

## **ADMINISTRATIVE PANEL DECISION**

Jorge SL v. JORGE SL, JORGE SL  
Case No. D2023-5330

### **1. The Parties**

The Complainant is Jorge SL, Spain, represented by Cristina Martínez-Tercero, Spain.

The Respondent is JORGE SL, JORGE SL, United States of America<sup>1</sup>.

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

The disputed domain name <jorgesl-es.com> is registered with Hostinger Operations, UAB (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 22, 2023. On December 22, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 22, 2023, 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 Complainant on December 27, 2023 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 December 28, 2023.

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 January 3, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 23, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 24, 2024.

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<sup>1</sup> These registrant details are included in the Whois information provided by the Registrar with no guarantee or warranties regarding their accuracy, and actually suggest that the registrant provided false information upon registration of the disputed domain name.

The Center appointed Marilena Comanescu as the sole panelist in this matter on January 26, 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, based in Zaragoza, Spain is part of the international Spanish meat group known as “Grupo Jorge”.

The Complainant owns trademark registrations for or including GRUPO JORGE, such as the European Union trademark registration number 11573144 for GRUPO JORGE (stylized and with device elements), filed on February 14, 2013, registered on July 22, 2013, covering services in Nice classes 35, 36 and 37.

The Complainant holds and operates its main website at <jorgesl.com> registered on December 12, 2001.

The disputed domain name was registered on November 16, 2023 and, the registrant disclosed by the Registrar in its verification response, has a name which is identical to the name of the Complainant.

Currently, the disputed domain name resolved to an error page.

According to Annex 13 to the Complaint, on December 18, 2023, the disputed domain name was used to resolve to a website which, above the notice “Oops! That page can’t be found.”, was displaying the Complainant’s logo, trademark, and purported contact details for the Respondent, out of which, the address listed was the official address of the Complainant’s office in Zaragoza, Spain.

Before commencing the present procedure, on December 18, 2023, the Complainant sent a letter to the Registrar, hosting provider and email address available on the website under the disputed domain name, requesting to cease the use of and to cancel the disputed domain name. No response was received.

#### **5. Parties’ Contentions**

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

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

Notably, the Complainant contends that: the disputed domain name is identical to its trademark; the content on the website under the disputed domain name reproduces exactly the Complainant’s logo and trademark and lists the Complainant’s official address, thus impersonating the Complainant and creating confusion for the Internet users; since the end of 2022 the Complainant is attacked by the same group, which is creating and copying fraudulent web pages presenting themselves to be part of the Complainant’s group and thus deceiving Internet users looking for the Complainant’s goods; the Complainant obtained favorable decisions issued by the Spanish authority Red.es who canceled several domain names controlled by the same group, of which the present Respondent is also a part; and the Respondent has used, in the Whois, a false name, identical to the Complainant’s company name.

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

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

## 6. Discussion and Findings

Under the Policy, the Complainant is required to prove on the balance of probabilities that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (ii) the respondent has no rights or legitimate interests in the disputed domain name; and
- (iii) 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 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.

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.

The Panel finds the mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the removal of the term "grupo" from the Complainant's trademark and the addition of the term "sl-es", may bear on assessment of the second and third elements, the Panel finds the deletion and/or addition of such terms do 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.

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.

According to the evidence provided in the Complaint, the Respondent has registered the disputed domain name using false identity and has displayed the Complainant's logo and official address on the website

under the disputed domain name. UDRP panels have held that the use of a domain name for illegal activity (such as impersonation, passing off or other types of fraud) can never confer rights or legitimate interests on a respondent. [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**

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.

In the present case, the Panel notes that the Respondent registered the disputed domain name in bad faith because it is confusingly similar to the Complainant's trademark registered since at least 2013 and domain name registered in 2001, and furthermore the Respondent fraudulently used the name of the Complainant as contact information listed in the WhoIs.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

According to the evidence provided in Annex 13 to the Complaint and unrefuted by the Respondent, the disputed domain name resolved to a webpage displaying the Complainant's trademark, logo and address. Panels have held that the use of a domain name for illegal activity (e.g., impersonation/passing off, or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

At the time of filing the Complaint, the disputed domain name directs towards an error page.

Panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the composition of the disputed domain name which includes the Complainant's trademark together with the term "sl-es", closely related to the Complainant's form of organization and location (i.e. "sl" in Spain comes from "limited liability company" (sociedad limitada), and "es" from Spain (España), and being very similar to the Complainant's domain name <jorgesl.com>; the Respondent's failure to respond to the Complainant's letters and to the present proceedings; the use of false contact details in the WhoIs, and finds that, in the circumstances of this case, the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Based on the available record, 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 disputed domain name <jorgesl-es.com> be cancelled.

*/Marilena Comanescu/*

**Marilena Comanescu**

Sole Panelist

Date: February 6, 2024.