

## **ADMINISTRATIVE PANEL DECISION**

**CLARO S.A. v. Jose Luis Garcia Garcia**  
**Case No. D2025-1286**

### **1. The Parties**

The Complainant is CLARO S.A., Brazil, represented by Olivares & Cia, Mexico.

The Respondent is Jose Luis Garcia Garcia, Colombia.

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

The disputed domain name <clarogratiss.com> is registered with GoDaddy.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 29, 2025. On March 31, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 2, 2025, 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 (“Hostinger Operations, UAB”) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 2, 2025, 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 April 6, 2025.

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 April 8, 2025. In accordance with the Rules, paragraph 5, the due date for Response was April 28, 2025. The Respondent sent email communications to the Center on April 9, 2025. On April 10, 2025, the Center received an email communication from a third party.

The Center appointed Rodrigo Velasco Santelices as the sole panelist in this matter on May 8, 2025. 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 CLARO S.A. is a subsidiary of the company, América Móvil, S.A.B. de C.V., who holds rights over the well-known leading trademarks in the field of telecommunication services named CLARO and/or CLARO SPORTS.

CLARO S.A. is one of the leading telecommunications provider in Latin America with operations in 18 countries, providing its services under the CLARO and/or CLARO SPORTS registered trademarks.

Further, the Complainant is the holder of the following Mexican trademark registrations numbers 2695813 for CLARO SPORTS (and Design) registered on May 6, 2024; 963480 for CLARO registered on November 27, 2006; and 925395 for CLARO (and Design) registered on March 24, 2006, in international classes 41 and 38, covering services related to Entertainment and Telecommunications.

On the other hand, América Móvil, S.A.B. de C.V., the holding company of the Complainant, is also the holder, among others, of the domain name <claro.com>.

The disputed domain name was registered on June 28, 2024..

The disputed domain name currently resolves to an inactive website but was previously used by the Respondent to host an illegal streaming website that offered various linear television channels that provided access to video content either owned and/or exclusively distributed by numerous trademark owners, including the Complainant, whose CLARO and CLARO SPORTS trademarks featured on the website amongst other third-party registered trademarks.

According to Wayback Machine, the disputed domain name <clarogratias.com> was active between 2024 and 2025, and available for users in Mexico, offering services related to entertainment and telecommunication services as evidence by one of the annexes to the Complaint. The foregoing was proven with the results of the searches conducted, which were enclosed in one annex of the Complaint.

#### **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.

Notably, the Complainant contends that it is the owner of the earlier registered trademarks CLARO and CLARO SPORTS, so it cannot be questioned that the disputed domain name <clarogratias.com> is confusingly similar to the trademark registrations of the Complainant. The disputed domain name reproduces the CLARO trademarks in its entirety.

Although the disputed domain name includes the Spanish word "gratis" (translated in English as "free"), it is far from adding distinctiveness which is insufficient to prevent a finding of confusing similarity to the trademarks CLARO and/or CLARO SPORTS. In fact, the descriptive Spanish word "gratis" is suggestive of a free version of the Complainant's commercial endeavors associated with the Complainant's CLARO trademarks.

According to the evidence submitted with the Complaint, the Complainant submits that it is clear that the Respondent's purpose with the registration of the disputed domain name, was no other than to take advantage of the goodwill of the famous CLARO and CLARO SPORTS trademarks of the Complainant, with the intent to confuse Internet users to believe that the content of the said website is promoted by the Complainant, or a subsidiary or branch thereof, or with the intention of blocking the Complainant from getting

access to the disputed domain name, which corresponds to its trademarks. Any of those purposes has to be deemed bad faith.

## **B. Respondent**

The Respondent did not substantively reply to the Complainant's contentions. However, after receiving the notification from the Center regarding the commencement of the UDRP proceeding, the Center received two email communications from the Respondent in Spanish dated April 9, 2025. In the first email, the Respondent stated that they were a domainer, buying and selling domain names, and as such were willing to offer for sale the disputed domain name to the Complainant at a price decided by the Complainant. In the second email, the Respondent informed the Complainant that they have decided to delete the disputed domain name which they claimed was now in the full control of the Registrar.

## **6. Discussion and Findings**

### **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 trademarks 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 entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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. Furthermore, the Panel considers that the composition of the disputed domain name carries a risk of implied affiliation with the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

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 Complainant's trademarks are well-known and were registered several years prior to the registration of the disputed domain name. Furthermore, at the time of filing the Complaint, the disputed domain name resolved to a website displaying the Complainant's trademarks and offering services related to the Complainant's field. Therefore, it is evident that the Respondent knew or should have known of the Complainant's trademarks when registering the disputed domain name. That fact cannot be a simple coincidence.

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.

Panels have held that the use of a domain name for illegal activity, here claimed as illegal streaming services, and impersonation/passing off, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

The disputed domain name currently resolves to an inactive website. Panels have found that the non-use of a domain name would not prevent the finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness and reputation of the Complainant's trademark, and the composition of the disputed domain name, 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.

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 <clarogratias.com> be transferred to the Complainant.

*/Rodrigo Velasco Santelices/*

**Rodrigo Velasco Santelices**

Sole Panelist

Date: May 22, 2025