0](#), Section 3.1.4. Complainant has adduced evidence of recognition of the JACQUEMUS trademark and cited several panel determinations under the Policy in agreement that Complainant's JACQUEMUS trademark is considered to be “well-known” or “famous.” See, e.g., *Jacquemus SAS v. Contact Privacy Inc. Customer 1245862480 / Jacob Inch*, WIPO Case no. [D2019-3144](#) (“the Complainant's

trade mark is successful and enjoys a growing reputation, particularly in the fashion industry”); and *JACQUEMUS SAS v. Contact Privacy Inc. Customer 0155835558 / Rimk Le Boss Binks, Jacquemus Ventes Privees*, WIPO Case No. [D2019-2765](#) (“Complainant is known worldwide in the fashion industry”). As such, the Panel finds it is unlikely that Respondent could have registered the disputed domain name without knowledge of Complainant’s JACQUEMUS trademark, without any intention to benefit from confusion with Complainant’s JACQUEMUS trademark.

In addition, passively holding a domain name does not prevent a finding of bad faith. [WIPO Overview 3.0](#), section 3.3. This includes domain names that do not resolve to any website content as well as domain names that are parked with a “coming soon” message or other similar content like an automated WordPress “sample page”. Where a domain name is being passively held, as alleged in this case, bad faith registration and use exists based upon: (i) the degree of distinctiveness or reputation of the complainant’s mark; (ii) the failure of the respondent to submit any response or offer any credible evidence of rights or legitimate interests; (iii) the respondent’s concealing its identity or use of false contact details; and (iv) the implausibility of any good faith use which the domain name may be put. See *Id.* See also *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#) (“A remedy can be obtained under the Policy only if those circumstances show that the Respondent’s passive holding amounts to acting in bad faith.”) To that end, the Panel acknowledges the multitude of above-cited panel determinations under the Policy proffered by Complainant concluding that Complainant’s JACQUEMUS trademark is “known worldwide.” In the Panel’s view, these same prior panel determinations, coupled with Complainant’s extensive portfolio of worldwide trademark registrations for Complainant’s JACQUEMUS trademark, make good faith use of the disputed domain name relatively implausible. Further to that end, the Panel acknowledges Respondent’s failure to respond to this Complaint in order to offer any credible evidence of rights or legitimate interests.

Where it appears that a respondent employs a proxy service, or selects a registrar that applies default proxy services, merely to avoid being contacted by a complainant, or notified of a UDRP proceeding filed against it, UDRP panels tend to find that this supports an inference of bad faith. [WIPO Overview 3.0](#), section 3.6. Use of a privacy or proxy registration service to shield a respondent’s identity and elude or frustrate enforcement efforts by a legitimate complainant demonstrates bad faith use and registration of a disputed domain name. See *Fifth Third Bancorp v. Secure Whois Information Service*, WIPO Case No. [D2006-0696](#) (the use of a proxy registration service to avoid disclosing the identity of the real party in interest is also consistent with an inference of bad faith when combined with other evidence of evasive, illegal, or irresponsible conduct). Here, it is likely that Respondent has either intentionally employed a proxy registration service, or intentionally selected a registrar that offers default proxy registration services, to conceal its identity in conjunction with Respondent’s registration of a disputed domain name that is identical to Complainant’s well-known JACQUEMUS trademark.

Finally, the Panel considers configuration of an email server on the disputed domain name as additional evidence that it has been registered and use in bad faith. The disputed domain name effectively matches identically Complainant’s well-known JACQUEMUS trademark, and the record is devoid of any evidence to suggest that Respondent has any legitimate interest in sending emails from the disputed domain name. Conversely, Complainant has made a plausible argument that Respondent’s proactive configuration of an email server, and/or selection of a hosting provider that offers free email services, creates a risk that Respondent is engaged in a phishing scheme, thereby using an email address associated with Complainant’s trademark to try to steal valuable sensitive, financial or other confidential information from Complainant’s customers. Prior panel determinations under the Policy have recognized this same risk, and considered it as additional evidence of bad faith. See, e.g., *Accor SA v. Domain Admin, C/O ID#10760, Privacy Protection Service INC d/b/a PrivacyProtect.org / Yogesh Bhardwaj*, WIPO Case No. [D2017-1225](#); *Carrefour S.A. v. WhoisGuard, Inc / Gaudet Jose*, WIPO Case No. [DCO2018-0041](#) (“The Panel concurs with the Complainant that the connection of the disputed domain name with an email server configuration enhances a likelihood of confusion and presents a risk that the Respondent is engaged in a phishing scheme.”)

In view of the foregoing, the Panel concludes that 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 <jacquemus.ltd> be transferred to Complainant.

*/Phillip V. Marano/*

**Phillip V. Marano**

Sole Panelist

Date: April 4, 2024