

ADMINISTRATIVE PANEL DECISION

LE PORC GOURMET, SA / JORGE PORK MEAT, SL v. Mathew Lennings
Case No. D2024-1631

1. The Parties

The Complainants are LE PORC GOURMET, SA, Spain and JORGE PORK MEAT, SL, Spain, represented by Integra, Spain.

The Respondent is Mathew Lennings, Kingdom of the Netherlands.

2. The Domain Name and Registrar

The disputed domain name <leporcgourmetsa.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 April 18, 2024. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. Also on April 18, 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 Complainants on April 25, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amended Complaint on April 29, 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 May 2, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 22, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 24, 2024.

The Center appointed Luca Barbero as the sole panelist in this matter on May 31, 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 LE PORC GOURMET, SA (the “first Complainant”) and JORGE PORK MEAT, SL (the “second Complainant”) are domiciled in Spain and are part of the internationally renowned Spanish meat group known as Grupo Jorge.

The second Complainant owns the European Union trademark registration No. 18021515 for LE PORC GOURMET GRUPO JORGE (semi-figurative mark), filed on February 11, 2019, and registered on July 20, 2019, in classes 29, 35 and 39 (Annex 15 to the Complaint). The first Complainant owns the domain name <leporcgourmet.es>, which was registered on September 3, 2007, and redirects to the main website of the Grupo Jorge at “www.jorgesl.com”.

The disputed domain name <leporcgourmetsa.com> was registered on February 5, 2024, and resolves to a website prominently featuring the trademark of the second Complainant cited above and the indication “LE PORC GOURMET – GLOBAL EXPORT OF PREMIUM PORK MEAT”, pretending to be the official website of the first Complainant, publishing the first Complainant’s company name and address, and promoting the sale of meat products falsely pretending to be the Complainants’.

5. Parties’ Contentions

A. Complainants

The Complainants contend that they have satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainants contend that the disputed domain name <leporcgourmetsa.com> is identical to the trademark LE PORC GOURMET GRUPO JORGE.

The Complainants submit that the Respondent has no rights or legitimate interests in respect of the disputed domain name since i) the disputed domain name and the logo published on the website to which the disputed domain name resolves are identical to its registered mark; ii) the Respondent mentioned the first Complainant’s address on its website and iii) the Respondent has made of the disputed domain name in a fraudulent manner to impersonate the first Complainant.

With reference to the circumstances evidencing bad faith, the Complainants submit that besides the above-mentioned considerations which in themselves demonstrate the Respondent’s bad faith, the Respondent appears to have been involved in a pattern of domain name registrations that have been finalized by third parties since 2022 and have been used in connection with fraudulent web pages impersonating companies of Grupo Jorge. The Complainants contend that the real persons or companies behind all the infringing domain names have Spanish origin, having detected real frauds to customers who bought product containers thinking that they were buying from Grupo Jorge.

The Complainants also state that prior decisions corroborate the facts described herein, namely *Le Porc Gourmet SA, and Jorge Pork Meat, SL v. NATURAFRIG ALIMENTOS*, WIPO Case No. [D2023-4909](#) (<leporcgourmetsa.com>) and the decisions issued by RED.ES in connection with the domain names <leporcgourmet.es> and <leporcgourmetsa.es>.

B. Respondent

The Respondent did not reply to the Complainants' contentions.

6. Discussion and Findings

According to paragraph 15(a) of the Rules: "A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable." Paragraph 4(a) of the Policy directs that the Complainants must prove each of the following:

- (i) that the disputed domain name registered by the Respondent is identical or confusingly similar to a trademark or service mark in which the Complainants have rights;
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

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 Complainants' trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainants have shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. Indeed, the Complainants have provided evidence of ownership of a valid trademark registration for LE PORC GOURMET GRUPO JORGE (semi-figurative mark), registered in the name of the second Complainant.

The Panel finds the mark is recognizable within the disputed domain name, as its dominant feature, consisting of the denominative element "le porc gourmet", is reproduced in its entirety in the disputed domain name. Panel 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 can be disregarded for purposes of assessing identity or confusing similarity under the first element. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.7 and 1.10.

Although the addition of the two letters "sa", which may refer to a company legal form ("sociedad anonima"), may bear on assessment of the second and third elements, the Panel finds the addition of such letters 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 therefore 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 Complainants have established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainants' 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.

The Panel notes that there is no relation, disclosed to the Panel or otherwise apparent from the record, between the Respondent and the Complainants. The Respondent is not a licensee of the Complainants, nor has the Respondent otherwise obtained an authorization to use the Complainants' mark. Moreover, there is no element from which the Panel could infer a Respondent's right over the disputed domain name, or that the Respondent might be commonly known by the disputed domain name.

As mentioned above, the disputed domain name has been pointed to a website publishing the Complainants' mark, promoting the sale of meat products and publishing the first Complainant's company name and address, in a clear attempt to impersonate the first Complainant.

The Panel finds that the Respondent's use of the disputed domain name does not amount to a bona fide offering of goods or services or a legitimate non-commercial or fair use without intent for commercial gain to misleadingly divert consumers or to tarnish the Complainants' mark.

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

Therefore, the Panel finds the second element of the Policy has also 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.

As to bad faith at the time of the registration, the Panel finds that, in view of i) the prior registration and use of the Complainants' mark with which the disputed domain name is confusingly similar, ii) the identity of the disputed domain name with the company name of the first Complainant, and iii) the fact that the disputed domain name has been pointed to a website prominently featuring the Complainants' mark and falsely pretending to be the official website of the first Complainant, the Respondent was clearly aware of, and intended to target, the Complainant and its trademark when registering the disputed domain name. [WIPO Overview 3.0](#), section 3.2.2.

The Panel finds that, by pointing the disputed domain name to the website described above, featuring the Complainants' mark, promoting the related products and displaying the company name and address of the first Complainant without displaying an accurate and prominent disclaimer of non-affiliation with the Complainants, the Respondent has intentionally attempted to attract Internet users to its website for commercial gain, by causing a likelihood of confusion with the Complainants' mark as to the source, sponsorship, affiliation or endorsement of its website according to paragraph 4(b)(iv) of the Policy.

The Panel also finds that the Respondent has registered the disputed domain name for the purpose of disrupting the business of the Complainants according to paragraph 4(b)(iii) of the Policy.

Lastly, Panels have held that the use of a domain name for illegal activity here, claimed as impersonation/passing off 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.

Therefore, the Panel finds that the Complainants have also 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 <leporcgourmetsa.com> be cancelled.

/Luca Barbero/

Luca Barbero

Sole Panelist

Date: June 14, 2024