

ADMINISTRATIVE PANEL DECISION

Swift Argentina S.A. v. Blanco Jose Luis
Case No. D2024-2914

1. The Parties

The Complainant is Swift Argentina S.A., Argentina, represented by Salusse, Marangoni, Parente e Jabur Advogados, Brazil.

The Respondent is Blanco Jose Luis, Germany.

2. The Domain Name and Registrar

The disputed domain name <swiftargentina.com> is registered with Web Commerce Communications Limited dba WebNic.cc (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on July 16, 2024. On July 17, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 17, 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 July 19, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 8, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 9, 2024.

The Center appointed Reynaldo Uriaga Escobar as the sole panelist in this matter on August 22, 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.

The proceeding is conducted in English, this being the language of the disputed domain name's registration agreement, as confirmed by the Registrar.

4. Factual Background

The Complainant was incorporated in Buenos Aires, Argentina, as a corporation under the name Carnes Argentinas S.A., which bylaws were recorded with the Argentine Public Registry of Commerce on November 5, 1976.

The Complainant is a beef producer, meat packer, and processor of pork and poultry products. In 2005, the Complainant, then trading under the name Swift-Armour Sociedad Anónima Argentina, S.A., was acquired by JBS S.A., a multinational company headquartered in Sao Paulo, Brazil¹, and one of the world's largest meat companies.²

The Complainant adopted its current name on July 31, 2017.

The Complainant holds several Argentine trademark registrations comprising the term SWIFT, inter alia:

Mark	National Trademark Office	Reg. No.	Registration date	Goods or services
SWIFT (Word mark)	INPI (Argentina)	2,944,383	July 25, 2018	[29] Guts for natural or artificial casings
SWIFT (Word mark)	INPI (Argentina)	2,936,588	July 31, 2018	[30] Pickles
SWIFT (Word and Design)	INPI (Argentina)	2,984,682	May 14, 2019	[43] All services pertaining to the class

These trademark registrations are in full force and effect.

The Complainant's web portal is located at "www.swift.com.ar", which domain name the Complainant registered on March 23, 1998.

The disputed domain name was registered on November 2, 2022. The disputed domain name no longer resolves to an active website but once hosted a web page impersonating the Complainant, and has been used as part of an email address from which a communication falsely claiming to originate from the Complainant was sent to a potential buyer of Complainant's meat products.

5. Parties' Contentions

A. Complainant

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

¹ <https://jbs.com.br/sobre/nossa-historia/> The Panel relies on its general powers articulated in paragraphs 10 and 12 of the UDRP Rules, to undertake limited factual research into matters of public record considering that such information is useful to assessing the case merits and reaching a decision. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([WIPO Overview 3.0](#)), section 4.8.

² <https://www.expertmarketresearch.com/articles/top-meat-companies#:~:text=Cargill%20Inc.%2C%20Conagra%20Brands%2C,in%20the%20global%20meat%20market.>

Notably, the Complainant contends that:

- (i) The Complainant is the sole owner of the SWIFT mark in Argentina, having the exclusive right to exploit it in that territory;
- (ii) The Respondent intentionally reproduced the Complainant's SWIFT mark, which is well-known in Argentina;
- (iii) The addition of the geographic term "Argentina" to the disputed domain name does not avoid a finding of confusing similarity with the Complainant's mark;
- (iv) The likelihood of confusion is evident given that the Internet users will immediately associate the disputed domain name with the Complainant's registered trademark;
- (v) The Respondent has not been authorized by the Complainant to use the SWIFT mark, nor does it exist a business relationship between the Complainant and the Respondent;
- (vi) The evidence proffered by the Complainant shows that on May 14, 2024, the Respondent sent a fraudulent email from [...]@swiftargentina.com impersonating the Complainant and seeking to defraud a Complainant's customer;
- (vii) The disputed domain name does not presently resolve to an active webpage, thus being passively held;
- (viii) The Respondent does not hold trademark rights corresponding to the disputed domain name nor is the Respondent known by the disputed domain name;
- (ix) It is therefore uncontestable that Respondent does not have any rights or legitimate interests in the disputed domain name per prior UDRP decisions;
- (x) Before registering the disputed domain name, the Respondent evidently knew of the existence of the Complainant's prior trademark rights, which are a matter of public record;
- (xi) The Respondent must have had knowledge of the Complainant's pre-existing trademark rights in the term "swift" as can be proven with the use of the exact trademark and logo in the May 14, 2024 fraudulent email;
- (xii) The Respondent breached its obligation under Policy paragraph 2, setting forth that it was the Respondent's responsibility to determine whether the disputed domain name infringed or violated someone else's rights;
- (xiii) The Respondent's use of the disputed domain name in fraudulent emails impersonating the Complainant is clear evidence of bad faith in the context of the Policy.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, in order to succeed in this administrative proceeding, the Complainants must prove that:

- (i) the disputed domain name is identical or confusingly similar to trademarks or service marks 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 was registered and is being used in bad faith.

These elements are discussed in turn below. In considering these elements, paragraph 15(a) of the Rules provides that the Panel shall decide the Complaint on the bases of statements and documents submitted and in accordance with the Policy, the Rules, and any other rules or principles of law that the Panel deems applicable.

A. Identical or Confusingly Similar

It is well settled 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 Complainant's trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

Considering the trademark registration certificates submitted with the Complaint, the Panel finds the Complainant has shown rights in the SWIFT mark as per Policy paragraph 4(a)(i).

The Panel readily recognizes the mark SWIFT within the disputed domain name despite its coexistence with "Argentina", a geographically descriptive term. As a result, the disputed domain name is deemed to be confusingly similar to the Complainant's SWIFT mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8 (Where the relevant trademark is recognizable within the disputed domain name, the addition of descriptive or geographical terms does not prevent a finding of confusing similarity under the first element).

Although generic Top-Level-Domains ("gTLDs") may bear on assessment of the second and third elements, the Panel finds the ".com" gTLD in the disputed domain name does not preclude a finding of confusing similarity under the Policy. [WIPO Overview 3.0](#), section 1.8.

In sum, the disputed domain name is found to be confusingly similar to the SWIFT registered marks owned by the Complainant.

Based on the available record, the Panel 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 Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed 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 disputed domain name such as those enumerated in the Policy or otherwise.

The Complainant has submitted documentary evidence showing that on May 14, 2024, the Respondent created and used the sham email account [...]@swiftargentina.com to impersonate the Complainant with the intent to defraud a Complainant's potential customer by providing a CNF³ quote for a shipment of bovine products supposedly produced by the Complainant to Shanghai and Nansha, requesting a 40% advance of the total price quoted.

The Respondent's use of the disputed domain name for illegal purposes, including fraud and impersonation/passing off, negates the existence of rights or legitimate interests within the meaning of the Policy. [WIPO Overview 3.0](#), section 2.13.1.

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

Pursuant to Policy, paragraph 4(a)(iii), in order to be granted relief, the Complainant must show that the disputed domain name was registered and is being used in bad faith.

Paragraph 4(b) of the Policy sets forth the following non-exhaustive grounds of bad faith registration and use:

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

In the Policy context, bad faith is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark. See section 3.1 of the [WIPO Overview 3.0](#).

As explained in section 6B *supra*, the Respondent used the disputed domain name to create a sham email account impersonating the Complainant with the intention to defraud a prospective buyer of Complainant's bovine products over a bogus shipment to Shanghai and Nansha.

This is conclusive evidence of bad faith under the Policy. See section 3.4 of the [WIPO Overview 3.0](#). (respondent's use of the disputed domain name to send deceptive emails, e.g., to solicit payment from the complainant's actual or prospective customers constitutes bad faith).

³ The acronym stands for “Cost Net Freight”. This is a shipping agreement where the seller pays to ship the item to the port closest to the buyer, excluding insurance. Therefore, the buyer must pay the insurance premium from the origin to the final destination. Source: <https://www.tj-chinafreight.com/what-is-cnf/>

Moreover, the Respondent's May 14, 2024 email attached to the Complaint, included a signing bloc with the Complainant's trademarked SWIFT logo⁴, which shows that the Respondent targeted and abused the Complainant's SWIFT mark to profit from an illegal scheme implicating deception, fraud, and phishing.

The Panel takes notice that on March 29, 2024⁵, the disputed domain name resolved to a webpage passing off as the Complainant's by displaying the following content:

"Menu
Home
About
History
Our Products
Quality
Jobs
Contact
More than 60 years.
Long time in the beef business.
We know.
© 2023 Swift Argentina S A. All rights reserved."

Lastly, the Panel is aware that the Respondent provided a false or incomplete mailing address while registering the disputed domain name since the Written Notice issued by the Center on July 19, 2024 pursuant to paragraph 4(c) of the Rules could not be delivered as evidenced in the case file.

All these circumstances, taken together, lead the Panel to conclude that the disputed domain name was registered in bad faith and is being used in bad faith.

The Complainant has discharged its burden in relation to 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 <swiftargentina.com> be transferred to the Complainant.

/Reynaldo Urtiaga Escobar/
Reynaldo Urtiaga Escobar
Sole Panelist
Date: September 11, 2024

⁴ The SWIFT logo is the subject of Argentine service mark registration No. 2984682 referenced in section 4 *supra*.

⁵ https://web.archive.org/web/20240000000000*/swiftargentina.com See section 4.8 of the [WIPO Overview 3.0](#) (A panel may look into the Internet Archive (www.archive.org) in order to obtain an indication of how a domain name may have been used in the relevant past).