

ADMINISTRATIVE PANEL DECISION

Jacquemus SAS v. Muhammad Burke, Elise Stevenson, Bailey Webster, Alex Barber, Daniel Elliott and Zara Holland
Case No. D2023-4723

1. The Parties

The Complainant is Jacquemus SAS, France, represented by DBK Law Firm, France.

The Respondents are Muhammad Burke, Elise Stevenson, Bailey Webster, Alex Barber, Daniel Elliott and Zara Holland, Italy.

2. The Domain Names and Registrar

The disputed domain names <jacquemusargentina.com>; <jacquemusaustralia.com>; <jacquemusbelgique.com>; <jacquemusbelgium.com>; <jacquemusbrasil.com>; <jacquemusbulgaria.com>; <jacquemuscanada.com>; <jacquemuschile.com>; <jacquemuscolombia.com>; <jacquemusczech.com>; <jacquemusdanmark.com>; <jacquemusdeutschland.com>; <jacquemuseesti.com>; <jacquemusfrance.net>; <jacquemusgreece.com>; <jacquemushrvatska.com>; <jacquemushungary.com>; <jacquemusireland.com>; <jacquemusisrael.com>; <jacquemusitalia.com>; <jacquemusjapan.com>; <jacquemuskwait.com>; <jacquemuslatvija.com>; <jacquemuslietuva.com>; <jacquemusmexico.com>; <jacquemusnederland.com>; <jacquemusnorvege.com>; <jacquemusnz.com>; <jacquemusperu.com>; <jacquemuspolyska.com>; <jacquemusportugal.com>; <jacquemusromania.com>; <jacquemusschweiz.com>; <jacquemusslovenija.com>; <jacquemusslovensko.com>; <jacquemussouthafrica.com>; <jacquemussrbija.com>; <jacquemussuisse.com>; <jacquemussuomi.com>; <jacquemussverige.com>; <jacquemusuae.com>; <jacquemusuk.com>; <jacquemusuruguay.com> are registered with Alibaba.com Singapore E-Commerce Private Limited (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on November 13, 2023. On November 16, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On November 17, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Registrant not identified) and contact information in the Complaint.

The Center sent an email communication to the Complainant on November 28, 2023, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrars, requesting the Complainant to either file separate complaint for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity. The Complainant filed an amended Complaint on November 30, 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 December 28, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 17, 2024. The Respondents did not submit any response. Accordingly, the Center notified the Respondents’ default on January 23, 2024.

The Center appointed Reyes Campello Estebaranz as the sole panelist in this matter on February 1, 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 is a French company that manufactures and markets since 2013 clothing and fashion accessories under the brand JACQUEMUS. The Complainant’s products are sold in 50 different countries around the world, and online through its official website “www.jacquemus.com”.

The Complainant owns various trademark registrations for its brand JACQUEMUS, including:

- International Trademark Registration No. 1211398, JACQUEMUS (word), registered on February 5, 2014, in classes 9, 18 and 25;
- International Trademark Registration No. 1513829, JACQUEMUS (word), registered on November 19, 2019, in classes 14, 24 and 28;
- European Union Trademark Registration No. 018080381, JACQUEMUS (word), registered on October 18, 2019, in classes 14, 24 and 28; and
- French Trademark Registration No. 4057016, JACQUEMUS (word), file on December 24, 2013 and registered on April 18, 2014, in classes 9, 18 and 25.

The aforementioned trademark registrations will collectively be referred to as the “JACQUEMUS mark”.

Prior decisions under the Policy have recognized the international reputation in the fashion field of the JACQUEMUS mark.¹

The Complainant further owns various domain names corresponding to its JACQUEMUS mark, including <jacquemus.com> (registered on February 12, 2010), and <jacquemus.fr> (registered on January 7, 2014), which resolve to its official website.

¹See, e.g., *Jacquemus SAS v. Jian Qiu*, WIPO Case No. [D2022-3214](#); *Jacquemus SAS v. Contact Privacy Inc. Customer 1245862480 / Jacob Inch*, WIPO Case No. [D2019-3144](#); *Jacquemus SAS v. Mark Kean*, WIPO Case No. [D2022-4717](#); or *Jacquemus SAS v. wendi bristole*, WIPO Case No. [D2023-2665](#).

All the disputed domain names were registered on August 22, 2023, and, according to the evidence provided by the Complainant, the Panel has corroborated that all the disputed domain names are apparently inactive resolving to Internet browser error messages that indicate, "This site can't be reached".

The Complainant sent a cease and desist letter through the Registrar on September 6, 2023 and a reminder on September 13, 2023. The Registrar answered that it could not order the transfer of the disputed domain names.

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 names.

Notably, the Complainant contends that the disputed domain names are confusingly similar to its trademark. The JACQUEMUS mark is reproduced in all the disputed domain names with the addition of different geographical terms, country names or abbreviations, which do not prevent the likelihood of confusion. Internet users may consider the disputed domain names as new websites dedicated by the Complainant to the corresponding countries.

The Respondent has no rights or legitimate interests in respect of the disputed domain names. The Respondent is not authorized to use the JACQUEMUS mark, and has not made a legitimate noncommercial or fair use of the disputed domain names.

The disputed domain names were registered and are being used in bad faith. The JACQUEMUS mark has acquired worldwide reputation, so the Respondent knew or should have known about this mark when it registered the disputed domain names. The non-use of the disputed domain names does not prevent a finding of bad faith under the doctrine of passive holding, and the fact that the Respondent has hidden its identity under six different names corroborates its bad faith. Internet searches for these names give no results, and the circumstances of this case show that all the disputed domain names are under a common control.

B. Respondent

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

6. Discussion and Findings

The Complainant has made the relevant assertions as required by the Policy and the dispute is properly within the scope of the Policy. The Panel has authority to decide the dispute examining the three elements in paragraph 4(a) of the Policy, taking into consideration all of the relevant evidence, annexed material and allegations, and performing some limited independent research under the general powers of the Panel articulated, *inter alia*, in paragraph 10 of the Rules.

A. Consolidation: Multiple Respondents

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are the same entity or mere alter egos of each other, or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The disputed domain name registrants did not comment on the Complainant's request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2.

As regards common control, the Panel notes that the circumstances of this case show a similar pattern in all the disputed domain names that leads to consider that all are under a common control. Particularly, the Panel notes that (i) all the disputed domain names were registered on the same date (in fact, all the disputed domain names except for one were registered at the same hour) and with the same Registrar; (ii) all the disputed domain names have a similar composition, all incorporating the JACQUEMUS mark at the beginning followed by different country names or abbreviations; (iii) all the domain names' registrants provided similar contact details and the same location in Italy in the registration of the disputed domain names (revealed by the Registrar); and (iv) all the disputed domain names are inactive.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputed domain names in a single proceeding would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the dispute regarding the nominally different disputed domain name registrants (referred to below as "the Respondent") in a single proceeding.

B. 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, namely the JACQUEMUS mark. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the JACQUEMUS mark is reproduced within all the disputed domain names with the addition of different geographical terms (country names or abbreviations). The Panel finds the mark is recognizable within all the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the JACQUEMUS mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, different country names or abbreviations, may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Therefore, the Panel finds the first element of the Policy has been established.

C. 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 names. 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 names such as those enumerated in the Policy or otherwise.

The Panel notes that apparently the Respondent has concealed its identity in the registration of the disputed domain names under various fictitious names of individuals that share no similarities with the term "jacquemus", and, according to the evidence provided by the Complainant, cannot be reached over the Internet. The Complainant has provided evidence of searches over the Internet for each of the registrants' names together with the location in Italy provided in the registration in all the disputed domain names (revealed by the Registrar), with no matching results.

The Panel further notes that none of the disputed domain names is apparently active. All the disputed domain names resolve to Internet browser error messages indicating that the site cannot be reached.

In the absence of any response by the Respondent to the Complainant's allegations, there is no indication in the available record of any rights or legitimate interests in the Respondent that may justify its registration and use of the disputed domain names under the Policy.

Additionally, the Panel finds that the inclusion of the reputed JACQUEMUS mark with the additional terms in the disputed domain names (different country names or abbreviations) create a risk of implied affiliation, as these terms will be considered as an indication related to official websites of the mark for each of the corresponding local markets. The addition of these terms to the JACQUEMUS mark within the disputed domain names contributes to generate the impression that any website linked to the disputed domain names is affiliated to or owned by the Complainant and correspond to its online store for the respective country or jurisdiction.

These circumstances cannot confer rights or legitimate interests to the Respondent under the Policy. Therefore, based on the available record, the Panel finds the second element of the Policy has been established.

D. 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 JACQUEMUS mark is reputed in the fashion industry and has a strong presence over the Internet.

The Panel further notes that the Respondent has registered the disputed domain names with no apparent right or legitimate interests, and it has not come forward to deny the Complainant's allegations of bad faith.

The Panel further notes that the Respondent has apparently concealed its identity in the registration of the disputed domain names under various fictitious names of individuals that cannot be reached over the Internet.

The Panel also notes that the Respondent has registered a high number of domain names (up to 43) all with a similar structure (incorporating the reputed JACQUEMUS with the addition of various geographical terms or abbreviations) that generates a false affiliation with the Complainant and its trademark.

The Panel finds these circumstances indicate, in a balance of probabilities, the Respondent knew of the Complainant and its notorious trademark when it registered the disputed domain names and targeted this mark in bad faith.

Regarding the apparent non-use of the disputed domain names, the Panel notes the distinctiveness or reputation of the Complainant's trademark, and the composition of the disputed domain names, and finds that in the circumstances of this case the passive holding of the disputed domain names does not prevent a finding of bad faith under the Policy. 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. In this respect, 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.

Lastly, the Respondent's pattern of bad faith registrations targeting the Complainant in this instance in the simultaneous registration of up to 43 domain names appears to reinforce the Panel's bad faith finding. The Respondent shows a pattern of conduct of preventing the Complainant from reflecting its trademark in a domain name. Panels have held that a pattern of abuse has been found where the respondent registers, simultaneously or otherwise, multiple trademark-abusive domain names corresponding to the distinct marks of individual brand owners. See, for example, *Carrefour SA v. Andre Machado, Alugue*, WIPO Case No. [D2020-1386](#); *LEGO Juris A/S v. Wen Zheng*, WIPO Case No. [D2021-2515](#); and *LIDL Stiftung & Co. KG v. Lards Renoud*, WIPO Case No. [D2022-0709](#). [WIPO Overview 3.0](#), section 3.1.2.

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 names <jacquemusargentina.com>, <jacquemusaustria.com>, <jacquemusbelgique.com>, <jacquemusbelgium.com>, <jacquemusbrasil.com>, <jacquemusbulgaria.com>, <jacquemuscanada.com>, <jacquemuschile.com>, <jacquemuscolombia.com>, <jacquemusczech.com>, <jacquemusdanmark.com>, <jacquemusdeutschland.com>, <jacquemuseesti.com>, <jacquemusfrance.net>, <jacquemusgreece.com>, <jacquemushrvatska.com>, <jacquemushungary.com>, <jacquemusireland.com>, <jacquemusisrael.com>, <jacquemusitalia.com>, <jacquemusjapan.com>, <jacquemuskuwait.com>, <jacquemuslatvija.com>, <jacquemuslietuva.com>, <jacquemusmexico.com>, <jacquemusnederland.com>, <jacquemusnorge.com>, <jacquemusnz.com>, <jacquemusperu.com>, <jacquemuspolka.com>, <jacquemusportugal.com>, <jacquemusromania.com>, <jacquemusschweiz.com>, <jacquemusslovenija.com>, <jacquemusslovensko.com>, <jacquemussouthafrica.com>, <jacquemussrbija.com>, <jacquemussuisse.com>, <jacquemussuomi.com>, <jacquemussverige.com>, <jacquemusuae.com>, <jacquemusuk.com>, <jacquemusuruguay.com> be transferred to the Complainant.

/Reyes Campello Estebarez/

Reyes Campello Estebarez

Sole Panelist

Date: February 7, 2024