

ADMINISTRATIVE PANEL DECISION

Automobili Lamborghini S.p.A. v. Jinsoo, Yoon
Case No. D2023-2655

1. The Parties

The Complainant is Automobili Lamborghini S.p.A., Italy, represented by HK2 Rechtsanwälte, Germany.

The Respondent is Jinsoo, Yoon, Republic of Korea.

2. The Domain Name and Registrar

The disputed domain name <lamborghini.com> is registered with Inames Co., Ltd. (the “Registrar”).

3. Procedural History

The Complaint in English was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 20, 2023. On June 21, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 22, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

On June 29, 2023, the Center sent an email in English and Korean to the Parties regarding the language of the proceeding. The Complainant confirmed its request that English be the language of the proceeding on June 29, 2023. The Respondent did not comment on the language of the proceeding.

The Center verified that the 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 in English and Korean of the Complaint, and the proceedings commenced on July 7, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 27, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 7, 2023.

The Center appointed Kathryn Lee as the sole panelist in this matter on August 9, 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 an Italian manufacturer of high-performance luxury sports cars. In 2019, the Complainant sold 8,205 new cars. The Complainant owns a number of trademark registrations for LAMBORGHINI including the following: United States of America trademark registration number 74019105 registered on November 13, 1990, European Union trademark registration number 001098383 registered on June 21, 2000, and International trademark registration number 959504 registered on February 28, 2008, designating the Republic of Korea, Japan, Viet Nam, and China, among others.

The Respondent appears to be an individual with an address in the Republic of Korea.

The disputed domain name was registered on May 6, 2007, and it resolves to a website with pay-per-click links at the time of filing of the Complaint.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name consists of "lambroghini" which is identical to the Complainant's trademark LAMBORGHINI except for the interchanged letters "r" and "o". The Complainant further contends that as the difference is small, the disputed domain name is confusingly similar to the Complainant's trademark, and that this is a clear act of typosquatting.

The Complainant also contends that the Respondent has no rights or legitimate interests in the disputed domain name and confirms that it has not authorized or licensed rights to the Respondent in any respect. The Complainant further contends that the Respondent's use of the disputed domain name to display the pay-per-click links capitalizes on the reputation and goodwill of the Complainant's trademark or otherwise misleads Internet users and therefore does not represent a *bona fide* offering of goods or services.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. The Complainant first contends that the mere registration of a domain name that is confusingly similar to a famous trademark like LAMBORGHINI by an unaffiliated entity can by itself create a presumption of bad faith. The Complainant further contends that due to the fame of the Complainant's trademark, the Respondent was probably aware of it at the time of registration of the disputed domain name, and that the Respondent has a pattern of abusive registrations given past UDRP decisions rendered against him involving famous marks such as REDBULL and VERIZON.

B. Respondent

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

6. Discussion and Findings

A. Language of the Proceeding

Paragraph 11(a) of the Rules provides that the language of the proceeding shall be the language of the registration agreement, unless otherwise agreed to by the parties, subject to the authority of the panel to determine otherwise. In this case, the language of the Registration Agreement is Korean, and both Parties have had an opportunity to argue their position on this point. However, the Respondent did not comment on the language of the proceeding nor did the Respondent object to the Complainant's request that English be the language of the proceeding. The Center issued the notification of the Complaint in Korean and English stating that it would accept the Complaint filed in English, and that the Response would be accepted in either Korean or English. The Respondent subsequently chose not to submit any response.

Considering the circumstances of this case, the Panel finds it proper and fair to determine that the language of the proceeding be in English. The disputed domain name is composed of alphabet letters, and the website connected to the disputed domain name displays links in English. Besides, both Parties were given the opportunity to submit arguments in the language of their preference, and the language in which to render the decision is reserved for the Panel. The Panel would have considered a Response in Korean, but no Response was submitted. In addition, according to WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1, the Panel can take into consideration prior cases involving the respondent in a particular language. In this regard, there are 25 prior UDRP decisions involving a respondent named "Jinsoo Yoon" from the Republic of Korea. 22 of them involved registrars with registration agreements in English, which indicates that the Respondent is proficient in the English language, and the panels in two of the remaining three cases rendered decisions in English, deciding that the Respondent has sufficient knowledge of English and is able to understand the decision in English. Accordingly, the Panel determines that the language of the proceeding be in English and finds that rendering the decision in English is fair and procedurally efficient given the circumstances of this case.

B. Identical or Confusingly Similar

The Complainant has demonstrated with supporting evidence that it has rights to the trademark LAMBORGHINI. As for the disputed domain name, it consists of "lamborghini". According to [WIPO Overview 3.0](#), section 1.7, a disputed domain name is considered confusingly similar to a trademark if it "incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the disputed domain name". In this regard, the Complainant's mark is readily recognizable within the disputed domain name, and therefore, the disputed domain name is confusingly similar to the Complainant's trademark. Not only that, the disputed domain name should be considered a case of typosquatting. Previous UDRP panels have concluded that a domain name that consists of an intentional misspelling of a trademark is considered similar to the relevant trademark for the purpose of the first element, and an example of such a misspelling is the inversion of letters. Here, the disputed domain name has simply reversed the letters "r" and "o". See [WIPO Overview 3.0](#), section 1.9.

For the reasons mentioned above, the Panel finds that the first element has been established.

C. Rights or Legitimate Interests

On the basis of the present record, the Panel finds that the Complainant has made the required allegations to support a *prima facie* case showing that the Respondent has no rights or legitimate interests in the disputed domain name. Once such a *prima facie* case has been established, the burden of production shifts to the Respondent to demonstrate its rights or legitimate interests in the disputed domain name, with the burden of proof always remaining with the Complainant. However, the Respondent in this case has chosen to file no Response to these assertions by the Complainant, and there is no evidence or allegation in the record that would warrant a finding in favor of the Respondent on this point.

Further, the Respondent's use of the disputed domain name for a domain parking page with pay-per-click links does not in the circumstances represent a *bona fide* offering of goods or services given that the disputed domain name is essentially identical to the Complainant's trademark and such use trades on the reputation and goodwill associated with the mark. See [WIPO Overview 3.0](#), section 2.9.

For the reasons provided above, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name, and that the second element has been established.

D. Registered and Used in Bad Faith

The Panel finds that there is strong and clear evidence to find bad faith in this case.

Considering the fame of the Complainant and the Complainant's mark, it is highly unlikely for the Respondent to have not known about the Complainant prior to registering the disputed domain name.

Rather, the disputed domain name is an obvious misspelling of the Complainant's mark. It is most likely that the Respondent registered the disputed domain name with the intention of benefiting from the fame of the Complainant's mark in some way. Also, by linking the disputed domain name with a parking page displaying pay-per-click links, the Respondent has created a likelihood of confusion and benefited commercially from the confusion of Internet users that visit the site by mistake as per paragraph 4(b)(iv) of the Policy.

Not only that, the Panel takes note of the various prior UDRP decisions rendered against the Respondent that indicates a pattern of bad faith conduct on part of the Respondent as described under paragraph 4(b)(ii) of the Policy, e.g., *Red Bull GmbH v. Jinsoo Yoon*, WIPO Case No. [D2016-2351](#); *Mycartis N.V. v. Jinsoo Yoon*, WIPO Case No. [D2017-0252](#); *Hawaii Furnishing Pte. Ltd. v. Jinsoo Yoon*, WIPO Case No. [D2021-2759](#).

Accordingly, the Panel finds that the third element has been established.

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 <lambroghini.com> be transferred to the Complainant.

/Kathryn Lee/

Kathryn Lee

Sole Panelist

Date: August 24, 2023