

ADMINISTRATIVE PANEL DECISION

Automobili Lamborghini S.p.A. v. Host Master, Transure Enterprise Ltd
Case No. D2023-3153

1. The Parties

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

The Respondent is Host Master, Transure Enterprise Ltd, United States of America.

2. The Domain Name and Registrar

The disputed domain name <lamborghini.com> is registered with Above.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 21, 2023. On July 24, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 25, 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 (Unknown / Redacted) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 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 amendment to the Complaint on July 26, 2023.

The Center verified that the Complaint together with the amendment to 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 of the Complaint, and the proceedings commenced on July 27, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 16, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 18, 2023.

The Center appointed Erica Aoki as the sole panelist in this matter on August 29, 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 world-famous Italian car manufacturer of high-performance sports cars based in Sant'Agata Bolognese, Italy. The company was founded in 1963 by Ferruccio Lamborghini as Automobili Ferruccio Lamborghini. The vehicles of the Complainant belong to the world's most famous luxury sports cars.

The Complainant owns several national trademarks and international registrations for LAMBORGHINI, including International Trademark Registration No. 460178, registered on March 28, 1981 and International Trademark Registration No. 959504, registered on February 28, 2008.

The Complainant's LAMBORGHINI trademark is well known all over the world and worldwide of strong reputation. The Complainant's group promotes Lamborghini cars in different languages worldwide on the Internet, *inter alia* at "www.lamborghini.com". LAMBORGHINI is widely known not only as a trademark but also as the Complainant's name.

The disputed domain name was registered on September 18, 2006. At the time of filing the Complaint, the disputed domain name resolved to a parking page with pay-per-click ("PPC") links and was publicly offered for sale on a third party website. On this platform, the interested party is invited to submit an offer, but the minimum offer must be USD 500.00.

5. Parties' Contentions

A. Complainant

The Complainant was founded in 1963 and the Complainant's vehicles are in the category of the world's most famous luxury sports cars.

The Complainant holds registrations for the trademark LAMBORGHINI and variations thereof in numerous countries around the world, where the LAMBORGHINI trademark is used by the Complainant, and is considered as a well-known trademark all over the world.

The Complainant contends that the disputed domain name is confusing similar to the Complainant's trademark, that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the disputed domain name was registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

The Complainant is required to establish the requirements specified under paragraph 4(a) of the Policy:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in respect of which the Complainant has 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

Based on the facts presented by the Complainant, this Panel finds that the Complainant has established its rights in the trademark LAMBORGHINI through registration and use. The Panel finds that disregarding the generic Top-Level Domain (“gTLD”) “.com”, the disputed domain name is confusingly similar to the Complainant’s registered trademark with the only difference being the obvious and intentional misspelling of the trademark LAMBORGHINI with the mere interchange of the letter’s “h” and “i”, and contains sufficiently recognizable aspects of the Complainant’s trademarks, which does not avoid a finding of confusing similarity.

The Panel therefore finds that the disputed domain name is confusing similar to the Complainant’s trademark.

B. Rights or Legitimate Interests

The Panel finds the following on record in this proceeding under the Policy:

The Respondent is in default and thus has made no affirmative attempt to show any rights or legitimate interests in the disputed domain name.

Paragraph 4(c) of the Policy indicates that a registrant may have a right or legitimate interest in a domain name if it uses the domain name in connection with a *bona fide* offering of goods or services prior to notice of the dispute. In this regard, the Respondent is in no way connected with the Complainant, has no authorization to use any of the Complainant’s trademarks, and has made no *bona fide* use of the disputed domain name.

There is no evidence on record that the Respondent is or was commonly known by the disputed domain name as an individual, business, or other organization.

There is no evidence on record that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the Complainant’s trademark.

Thus, the Respondent has no rights or legitimate interests in respect of the disputed domain name.

The Panel therefore finds that the Complainant has established an un rebutted *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name, under the Policy, paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

The Complainant’s trademark was registered well before the registration of the disputed domain name, and considering the reputation of the Complainant’s trademark, it is most likely that the Respondent knew or should have known of the Complainant’s LAMBORGHINI trademark when registering the disputed domain name.

Furthermore, the Complainant’s LAMBORGHINI trademark is distinctive and unique to the Complainant. It is therefore beyond the realm of coincidence that the Respondent chose the disputed domain name without the intention of misleading third parties. Moreover, Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith.

The disputed domain name resolves to a parking page with competing PPC links. By using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website.

Generally speaking, UDRP panels have found that the practice as such of registering a domain name for subsequent resale would not by itself support a claim that the Respondent registered the domain name in bad faith with the primary purpose of selling it to a trademark owner. However, based on the distinctiveness and reputation of the Complainant's trademark, the nature of the disputed domain name consisting of an intentional misspelling of the Complainant's trademark, the lack of response from the Respondent, and the use of the disputed domain name, the Panel finds that the fact that the disputed domain name is offered for sale on a third party website, supports the Panel's findings on bad faith.

Accordingly, and as also supported by the Panel's findings above under the second element of the Policy, the Panel finds that the Respondent has registered and is using the disputed domain name in bad faith under the Policy, paragraph 4(a)(iii).

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, <lamborghni.com> be transferred to the Complainant

/Erica Aoki/

Erica Aoki

Sole Panelist

Date: September 12, 2023