

## PANEL DECISION

### The Pink Pig SA and Jorge Pork Meat SL v. Blanco Jose Luis Case No. DEU2023-0020

#### 1. The Parties

The Complainants are The Pink Pig SA and Jorge Pork Meat SL both of Spain, represented by Integra, Spain.

The Respondent is Blanco Jose Luis of Germany.

#### 2. The Domain Name, Registry and Registrar

The Registry of the disputed domain name <thepinkpig.eu> is the European Registry for Internet Domains (“EURid” or the “Registry”). The Registrar of the disputed domain name is EURid vzw.

#### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 30, 2023. On June 8, 2023, the Center transmitted by email to the Registry a request for registrar verification in connection with the disputed domain name. On June 14, 2023, the Registry 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) and contact information in the Complaint. The Center sent an email communication to the Complainants on June 14, 2023, providing the registrant and contact information disclosed by the Registry, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amended Complaint on June 28, 2023.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the .eu Alternative Dispute Resolution Rules (the “ADR Rules”) and the World Intellectual Property Organization Supplemental Rules for .eu Alternative Dispute Resolution Rules (the “Supplemental Rules”).

In accordance with the ADR Rules, Paragraph B(2), the Center formally notified the Respondent of the Complaint, and the proceedings commenced on June 29, 2023. In accordance with the ADR Rules, Paragraph B(3), the due date for Response was July 19, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 20, 2023.

The Center appointed Mihaela Maravela as the sole panelist in this matter on July 24, 2023. 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 ADR Rules, Paragraph B(5).

#### 4. Factual Background

The Complainants in this administrative proceeding are The Pink Pig SA (“the First Complainant”) and Jorge Pork Meat SL (“the Second Complainant”).

According to information in the Complaint, the Complainants are part of a Spanish meat group known as Grupo Jorge.

The Second Complainant is the exclusive owner the European Union Trademark THE PINK PIG GRUPO JORGE (figurative), registered under number 018021517 as of October 28, 2020. The First Complainant is a wholly owned subsidiary of the Second Complainant. The First Complainant has registered the domain name <thepinkpig.es> which is redirected to the Complainants’ group of companies’ main website at “www.jorgesl.com”.

The disputed domain name was registered on February 26, 2023, and resolves to a website that purports to be an official website of the Complainants, displaying the trademark and corporate name of the Complainants, and offering for sale the Complainants’ related goods.

#### 5. Preliminary issues - Multiple Complainants

Neither the Regulation (EU) 2019/517 of the European Parliament and the Council of March 19, 2019 on the implementation and functioning of the .eu Top Level Domain (the “Regulation”) nor the ADR Rules expressly contemplate the possibility of an ADR complaint filed jointly by multiple complainants.

However, prior domain name disputes decided pursuant to the Uniform Domain Name Dispute Resolution Policy (“UDRP”) have shown that under certain circumstances a single complaint filed by more than one complainant against a single respondent may be accepted.

According to section 4.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”)<sup>1</sup>, “[when] assessing whether a complaint filed by multiple complainants may be brought against a single respondent, panels look at whether (i) the complainants have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected the complainants in a similar fashion, and (ii) it would be equitable and procedurally efficient to permit the consolidation”. See also *Gymworld Inc. and Magformers UK Limited v. Vanbelle Jo, Vanbelle Law*, WIPO Case No. [DEU2017-0001](#), and *Take-Two Interactive Software, Inc. and Take-Two Interactive GmbH v. Auyhgf Awgega*, WIPO Case No. [DEU2020-0006](#).

The First Complainant is a wholly owned subsidiary of the Second Complainant, hence the co-Complainants have a common grievance against the Respondent, as they share common interests. In the circumstances, and absence of any objection on behalf of the Respondent, the Panel accepts the single consolidated Complaint against the Respondent, which it finds fair and equitable to all the parties. The Panel will refer to both Complainants as the Complainant herein below.

#### 6. Parties’ Contentions

##### A. Complainant

The Complainant argues that the disputed domain name includes fully its trademark and that the confusion between the disputed domain name and the Complainant’s trademark is also indisputable in view of the content of the website at the disputed domain name.

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<sup>1</sup> Considering the substantive similarities between the ADR Rules and the UDRP, the Panel will refer to UDRP decisions and analysis, and [WIPO Overview 3.0](#), where appropriate.

As regards the second element, the Complainant argues that unauthorized offers of products and services are made on the website at the disputed domain name. The website at the disputed domain name reproduces exactly the logo and trademark of the Complainant and impersonates the Complainant by using the contact details of the Complainant in the "Contact" section.

With respect to the third element, the Complainant argues that the Respondent has registered other domain names similar to the Complainant's trademarks, with websites having content copied from the Complainant's websites, which were cancelled by the Spanish authority.

## **B. Respondent**

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

## **7. Discussion and Findings**

In terms of the ADR Rules, Paragraph B(11)(d)(1), the Complainant is required to demonstrate that:

- (i) The domain name is identical or confusingly similar to a name in respect of which a right is recognized or established by the national law of a Member State and/or European Union law and; either
- (ii) The domain name has been registered by the Respondent without rights or legitimate interest in the name; or
- (iii) The domain name has been registered or is being used in bad faith.

### **A. Identical or Confusingly Similar to a name in respect of which a right or rights are recognized or established by national law of a Member State and/or European Union law**

The Complainant has submitted evidence of the rights of the Second Complainant for THE PINK PIG GRUPO JORGE in the form of registered trademark right in the European Union. For the purposes of the present proceeding, the Panel holds that the trademark registrations indicated above satisfy the requirement of having a right recognized by the European Union law.

The trademark THE PINK PIG GRUPO JORGE is reproduced almost in its entirety in the disputed domain name which is, in the Panel's view, sufficient to establish confusing similarity for the purpose of the ADR Rules. The ".eu" Top-Level Domain is typically disregarded for the purposes of the comparison with the Complainant's trademarks on the basis that it is a mere technical requirement for registration.

The Panel therefore finds that the disputed domain name is confusingly similar to the Complainant's trademark, as required by the ADR Rules, Paragraph B(11)(d)(1)(i), and that the Complainant has carried its burden in this respect.

### **B. Rights or Legitimate Interests**

Paragraph B(11)(e) of the ADR Rules provides that the following circumstances, without limitation, demonstrate a respondent's rights or legitimate interests to a domain name for purposes of Paragraph B(11)(d)(1)(ii):

- (1) prior to any notice of the dispute, the respondent has used the domain name or a name corresponding to the domain name in connection with the offering of goods or services or has made demonstrable preparation to do so;
- (2) the respondent, being an undertaking, organization or natural person, has been commonly known by the domain name, even in the absence of a right recognized or established by national and/or European Union law;

- (3) the respondent is making a legitimate and noncommercial or fair use of the domain name, without intent to mislead consumers or harm the reputation of a name in which a right is recognized or established by national law and/or European Union law.

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.

In the present case, the Complainant has proved that the Second Complainant holds rights over the trademark THE PINK PIG GRUPO JORGE and claims that the Respondent has no legitimate reason to use the disputed domain name. Rather, the website at the disputed domain name seems to be used for competing services with those of the Complainant and displays the figurative trademark of the Second Complainant and the corporate name of the First Complainant. Absent authorisation from the Complainant, such use cannot confer rights or legitimate interests upon the Respondent.

Also, there is no evidence indicating that the Respondent is commonly known by the disputed domain name.

By not submitting a Response, the Respondent has failed to invoke any circumstances which could demonstrate any rights or legitimate interests in the disputed domain name.

Accordingly, in the absence of any evidence to support a possible basis on which the Respondent may have rights or legitimate interests in respect of the disputed domain name, the Panel accepts the Complainant's un rebutted *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name and that the Complainant has satisfied the condition set out at Paragraph B(11)(d)(1)(ii) of the ADR Rules.

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

According to Article 4(4) of the Regulation and Paragraph B(11)(d)(1) of the ADR Rules (ii) lack of rights or legitimate interests and (iii) registration or use in bad faith are alternative requirements. The Panel finds that the Respondent lacks rights or legitimate interests in the disputed domain name and therefore there is no need to consider also the bad faith element.

Nevertheless, the Panel finds that the use of the disputed domain name as described above is evidence of bad faith registration and use, pursuant to Paragraph B(11)(d)(1)(iii) of the ADR Rules. In addition to the above, the Panel also notes, with respect to the bad faith registration, that the disputed domain name is confusingly similar to the Complainant's domain name <thepinkpig.es> and to the First Complainant's corporate name.

An additional element for the bad faith use is that the Respondent appears to have registered another domain name (<thepinkpigs.es>), similar to the disputed domain name, falsely pretending to be the Complainant (the Respondent being mentioned as the technical and administrative contact person). According to the un rebutted evidence put forward by the Complainant, the Spanish authority managing the ".es" domain names had cancelled the said domain name for use of incorrect and untrue identification data at the registration date. The website at the other mentioned domain name had a similar content to that on the website at the disputed domain name.

Therefore, the bad faith registration or use of the disputed domain name is also fulfilled in the present case, in favour of the Complainant.

## 8. Decision

For the foregoing reasons, in accordance with Paragraph B(11) of the ADR Rules, the Panel orders that the disputed domain name, <thepinkpig.eu>, be transferred to the Second Complainant<sup>2</sup>, Jorge Pork Meat SL, which being located in Spain, satisfies the general eligibility criteria for registration of the disputed domain name set out in Article 3 of the Regulation.

*/Mihaela Maravela/*

**Mihaela Maravela**

Sole Panelist

Date: August 7, 2023

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<sup>2</sup> The decision shall be implemented by the Registry within thirty (30) days after the notification of the decision to the Parties, unless the Respondent initiates court proceedings in a Mutual Jurisdiction, as defined in the ADR Rules, Paragraph A(1).