

## **ADMINISTRATIVE PANEL DECISION**

### **Lam Research Corporation v. Administrator USA Case No. D2023-4392**

#### **1. The Parties**

The Complainant is Lam Research Corporation, United States of America ("United States"), represented by Gamma Law, United States.

The Respondent is Administrator USA, United States.

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

The disputed domain name <lamresaerch.com> is registered with Wild West Domains, LLC (the "Registrar").

#### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on October 23, 2023. On October 24, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 26, 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 (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 26, 2023, 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 October 28, 2023.

The Center verified that the Complaint [together with the amendment to the Complaint/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 November 1, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 21, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on November 24, 2023.

The Center appointed Angela Fox as the sole panelist in this matter on December 20, 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 Rules, paragraph 7.

#### **4. Factual Background**

The Complainant is a publicly traded company trading in the manufacture of semiconductors, based in California, United States but with offices throughout the United States, Asia, Europe, and the Middle East. The Complainant has offered its goods and services under the name and trademark LAM RESEARCH since at least as early as 1980.

The Complainant owns the following United States trademark registrations, details of which were annexed to the Complaint:

- United States Trademark Registration No. 2,171,618 for LAM RESEARCH in Class 7 filed on January 18, 1996 and registered on July 7, 1998;
- United States Trademark Registration No. 2,159,332 for LAM RESEARCH in Class 9 filed on January 18, 1996 and registered on May 19, 1998; and
- United States Trademark Registration No. 4,738,400 for LAM RESEARCH in Class 25 filed on September 12, 2014 and registered on May 19, 2015.

The Complainant has also owned and operated a website at the domain name <lamresearch.com> since May 5, 2002, through which its goods and services are offered.

The disputed domain name was registered on March 14, 2023. It resolves to a page displaying the warning, "This site contains potentially dangerous content that could harm your computer. We blocked it so you can continue browsing with confidence". The Complainant received an automated alert from Microsoft that the disputed domain name was likely a phishing website. The Complainant states that the disputed domain name was also used to create the subdomains <benefits.lamresaerch.com>; <epq.lamresaerch.com>; <us-ras.lamresaerch.com>; <informatik.lamresaerch.com>; <msdcs.lamresaerch.com>; and <dummy.lamresaerch.com>, which the Complainant says mimics its own lower-level website structure.

The Complainant filed printouts from the Internet archive website Wayback Machine, which did not locate a live website hosted at the disputed domain name at any time.

#### **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 the disputed domain name is confusingly similar to its registered trademark LAM RESEARCH, differing only in the juxtaposition of the letters "e" and "a", and the addition of the gTLD ".com". The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain name. Finally, the Complainant argues that the disputed domain name was registered and has been used in bad faith in connection with a phishing scheme.

##### **B. Respondent**

The Respondent did not reply to the Complainant's contentions and is in default. No exceptional circumstances explaining the default have been put forward. Therefore, in accordance with paragraphs 14 (a) and (b) of the Rules, the Panel will decide the Complaint and shall draw such inferences as it considers appropriate from the Respondent's default.

## 6. Discussion and Findings

Under paragraph 4(a) of the Policy, a complainant can only succeed in an administrative proceeding under the Policy if the panel finds that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (ii) the respondent has no rights or legitimate interests in the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

All three elements must be present before a complainant can succeed in an administrative proceeding under the Policy.

### 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 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.

Based on the available record, the Panel finds 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 Panel finds the mark is recognizable within the disputed domain name. The juxtaposition of the letters "e" and "a" in "lamresaerch" is a common and predictable typographical error and Internet users encountering the disputed domain name are likely to read it as a typographical misspelling of the Complainant's LAM RESEARCH trademark. Accordingly, the disputed domain name is confusingly similar to the Complainant's mark for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.7 and 1.9.

In particular, section 1.9 states,

"A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element. This stems from the fact that the domain name contains sufficiently recognizable aspects of the relevant mark. Examples of such typos include... (v) the inversion of letters and numbers."

Based on the available record, 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.

Panels have also held that the use of a domain name for illegal activity, such as phishing activities, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. The Complainant has alleged that the disputed domain name has been used for phishing, as indicated by the Microsoft alert, and the Respondent has done nothing to rebut this allegation.

Based on the available record, 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 Respondent is based in the United States, where the Complainant is also based and has traded under the LAM RESEARCH trademark for some 40 years. In the absence of any other plausible explanation from the Respondent, it seems very likely that the Respondent was aware of the Complainant when it registered the disputed domain name. Given that the disputed domain name appears to be a deliberate misspelling of the Complainant's trademark, it appears probable that in registering the disputed domain name, the Respondent was deliberately setting out to confuse Internet users and to divert them away from the Complainant's website, and to that of the Respondent.

The Panel agrees that the disputed domain name appears to be a deliberate instance of typosquatting, in which the Respondent appears to be intentionally seeking to attract Internet users looking for the Complainant's website.

It is unclear whether any substantive content has ever been displayed on the Respondent's website. However, there is some evidence in the form of the Microsoft alert that the disputed domain name has been used in respect of phishing activities, and the Respondent has made no effort to rebut that allegation. [WIPO Overview 3.0](#), section 3.1.4, states that "the use of a domain name for per se illegitimate activity such as... phishing... is manifestly considered evidence of bad faith".

Taking all of this into account, and based on the available record, 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 <lamresaerch.com> be transferred to the Complainant.

**/Angela Fox/**

Angela Fox

Sole Panelist

Date: January 14, 2024