

□ File No.: PS/00482/2021

RESOLUTION OF TERMINATION OF THE PROCEDURE FOR PAYMENT

VOLUNTEER

Of the procedure instructed by the Spanish Agency for Data Protection and based on
to the following

BACKGROUND

FIRST: On February 7, 2022, the Director of the Spanish Agency for
Data Protection agreed to initiate sanctioning proceedings against JIMBO NETWORKS,
SL (hereinafter, the claimed party), through the Agreement that is transcribed:

<<

Procedure No.: PS/00482/2021

AGREEMENT TO START A SANCTION PROCEDURE

Of the actions carried out ex officio by the Spanish Agency for the Protection of
Data before the entity, JIMBO NETWORKS, S.L. with CIF.: B66209784, holder of the
website: ***URL.1 for the alleged violation of the privacy protection regulations

Data: Regulation (EU) 2016/679, of the European Parliament and of the Council, of
04/27/16, regarding the Protection of Natural Persons with regard to the

Treatment of Personal Data and the Free Circulation of these Data (RGPD) and the

Organic Law 3/2018, of December 5, on the Protection of Personal Data and

Guarantee of Digital Rights (LOPDGDD), and Law 34/2002, of July 11, of

Services of the Information Society and Electronic Commerce (LSSI) and serving

to the following:

FACTS

FIRST: Dated 03/11/21, the Director of the Spanish Agency for

Data Protection agreed to open preliminary investigation actions against

to the entity, JIMBO NETWORKS, S.L., owner of the website: ***URL.1, attending to the investigative powers that the supervisory authority may have for this purpose, established in section 1), of article 58 of the RGPD, and in relation to the possible

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treatment of personal data of minors under fourteen years of age, obtained during the navigation through the web page and the possible profiling of the same.

SECOND: On 03/13/21, by this Agency, in relation to the

stipulated in article 65.4 of the LOPDGDD Law, was sent to the entity, JIMBO

NETWORKS, S.L. written request for information on the following points: - The

management of the risks associated with the treatment activities in which it could be

produce an illegitimate access of a minor to the content they offer; - The

impact assessment relating to data protection regarding the analysis of

risks; - Technical and organizational measures implemented in your entity that involve

limitation of access of minors to the content offered; - Limitations

for minors to access said content; - Privacy and location policy

public of the same; - Technical and organizational measures to be taken in your entity before

eventual verification of improper access by a minor to its contents; -

Technical and organizational measures that reflect the protection of personal data and the

processes of verification and evaluation of the effectiveness of the measures and whether they perform

profiling of the personal data of those who access its contents.

THIRD: On 04/15/21, the entity, JIMBO NETWORKS, S.L., sends this

Agency, reply brief, in which, among others, it indicates the following:

"The website ***URL.1 is a link page that does not host content from any kind, just links to videos that are on other pages. Access to the page is totally free and anonymous, and therefore the person is not registered in any way. who accesses it.

The business model is based on the advertising that is displayed on the page or in the videos, paying the advertiser an amount of money for the number of visits that receives the page based on the clicks made by visitors on the page, being these totally anonymous for our company.

As has been said, this company does not process any data or automated, neither manual, nor of any other type, nor is there incorporation of data to the file of any kind, because, as has been said, it is totally anonymous, and indifferent to the gender, age, race or religion of the person accessing the website, and simply count the number of clicks that are made on the links of

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it, completely anonymously, and advertisers are billed in accordance with the traffic statistics that the page has generated on the internet.

For this reason, this part understands that this Organic Law does not apply to it, and, in

Consequently, neither article 7, regarding the consent of minors

age, to which his writing refers, which is located within title II of the Law

Organic, applicable only to those natural or legal persons, who make a

treatment of the data they receive, but, in our opinion, it is not applicable to

our bussines.

Although we consider that the Organic Law does not apply, we are aware of the danger posed by the exposure of minors to the content pornographic that hosts our page. That is why, from the first day we have taken into account the information of this data protection agency, and specifically the technical notes published for the protection of minors on the Internet. As described in that document, the protection of minors must begin with the family, and it should be the adults, parents and guardians, who take the appropriate technical measures to achieve the protection sought, that there are. From browsers to plugins that limit access, to physical firewalls or blocks from internet operators.

To do this, it has always been inserted in the source code of our page the label that warns of content reserved for adults on our website, in order to that parental control programs, as well as safe browsers, and other existing options to prevent access to inappropriate content can identify correctly our content and blocked.

Also at the bottom of our website is the warning "If you are not older of age you should leave this site: "the privacy policies contain expressly that, "The content of the page is erotic and/or pornographic. Susceptible of hurting the sensitivity of the user. If you are a minor, you must abandon it immediately," as well as the 18 USC statement. 2257 Record Keeping Requirements Compliance Statement containing the declaration that all the people who act in the videos are, or were of legal age at the time of the creation of the exhibited material.

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Finally, to answer all the points required in your writing, you must answer that there is no record of treatment activities in which it can be produce illegitimate access of person, since data processing is not done of any kind, and that, therefore, what is interested in the third point cannot exist violation of the rights and freedoms of natural persons, since those who access the website do so completely anonymously.

This last point also serves to respond to the eighth point of your writing, and reiterate that no follow-up of any kind is made of the people who access the page, therefore ignoring the data related to their age, race, or sex, to the life or the sexual orientations of the people who access the page. The website has inserted from the design of your code, both on the main page, and any other subpages. both the tag with the metadata that identifies it as an adult page as the privacy policy.

Regarding the measures to be taken to prevent access by minors. and in relation to point seven, the company periodically reviews the source code, and ensures that the metadata tags comply with the RTA standard, as well as other words that can alert cybersecurity programs, antivirus, etc., of the sexual content of the page.

Two screenshots are attached, the first is of the main page of the website, in which you can see the detail of the content of the footer of the website with the warning that it is a site for adults, along with the policy of privacy, cookies and the warning of the 2577 Statement. this footer, as has been said, it always appears on all web pages.

FOURTH: On 09/09/21, this Agency carried out the following

checks on the website ***URL.1:

a).- Regarding the processing of personal data:

1.- Access to the web is free and open, not requiring any registration for the video viewing.

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2.- At the bottom of the main page there is the following message

warning: "If you are not of legal age you must leave this site".

3.- The <<Contact>> section, located at the bottom of the main page,

***URL.2, the following email address is offered: ***EMAIL.1, or

contact the person in charge of the web.

4.- The section <<Work with us>>, located at the bottom of the page

main, ***URL.3, the following information is offered: "If you are interested in counting in order to

month with an extra salary working from home as a web updater do not hesitate

in sending us an email to ***EMAIL.1 and we will expand all the details or doubts that

have about it".

b).- About the Privacy Policy:

1.- If you access the <<Privacy Policy>>, through the existing link in the

bottom of the main page, the web redirects the user to a new page:

***URL.4, where the following is reported:

"(...) PRIVACY POLICY: In compliance with the Organic Law for the

Protection of Personal Data (LOPD), we inform you that the data you provide us

through the different forms of this website will become part of

computerized files owned by bingoporno.com with the exclusive purpose for which
Has been requested. For example, in the case of the contact form to respond to
your queries. The answer to the questions marked with an * (asterisk) are
mandatory, the rest are voluntary. refusal to answer questions
formulated will result in the impossibility on our part of putting ourselves
contact you or formalize our business relationship for the provision of services
different services. We guarantee in any case the possibility of exercising your
right of access, rectification, cancellation and opposition of your data, notifying it to
bingoporno.com by sending an email in the contact section.

CONTACT: You can contact through this form. The owner of this
website is "Physical Person", the public exposure of my personal data in the
website must be protected by Organic Law 15/1999, of December 13, of
Protection of Personal Data based on Article 1. Purpose. The
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The purpose of this Organic Law is to guarantee and protect, with regard to the
treatment of personal data, public freedoms and rights
rights of natural persons, and especially their honor and privacy
personal and family. The webmaster of this website thus tries to avoid the use
authorized of your personal data by third parties under the Law of
data protection, and wishes to comply with the obligations of the LSSI.

The main purpose of the LSSI suggests a computerized data processing file
personal data at the level of the Network in Spain that the Organic Law of Protection of

data in Title IV, Chapter I defines as Public Ownership Files, since that it is a computerized file of personal data at the network level that It should also be controlled by the Spanish Data Protection Agency, entity independent of the Administration. To comply with the requirements of the LSSI and without the intention of hindering the application of said law, the webmaster of this website will send the information of your personal data to any person or entity that has an interest direct and lawful developing Art 4.1 of the Data Protection Law. The data from personal character can only be collected for treatment, as well as subjecting them to said treatment, when they are adequate, pertinent and not excessive in relation to the scope and specific, explicit and legitimate purposes for which they have been Obtained: To do this, you can request it after stating reasons in the e-mail:

***EMAIL.1”.

c).- About the Cookies Policy:

1.- When entering the web for the first time, without accepting cookies or performing any action on the page, it has been verified that cookies are used that are not technical or necessary, whose domains are the following:

- From the “Google Analytics” domain: __ga, __gid, __gat, but which are installed associated to the domain of the person in charge of the web (**URL.1)

- From the domain “***DOMAIN.1”: c-tag; impressions

- From the domain “***DOMAIN.2”: c-tag __uvt
__uvt

2.- There is no type of banner that informs about cookies on the main page or first layer of the web.

3.- There is no mechanism that makes it possible to reject cookies that are not technical or necessary. There is also no cookie control panel that enable the management of these, in a granular way or by groups.

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4.- If you choose to access the <<Cookies Policy>>, through the existing link at the bottom of the main page, the web redirects the user to a new page: ***URL.5, where information is provided on, what are cookies and what types of cookies exist.

Regarding the cookies used on the web, it indicates the following:

“We put at your disposal a table that collects the cookies inserted both by bingoporno and by third parties on the Website, with the purpose of inform you clearly about them. Cookies will be deleted automatically on the device they are installed on after the time that they indicate for their expiration: PURPOSE: Measure and analyze website traffic; COOKIES: Google Analytics; OWNERSHIP: Google; EXPIRY: indefinite”.

Regarding consent, the following is indicated:

“The cookies used on the Website do not pose a risk to your privacy since they do not process personal data. ***URL.1 uses the cookies to improve the user's browsing experience and obtain information about the use of the Website. By browsing the Website you accept and consent that. store cookies on your computer or electronic device with the previously mentioned purposes.

The Website is accessible without the need for you to accept cookies, although its deactivation may hinder your navigation and make it impossible to

use of some of the functionalities of the Website”.

There is no mechanism that enables the rejection of all non-technical cookies or the possibility of granularly managing cookies. For the management of cookies the following information is provided:

“You can allow, consult, block or delete the cookies installed in your computer or device by us or third parties by configuring the

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options in your browser. We put at your disposal the following links, where you can get information on how to do it (...).

FIFTH: In accordance with the evidence available, the Inspection of Data of this Spanish Agency for Data Protection considers that, what is indicated above, does not comply with current regulations, so the opening of the of this sanctioning procedure.

FOUNDATIONS OF LAW

I.- Competition:

- About the "Privacy Policy":

It is competent to initiate and resolve this Sanctioning Procedure, the Director of the Spanish Agency for Data Protection, by virtue of the powers that art 58.2 of the RGPD and arts. 47, 64.2 and 68.1 of the LOPDGDD Law.

For its part, sections 1) and 2), of article 58 of the RGPD, list, respectively, the investigative and corrective powers that the supervisory authority may provide for this purpose, mentioning in point 1.d), that of: "notify the

responsible or in charge of the treatment the presumed infractions of the present Regulation” and in 2.i), that of: “imposing an administrative fine in accordance with Article 83, in addition to or instead of the measures mentioned in this paragraph, depending on the circumstances of each case.

- About the Cookies Policy:

It is competent to initiate and resolve this Sanctioning Procedure, the Director of the Spanish Agency for Data Protection, in accordance with the provisions of the art. 43.1, second paragraph, of the Law, LSSI.

II.- On the non-existence of an acceptance box, which generates a record of the feeling in the purchase form.

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It has been verified that the website can obtain personal data from users of the same, at least their email, through the link

<<Contact>> located at the bottom of the main page, ***URL.2, where offers the possibility of contacting the person in charge of the page, sending an email to, ***EMAIL.1, with the subject to be discussed.

The person in charge of the website also has the possibility of obtaining data users of the same, through the link: <<Work with us>>, located at the bottom of the main page, ***URL.3 where offers the possibility of working as a "web updater", after sending an email to, ***EMAIL.1, requesting information on work conditions.

In this sense, article 6 of the RGPD, establishes, on the legality of the treatment of

personal data, that the treatment of these will only be lawful if at least

one of the conditions indicated in the first section, among which is:

a) the interested party gave their consent for the processing of their personal data for one or several specific purposes (...)"

But this consent must be given once obtained from the data controller.

to, the legally established information on the purposes to which the data will be used.

personal data, (article 13 of the RGPD), and must be given through a voluntary act,

affirmative and free Therefore, silence or inaction is not considered "having given a implicit consent", for the processing of personal data.

Before providing personal data and giving consent to their processing,

the person in charge must ask the interested party to read the privacy policy of the site

web, through a direct link to the "Privacy Policy" and accept it by means of

you an act of voluntary and free confirmation.

For all these reasons, the fact that the person responsible for the web page in question can

Obtain personal data from users without having previously obtained their

consent for the treatment of these may constitute an infringement of the

article 6.1 of the GDPR cited above.

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In this sense, article 72.1.b) of the LOPDGDD, considers it very serious, for

prescription, "The processing of personal data without the concurrence of any of the

conditions of legality of the treatment established in article 6 of the Regulation".

This infraction can be sanctioned with a maximum fine of €20,000,000 or,

in the case of a company, an amount equivalent to a maximum of 4% of the global total annual turnover of the previous financial year, opting for the of greater amount, in accordance with article 83.5.b) of the RGPD.

The balance of the circumstances contemplated, with respect to the infraction committed, by violating the provisions of its article 6.1 of the RGPD, it allows setting an initial sanction of 5,000 euros, (five thousand euros), when carrying out an illicit treatment of the data information obtained through emails received from users of the Web.

Along with this and in accordance with article 58.2 of the RGPD, the corrective measure that could be imposed on the owner of the web page would consist of ordering him to take the measures necessary to adapt it to current regulations, with the inclusion in it of a warning message to read the "Privacy Policy" and of a mechanism that enables users to provide their consent for the treatment of their personal data, in an affirmative and voluntary way, prior to sending your data personal to the person in charge of the web.

II.- About the "Privacy Policy" of the website:

If you access the "Privacy Policy", through the link in the part bottom of the main page, the web redirects the user to a new page: ***URL.4, where the information provided does not match what should be provided according to article 13 of the RGPD, since all of it is referred to and focused on the repealed Organic Law 15/1999, of December 13, on the Protection of Character Data Personnel (LOPD).

In accordance with the provisions of article 99 of the RGPD, the entry into force and application of the new RGPD was: "twenty days after its publication in the Official Gazette of the European Union (05/25/16)" and would be applicable as of May 25, 2018". By

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Therefore, as of 05/25/18, the LOPD was repealed, applying it compulsorily,

from that date, the current GDPR and from 12/07/18 the new LOPDGDD.

In application of the RGPD, its article 13, establishes the information that must be

provide the interested party at the time of obtaining their personal data. That is:

“1. When personal data relating to him is obtained from an interested party, the

responsible for the treatment, at the time these are obtained, will provide: a)

the identity and contact details of the person in charge and, where appropriate, of their

representative; b) the contact details of the data protection officer, in his

case; c) the purposes of the treatment to which the personal data is destined and the basis

legal treatment; d) when the treatment is based on article 6, paragraph 1,

letter f), the legitimate interests of the person in charge or of a third party; e) the recipients or

the categories of recipients of personal data, if any; f) where appropriate, the

intention of the controller to transfer personal data to a third country or

international organization and the existence or absence of an adequacy decision

of the Commission, or, in the case of the transfers indicated in articles 46 or 47 or

Article 49, paragraph 1, second paragraph, reference to adequate guarantees or

appropriate and the means to obtain a copy of them or the fact that

have lent.

2. In addition to the information mentioned in section 1, the person in charge of the

treatment will facilitate the interested party, at the moment in which the data is obtained

personal, the following information necessary to guarantee data processing

fair and transparent: a) the period during which the personal data will be kept or,

when this is not possible, the criteria used to determine this period; b) the existence of the right to request access to data from the data controller related to the interested party, and its rectification or deletion, or the limitation of its treatment, or to oppose the treatment, as well as the right to the portability of the data; c) when the treatment is based on article 6, paragraph 1, letter a), or the Article 9, paragraph 2, letter a), the existence of the right to withdraw consent in any time, without affecting the legality of the treatment based on the consent prior to its withdrawal; d) the right to file a claim with a control authority; e) if the communication of personal data is a requirement legal or contractual, or a necessary requirement to enter into a contract, and if the The interested party is obliged to provide personal data and is informed of the possible consequences of not providing such data; f) the existence of decisions you automate, including profiling, referred to in article 22, paragraphs 1 and 4, and, at least in such cases, significant information about the logic

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applied, as well as the importance and expected consequences of said treatment for the interested party”.

In accordance with the evidence obtained and without prejudice to what results from the instruction, the exposed facts could suppose the violation, on the part of the entity that owns the web page in question, of article 13 of the RGPD.

Regarding this, article 72.1.h) of the LOPDGDD, considers it very serious, for of prescription, “the omission of the duty to inform the affected party about the treatment

of your personal data in accordance with the provisions of articles 13 and 14 of the RGPD”

This infraction can be sanctioned with a maximum fine of €20,000,000 or, in the case of a company, an amount equivalent to a maximum of 4% of the global total annual turnover of the previous financial year, opting for the of greater amount, in accordance with article 83.5.b) of the RGPD.

In accordance with the precepts indicated, and without prejudice to what results from the instruction of the procedure, in order to set the amount of the sanction to be imposed in the present case, it is considered appropriate to graduate the sanction in accordance with the following aggravating criteria established in article 83.2 of the RGPD:

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The duration of the infringement, taking into account that the regulations in force, this is, the RGPD, is mandatory since 05/25/18, and that from that

Date the LOPD was repealed, by which the website is still governed in question, (section a).

The balance of the circumstances contemplated in article 83.2 of the RGPD, with regarding the infraction committed, by violating the provisions of article 13 of the RGPD, makes it possible to set an initial penalty of 5,000 euros (five thousand euros).

On the other hand, and in accordance with article 58.2 of the RGPD, the corrective measure that could be imposed on the person responsible for the website in question would consist of order you to take the necessary measures to adapt the privacy policy to what is stipulated in the current regulations, that is, the RGPD and the LOPDGDD.

III.- About the "Cookies Policy" of the website:

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a).- Regarding the installation of cookies in the terminal equipment prior to consent:

Article 22.2 of the LSSI establishes that users must be provided with information clear and complete information on the use of storage devices and data recovery and, in particular, on the purposes of data processing.

This information must be provided in accordance with the provisions of the GDPR. So, when the use of a cookie entails a treatment that enables the identification of the user, those responsible for the treatment must ensure the compliance with the requirements established by the regulations on the protection of data.

However, it is necessary to point out that they are exempt from compliance with the obligations established in article 22.2 of the LSSI those necessary cookies for the intercommunication of the terminals and the network and those that provide a service expressly requested by the user.

In this sense, the GT29, in its Opinion 4/2012¹⁰, interpreted that among the cookies excepted would be the user input Cookies" (those used to filling in forms, or managing a shopping cart); cookies from user authentication or identification (session); user security cookies (those used to detect erroneous and repeated attempts to connect to a site Web); media player session cookies; session cookies to balance load; user interface customization cookies and some of plugin (plug-in) to exchange social content. These cookies would remain excluded from the scope of application of article 22.2 of the LSSI, and, therefore, it would not be necessary to inform or obtain consent on its use.

On the contrary, it will be necessary to inform and obtain the prior consent of the user.

before the use of any other type of cookies, both first and third party, session or persistent.

In the verification carried out on the web page in question, it was found that, when entering its main page and without performing any type of action on it, use unnecessary cookies without the prior consent of the user.

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b).- About the existing cookie information banner in the first layer

(Homepage):

The banner on cookies of the first layer must include information regarding the identification of the editor responsible for the website, in the event that their identifying data does not appear in other sections of the page or that their identity cannot be disclosed. obvious attachment to the site itself. You must also include an ID generic of the purposes of the cookies that will be used and if these are own or also from third parties, without it being necessary to identify them in this first layer. Additionally, it should include generic information about the type of data to be collected and used in the event that user profiles are created and must include information and the way in which the user can accept, configure and reject the use of cookies, with the warning, where appropriate, that if a certain action is carried out, It will be understood that the user accepts the use of cookies.

Apart from the generic information about cookies, in this banner there must be an clearly visible link directed to a second informative layer on the use of the cookies. This same link can be used to take the user to the configuration panel.

guration of cookies, as long as the access to the configuration panel is direct, this

is, that the user does not have to navigate inside the second layer to locate it.

In the case at hand, it has been found that there is no type of banner

that informs about cookies on the main page or first layer of the web.

c).- Regarding consent to the use of unnecessary cookies:

For the use of non-excepted cookies, it will be necessary to obtain the consent

expressly stated by the user. This consent can be obtained by doing

click on, "accept" or inferring it from an unequivocal action performed by the user that

denotes that consent has unequivocally occurred. Therefore, the mere

user inactivity, scrolling or browsing the website, will not be considered

effects, a clear affirmative action in any circumstance and will not imply the

provision of consent itself. Similarly, access to the second

layer if the information is presented in layers, as well as the necessary navigation to

that the user manage their preferences in relation to cookies in the panel of

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control, nor is it considered an active behavior from which the

acceptance of cookies.

The existence of "Cookie Walls" is not allowed either, that is, windows

pop-ups that block the content and access to the web, forcing the user to

accept the use of cookies to be able to access the page and continue browsing.

If the option is to go to a second layer or cookie control panel, the link

it should take the user directly to that configuration panel. To facilitate se-

lesson, the panel can be implemented, in addition to a granular management system of cookies, two more buttons, one to accept all cookies and another to reject all of them. If the user saves his choice without having selected any cookie, You will understand that you have rejected all cookies. Regarding this second possibility, In no case are the pre-marked boxes in favor of accepting cookies admissible. If for the configuration of cookies, the web refers to the browser configuration installed in the terminal equipment, this option could be considered complementary to obtain consent, but not as the only mechanism. Therefore, if the publisher opts for this option, it must also offer, and in any case, a mechanism that allows you to reject the use of cookies and/or do it in a granular way, on your own page. web page

On the other hand, the withdrawal of the consent previously given by the user de- It should be able to be done at any time. To this end, the publisher must offer a mechanism that makes it possible to withdraw consent easily at any time. unto This facility will be considered to exist, for example, when the user has access to so simple and permanent to the cookie management or configuration system. If the editor's cookie management or configuration system does not allow to avoid the use of third-party cookies once accepted by the user, information will be provided training on the tools provided by the browser and third parties, de- being aware that, if the user accepts third-party cookies and later wishes to delete them, you must do it from your own browser or the system enabled by the third parties for it.

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In the present case, it has been verified that there is no mechanism that makes it possible to reject cookies that are not technical or necessary. neither exists no control panel that would allow the management of cookies in a way granular or by groups.

d).- On the information provided in the second layer (Policy of Cookies):

More detailed information about cookies should be provided in the Cookies Policy. characteristics of cookies, including information about, the definition and general function cookie information (what are cookies); about the type of cookies used and its purpose (what types of cookies are used on the website); the identification of who uses the cookies, that is, if the information obtained by the cookies is treated only by the publisher and/or also by third parties with identification of the latter; the period-do of conservation of the cookies in the terminal equipment; and if it is the case, information on data transfers to third countries and the elaboration of profiles that im- Apply automated decision making.

In the case at hand, the information about cookies that is provided in the second layer of the web, it has been detected that the identification of the cookies that are used, if they are their own or from third parties, nor the time they are will be active in the terminal equipment.

IV- Violation of the Cookies Policy:

The deficiencies detected in the "Cookies Policy" of the website in question, could suppose by the entity JIMBO NETWORKS, S.L, the commission of the infringement of article 22.2 of the LSSI, since it establishes that:

“Service providers may use storage devices and recovery of data in terminal equipment of the recipients, provided that

they have given their consent after they have been provided

clear and complete information on its use, in particular, on the purposes of the

data processing, in accordance with the provisions of Organic Law 15/1999, of 13

December, on the protection of personal data.

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Where technically possible and effective, the recipient's consent to

Accepting the processing of the data may be facilitated through the use of the parameters

from the browser or other applications.

The foregoing will not prevent the possible storage or access of a technical nature to the sole

purpose of effecting the transmission of a communication over a communications network

electronic or, to the extent that is strictly necessary, for the provision of

a service of the information society expressly requested by the

addressee".

This Infraction is typified as "minor" in article 38.4 g), of the aforementioned Law, which

considers as such: "Use data storage and retrieval devices

when the information has not been provided or the consent of the

recipient of the service in the terms required by article 22.2.", and may be

sanctioned with a fine of up to €30,000, in accordance with article 39 of the aforementioned

LSSI.

After the evidence obtained in the preliminary investigation phase, and without prejudice to

whatever results from the investigation, it is considered appropriate to graduate the sanction to

impose in accordance with the following aggravating criteria, established by art. 40 of

the LSSI:

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The existence of intentionality, an expression that must be interpreted as equivalent to a degree of guilt according to the Judgment of the National High Court of 11/12/07 relapse in Appeal no. 351/2006, corresponding to the entity JIMBO NETWORKS, S.L the determination of a system for obtaining informed consent that is appropriate to the mandate of the LSSI.

In accordance with these criteria, it is considered appropriate to impose an initial sanction of 5,000 euros, (five thousand euros), for the infringement of article 22.2 of the LSSI, regarding of the cookie policy made on the web page in question.

In accordance with article 58.2 of the RGPD, the corrective measure that could be imposed to the entity responsible for the web page would consist of ordering it to take the necessary measures on the web page of its ownership to adapt it to the regulations is in force, including a mechanism that makes it impossible to use cookies that are not necessary. necessary before the user gives his consent for it; including a mechanism that makes it possible to reject all cookies or do it in a granular way through

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of a control panel and expand the information provided in the banner of the page main and in the "Cookies Policy" adapting it to current regulations.

V-Initial total sanction:

In accordance with the criteria set out in the previous points, the total initial sanction to be

impose would be 15,000 euros (fifteen thousand euros): 5,000 euros (five thousand euros) for the infringement of article 6.1 of the RGD; 5,000 euros (five thousand euros), for the infringement of the article 13 of the RGD and 5,000 euros (five thousand euros), for the infringement of article 22.2 of the LSSI.

Therefore, in accordance with the foregoing, by the Director of the Agency

Spanish Data Protection,

HE REMEMBERS:

START: SANCTION PROCEDURE against the entity, JIMBO NETWORKS, S.L.

with CIF.: B66209784, owner of the website: ***URL.1, for the following

violations:

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Violation of article 6.1 of the RGD, due to the illicit use of data personal obtained.

Violation of article 13 of the RGD, when collecting personal data from the users of the web pages of its ownership without having adapted it to the current regulations on data protection.

Violation of article 22.2 of the LSSI, regarding irregularities detected in the "Cookies Policy" of the website.

APPOINT: Ms. A.A.A. as Instructor, and Secretary, if applicable, Ms. B.B.B., indicating that any of them may be challenged, where appropriate, in accordance with the provisions in articles 23 and 24 of Law 40/2015, of October 1, on the Legal Regime of the Public Sector (LRJSP).

INCORPORATE: to the disciplinary file, for evidentiary purposes, the international claim put by the claimant and their documentation, the documents obtained and generated

by the Subdirector General for Data Inspection during the investigation phase.

nes, all of them part of this administrative file.

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WHAT: for the purposes provided in art. 64.2 b) of Law 39/2015, of October 1, of the Common Administrative Procedure of the Public Administrations, the sanction that could correspond would be:

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5,000 euros (five thousand euros), for violation of article 6.1 of the RGPD, without prejudice to what results from the investigation of this file.

5,000 euros (five thousand euros), for the infringement of article 13 of the RGPD, without prejudice to what results from the investigation of this file.

5,000 euros (five thousand euros) for the infringement of article 22.2 of the LSSI, without prejudice to what results from the investigation of this file.

NOTIFY: this agreement to initiate sanctioning proceedings to the entity,

JIMBO NETWORKS, S.L, granting a hearing period of ten business days to to formulate the allegations and present the evidence it deems appropriate.

If within the stipulated period it does not make allegations to this initial agreement, the same may be considered a resolution proposal, as established in article 64.2.f) of Law 39/2015, of October 1, of the Common Administrative Procedure of Public Administrations (hereinafter, LPACAP).

In accordance with the provisions of article 85 of the LPACAP, in the event that the sanction to be imposed was a fine, it may recognize its responsibility within the period granted for the formulation of allegations to this initial agreement; what will be accompanied by a reduction of 20% of the sanction to be imposed in the present procedure, equivalent in this case to 3,000 euros. With the application of this reduction, the sanction would be established at 12,000 euros, resolving the problem arising with the imposition of this sanction.

Similarly, you may, at any time prior to the resolution of this procedure, carry out the voluntary payment of the proposed sanction, which supposes that there will be a reduction of 20% of the amount of this, equivalent in this case to 3,000 euros. With the application of this reduction, the penalty would be established at 12,000 euros and its payment will imply the termination of the procedure.

The reduction for the voluntary payment of the penalty is cumulative with the corresponding reduction for the acknowledgment of responsibility, provided that this acknowledgment of the responsibility is revealed within the period granted to formulate arguments at the opening of the procedure. The voluntary payment of the referred amount in the previous paragraph may be done at any time prior to the resolution. In

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In this case, if it were appropriate to apply both reductions, the amount of the penalty would be set at 9,000 euros (nine thousand euros).

In any case, the effectiveness of any of the two reductions mentioned will be conditioned to the withdrawal or waiver of any action or resource in the administrative process.

deal against the sanction.

If you choose to proceed to the voluntary payment of any of the amounts indicated

above, you must make it effective by depositing it in account N° ES00

0000 0000 0000 0000 0000 opened in the name of the Spanish Agency for the Protection of

Data in Banco CAIXABANK, S.A., indicating in the item the reference number

ence of the procedure that appears in the heading of this document and the cause

of reduction of the amount to which it avails itself.

Likewise, you must send proof of income to the General Subdirectorate of Ins-

request to continue with the procedure in accordance with the amount entered.

gives.

The procedure will have a maximum duration of nine months from the date of

page of the start-up agreement or, where appropriate, of the draft start-up agreement. elapse-

do this period will produce its expiration and, consequently, the filing of actions;

in accordance with the provisions of article 64 of the LOPDGDD.

Finally, it is pointed out that in accordance with the provisions of article 112.1 of the LPA-

CAP, against this act there is no administrative appeal.

Sea Spain Marti

Director of the Spanish Agency for Data Protection.

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SECOND: On February 24, 2022, the claimed party has proceeded to pay

of the sanction in the amount of 9000 euros making use of the two reductions

provided for in the Start Agreement transcribed above, which implies the acknowledgment of responsibility.

THIRD: The payment made, within the period granted to formulate allegations to the opening of the procedure, entails the waiver of any action or resource in via administrative action against the sanction and acknowledgment of responsibility in relation to the facts referred to in the Initiation Agreement.

FOUNDATIONS OF LAW

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In accordance with the provisions of article 43.1 of Law 34/2002, of July 11, of services of the information society and electronic commerce (hereinafter LSSI), the powers that article 58.2 of Regulation (EU) 2016/679 (Regulation General Data Protection, hereinafter RGPD), grants each authority of control and according to the provisions of articles 47 and 48.1 of Organic Law 3/2018, of December 5, Protection of Personal Data and guarantee of rights (hereinafter, LOPDGDD), is competent to initiate and resolve this procedure the Director of the Spanish Data Protection Agency.

Likewise, article 63.2 of the LOPDGDD determines that: "The procedures processed by the Spanish Agency for Data Protection will be governed by the provisions in Regulation (EU) 2016/679, in this organic law, by the provisions regulations issued in its development and, as long as they do not contradict them, with a subsidiary, by the general rules on administrative procedures."

Finally, the fourth additional provision "Procedure in relation to the competences attributed to the Spanish Data Protection Agency by other laws" establishes that: "The provisions of Title VIII and its implementing regulations will apply to the procedures that the Spanish Agency for the Protection of Data would have to be processed in the exercise of the powers attributed to it by

other laws."

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Article 85 of Law 39/2015, of October 1, on Administrative Procedure

Common to Public Administrations (hereinafter, LPACAP), under the rubric

"Termination in sanctioning procedures" provides the following:

"1. Started a sanctioning procedure, if the offender acknowledges his responsibility,

the procedure may be resolved with the imposition of the appropriate sanction.

2. When the sanction is solely pecuniary in nature or it is possible to impose a

pecuniary sanction and another of a non-pecuniary nature, but the

inadmissibility of the second, the voluntary payment by the alleged perpetrator, in

any time prior to the resolution, will imply the termination of the procedure,

except in relation to the replacement of the altered situation or the determination of the

compensation for damages caused by the commission of the infringement.

3. In both cases, when the sanction is solely pecuniary in nature, the

competent body to resolve the procedure will apply reductions of, at least,

20% of the amount of the proposed sanction, these being cumulative with each other.

The aforementioned reductions must be determined in the notification of initiation

of the procedure and its effectiveness will be conditioned to the withdrawal or resignation of

any administrative action or recourse against the sanction.

The reduction percentage provided for in this section may be increased

regulations."

According to what was stated,

the Director of the Spanish Data Protection Agency RESOLVES:

FIRST: TO DECLARE the termination of procedure PS/00482/2021, of

in accordance with the provisions of article 85 of the LPACAP.

SECOND: NOTIFY this resolution to JIMBO NETWORKS, S.L..

In accordance with the provisions of article 50 of the LOPDGDD, this

Resolution will be made public once it has been notified to the interested parties.

Against this resolution, which puts an end to the administrative procedure as prescribed by

the art. 114.1.c) of Law 39/2015, of October 1, on Administrative Procedure

Common of the Public Administrations, the interested parties may file an appeal

contentious-administrative before the Contentious-administrative Chamber of the

National Court, in accordance with the provisions of article 25 and section 5 of

the fourth additional provision of Law 29/1998, of July 13, regulating the

Contentious-Administrative Jurisdiction, within a period of two months from the

day following the notification of this act, as provided in article 46.1 of the

aforementioned Law.

Sea Spain Marti

Director of the Spanish Data Protection Agency

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