

## **ADMINISTRATIVE PANEL DECISION**

Sol de Janeiro IP, Inc. (USA) v. gindrier thomas  
Case No. D2024-3033

### **1. The Parties**

The Complainant is Sol de Janeiro IP, Inc. (USA), United States of America, represented by IP Twins, France.

The Respondent is gindrier thomas, France.

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

The disputed domain name <soldejaneiro.com> (the “Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 1, 2024. On August 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On August 2, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 8, 2024, 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 8, 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 August 14, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 3, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 17, 2024.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on September 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 to ensure compliance with the Rules, paragraph 7.

#### **4. Factual Background**

The Complainant is in cosmetics with a global sales of 267 million euros for the fiscal year that ended March 31, 2023. The majority of the Complainant's capital is possessed by the group L'Occitane, which also possesses 8 trademarks, and operates in more than 90 countries around the world, with more than 3,000 salespoints and more than 1,300 shops.

The Complainant owns several trademark registrations for SOL DE JANEIRO, such as European Union trademark No. 018901589 (registered on October 28, 2023) and United States of America trademark No. 6157406 (registered on September 22, 2020). The Complainant is present at the internet and through social media. The Complainant's domain name <soldejaneiro.com> has been registered since 2009.

The Domain Name was registered on July 3, 2024. At the time of drafting the Decision, the Domain Name resolved to an error page.

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

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

The Complainant provides evidence of trademark registrations before the Domain Name was registered and argues that the Complainant's trademark is well known. The Complainant argues that the Domain Name is an intentional misspelling of the Complainant's trademark. The Domain Name is only different from the trademark by the doubling of the letter "i".

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the Domain Name. There is no evidence that the Respondent has been commonly known by the Domain Name. There is no sign of bona fide use. On the contrary, the Domain Name resolves to an error page.

Given the fame of the Complainant and its trademark, the Complainant argues that the Respondent knew or should have known the Complainant's trademark. It is highly likely the Respondent has registered the Domain Name to attract Internet users by creating a likelihood of confusion with the Complainant. The current non-use of the Domain Name may not be considered a good faith use. By maintaining the Domain Name, the Respondent is preventing the Complainant from reflecting its trademark in the corresponding domain name.

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

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

#### **6. Discussion and Findings**

##### **A. Identical or Confusingly Similar**

The test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the Domain Name. Where a domain name incorporates the entirety of a trademark, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has established that it has rights in the trademark SOL DE JANEIRO. The Domain Name is identical to the Complainant's trademark save the added letter "i". The minor misspelling does not prevent a finding of confusing similarity. See [WIPO Overview 3.0](#), section 1.8. For the purpose of assessing the confusing similarity under paragraph 4(a)(i) of the Policy, the Panel may ignore the generic Top-Level Domain ("gTLD") ".com"; see [WIPO Overview 3.0](#), section 1.11.1.

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. 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. See [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, 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 showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Domain Name. Based on the record, the Respondent is not affiliated or related to the Complainant. There is no evidence that the Respondent has registered the Domain Name as a trademark or acquired trademark rights. There is no evidence of the Respondent's use of, or demonstrable preparations to use, the Domain Name in connection with a bona fide offering of goods or services. In addition, the Panel notes the composition of the Domain Name, consisting of a typo of the Complainant's trademark, being inherently misleading.

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

The Respondent most likely knew of the Complainant when the Respondent registered the Domain Name. It follows from the composition of the Domain Name. It is likely the Respondent has registered the Domain Name to attract Internet users by creating a likelihood of confusion with the Complainant. The non-use of the Domain Name does not prevent a finding of bad faith under the doctrine of passive holding. The Complainant's trademark is well-known in its field, the respondent failed to provide any evidence of good faith use and it has initially concealed its identity. The Panel finds it implausible that the Respondent may put the Domain Name into good faith use in view of the inherently misleading nature of the typosquatting. See [WIPO Overview 3.0](#), section 3.3.

For the reasons set out above, the Panel concludes that the Domain Name was registered and is being used in bad faith, within the meaning of paragraph 4(a)(iii) of the Policy. The third element of the Policy has been established.

## 7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders the Domain Name <soldejaneiro.com> be transferred to the Complainant.

*/Mathias Lilleengen/*

**Mathias Lilleengen**

Sole Panelist

Date: September 26, 2024