

## **ADMINISTRATIVE PANEL DECISION**

Fortune Pig SL, Jorge SL v. Panarchdel LTD  
Case No. D2023-4907

### **1. The Parties**

The Complainants are Fortune Pig SL, Spain, and Jorge SL, Spain, represented by Integra, Spain.

The Respondent is Panarchdel LTD, United States of America (“U.S.”).

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

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

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 27, 2023. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 28, 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, REDACTED FOR PRIVACY, PrivacyGuardian.org. llc) and contact information in the Complaint.

The Center sent an email communication to the Complainants on December 1, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amended Complaint on December 5, 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 8, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 28, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 4, 2024.

The Center appointed Pablo A. Palazzi as the sole panelist in this matter on January 10, 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 Complainants in this administrative proceeding are Fortune Pig SL (“the First Complainant”) and Jorge 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 owner of the European Union device trademark FORTUNE PIG GRUPO JORGE (number 016858045). The trademark was registered on November 2, 2017, and covers goods and services in class 29 class 35 and class 39.

The disputed domain name was registered on March 8, 2022, 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. The record shows that the disputed domain name was also used in a fraudulent email scheme.

#### **A. Complainants**

The Complainants contends that they have satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainants contend that

- the disputed domain name is confusingly similar to their trademarks;
- the Respondent has no rights or legitimate interests in respect of the disputed domain name;
- the Respondent has registered and is using the disputed domain name in bad faith.

#### **B. Respondent**

The Respondent did not reply to the Complainants’ contentions.

#### **5. Discussion and Findings**

Paragraph 4(a) of the Policy lists three elements, which a complainant must satisfy in order to succeed. The Complainants must satisfy that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainants have rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of 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 Complainants’ 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 Complainants have 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.

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 Complainants have established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainants’ *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.

The composition of the disputed domain name, comprising the Complainants’ trademark, together with the content of the website at the disputed domain name carries a risk of Internet user confusion.

Furthermore, panels have held that the use of a domain name for illegal activity like impersonation and phishing, as it is the case here, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1

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 Panel notes that

- The disputed domain name reproduces the corporate name of the First Complainant.
- The disputed domain name was blocked in 2022 as a result of a cease and desist letter sent by the Complainant and now, in clear evidence of bad faith, it has been activated again without the Complainants’ authorization.
- The content of the disputed name imitating the Complainants demonstrate that the Respondent was aware of the Complainants and their trademark.
- The disputed domain name was used in a fraudulent email scheme.
- The Respondent is in default.

In using the disputed domain name, the Respondent appears to have intentionally attempted to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainants' mark as to the source, sponsorship, affiliation, or endorsement of its website or location or of a product on its website. This is evidence of registration and use in bad faith under paragraph 4(b)(iv) of the Policy.

The Panel finds that the Complainants have established the third element of the Policy.

## **6. 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 <fortunepigs1.com> be cancelled.

*/Pablo A. Palazzi/*

**Pablo A. Palazzi**

Sole Panelist

Date: January 24, 2024