

## **ADMINISTRATIVE PANEL DECISION**

### **JACQUEMUS SAS v. Sheryl Delapaz**

### **Case No. D2024-1750**

#### **1. The Parties**

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

The Respondent is Sheryl Delapaz, United States of America (“United States”).

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

The disputed domain name <jacquemussale.top> (the “Domain Name”) is registered with NameSilo, LLC (the “Registrar”).

#### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 25, 2024. On April 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On April 26, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the 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 1, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 21, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 29, 2024.

The Center appointed Ian Lowe as the sole panelist in this matter on June 4, 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 Complainant is a French company which has since 2013 manufactured and marketed clothing and fashion accessories under the trademark JACQUEMUS. It is known worldwide in the fashion industry. JACQUEMUS products are now sold in 50 different countries around the world.

The Complainant is the owner of numerous registered trademarks worldwide for the mark JACQUEMUS, including France trademark number 4057016 registered on December 24, 2013; International trademark number 1211398 registered on February 5, 2014 designating a number of jurisdictions including the United States; and European Union trademark number 018080381 registered on October 18, 2019.

The Complainant is also the owner of the domain name <jacquesmus.com> registered in 2010 and <jacquesmus.fr> registered in 2014.

The Domain Name was registered on January 29, 2024. It resolves to a website featuring the JACQUEMUS trademark in the header of its web pages and purporting to offer for sale a range of JACQUEMUS branded products at very substantially discounted prices. The “About Us” web page at the website begins “Jacquemus is a French luxury label founded in 2009”.

#### 5. Parties' Contentions

##### A. Complainant

The Complainant contends that the Domain Name is confusingly similar to its JACQUEMUS trademark, that the Respondent has no rights or legitimate interests in respect of the Domain Name, and that the Respondent registered and is using the Domain Name in bad faith within the meaning of the Policy.

##### B. Respondent

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

#### 6. Discussion and Findings

For this Complaint to succeed in relation to the Domain Name the Complainant must prove that:

- (i) the 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 Domain Name; and
- (iii) the 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 threshold test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's 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.

Based on the available evidence, the Panel finds 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.

Ignoring the generic Top-Level Domain (“gTLD”) “.top”, the Domain Name comprises the entirety of the Complainant's JACQUEMUS trademark (the “Mark”) with the addition of the word “sale”. The Panel finds that this addition does not prevent a finding of confusing similarity between the Domain Name and the Mark

for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Accordingly, the Panel finds that the first element required under 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 that 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. Accordingly, 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 evidence, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the 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 Domain Name such as those enumerated in the Policy or otherwise.

The Respondent has not used the Domain Name for a bona fide offering of goods or services, but rather for a website purporting to be operated by the Complainant and offering for sale what purport to be the Complainant’s branded products at very substantially discounted prices. The Complainant alleges that the products in question are counterfeit, and in similar circumstances many panels have found an inference that the products in question may not be the genuine products of the complainant. In the Panel’s view, the impersonation of a brand owner in this manner cannot confer rights or legitimate interests on the Respondent. See also [WIPO Overview 3.0](#), section 2.13.1.

The Panel finds that the second element of the Policy has been established.

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

In light of the use by the Respondent of the Mark in the Domain Name, and the nature of the Respondent’s website featuring the Mark and offering what purport to be the Complainant’s JACQUEMUS branded products, the Panel is in no doubt that the Respondent had the Complainant and its rights in the Mark in mind when it registered the Domain Name.

The Panel considers that the Respondent has registered and used the Domain Name to deceive Internet users into believing that the Domain Name is operated or authorized by the Complainant, and to attract Internet users by creating a likelihood of confusion with the Mark, no doubt for commercial gain. The Panel further considers that the Respondent’s website impersonating the Complainant cannot amount to fair use of the Domain Name. The Panel further finds on balance that it may be inferred from the circumstances and from the very heavily discounted prices at which the JACQUEMUS branded products have been offered on the Respondent’s website, that the goods in question are not the genuine products of the Complainant. Such activity also constitutes bad faith.

It follows that, based on the available evidence and absent any explanation from the Respondent, 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 Domain Name <jacquemussale.top> be transferred to the Complainant.

*/Ian Lowe/*

**Ian Lowe**

Sole Panelist

Date: June 18, 2024