

## **ADMINISTRATIVE PANEL DECISION**

Four Minute Warning, LLC v. Judith Dominguez  
Case No. D2024-2465

### **1. The Parties**

Complainant is Four Minute Warning, LLC, United States of America (“United States”), represented by The Law Office of Matthew M. Yospin, United States.

Respondent is Judith Dominguez, United States, self-represented.

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

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

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 17, 2024. On June 18, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 18, 2024, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to Complainant on June 26, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint.

On July 8, 2024, the proceeding was suspended upon the Complainant’s request and reinstated on August 29, 2024. The Complainant filed an amendment to the Complaint on September 9, 2024.

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 Respondent of the Complaint, and the proceedings commenced on September 10, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 30, 2024. Respondent sent several informal communications to the Center, as did Complainant. Respondent did not submit a formal response to the allegations in the Complaint.

The Center appointed Lorelei Ritchie as the sole panelist in this matter on October 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**

Complainant is a company based in Austin, Texas. Since at least 2020, and as early as 2017, Complainant has offered mortgage lender matching and related services under the mark JD MORTGAGE. Complainant owns United States Registration No. 6374973 (registered June 1, 2021) for JD MORTGAGE on the Supplemental Register, and United States Registration No. 7275371 (registered January 16, 2024) on the Principal Register. Both registrations disclaim the right to exclusive use of the term "MORTGAGE" apart from the mark as shown, and the registration on the Principal Register is registered with a claim of acquired distinctiveness in whole.

The disputed domain name was registered on April 21, 2020. The disputed domain name has been linked to an active website through which Respondent, Judith Dominguez, has advertised and communicated with consumers about her mortgage lending services in the state of California, marketed under the name JD MORTGAGE LOANS.

#### **5. Parties' Contentions**

##### **A. Supplemental Communications**

Both Complainant and Respondent sent informal communications to the Center. The Panel exercises its discretion under Paragraph 10(d) of the Rules to consider these communications. Nevertheless, the Panel further notes that the outcome of the proceeding would be the same without considering the additional filings, since all of the evidence on which the Panel makes its ruling was included in the initial Complaint, the amendment to the Complaint, and the Annexes thereto.

##### **B. Complainant**

Complainant contends that (i) the disputed domain name is identical or confusingly similar to Complainant's trademarks, (ii) Respondent has no rights or legitimate interests in the disputed domain name; and (iii) Respondent registered and is using the disputed domain name in bad faith.

Specifically, Complainant contends that it owns rights to the JD MORTGAGE mark, which Complainant uses in its own online communications with prospective clients. Complainant contends that Respondent has incorporated in full Complainant's JD MORTGAGE mark into the disputed domain name, with only the addition of the term "loans", which describes a service offered by both Complainant and by Respondent via their respective websites. Complainant further contends that Respondent lacks rights or legitimate interest in the disputed domain name, and that Respondent has no license from, or other affiliation with, Complainant. Thus, Complainant contends that Respondent has registered and is using the disputed domain name in bad faith, having simply acquired it for Respondent's own commercial gain.

##### **C. Respondent**

As noted, Respondent did not file a formal reply to Complainant's contentions in this proceeding. Respondent did, nevertheless, indicate that she has used the disputed domain name to offer her services.

## 6. Discussion and Findings

### 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. Complainant has shown rights in respect of a trademark or service mark, JD MORTGAGE, for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. The entirety of the mark is reproduced within the disputed domain name. [WIPO Overview 3.0](#), section 1.7. Although the addition of other terms (here, the dictionary term "loans") may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and Complainant's mark for purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel therefore finds that the disputed domain name is confusingly similar to a trademark in which Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

### B. Rights or Legitimate Interests

The Panel next considers whether Complainant has shown that Respondent has no "rights or legitimate interest", as must be proven to succeed in a UDRP dispute. Paragraph 4(c) of the Policy gives examples that might show rights or legitimate interests in a domain name. These examples include:

- (i) use of the domain name "in connection with a bona fide offering of goods or services";
- (ii) demonstration that respondent has been "commonly known by the domain name"; or
- (iii) "legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue".

Complainant has alleged and submitted evidence, included as Annex 4 to the Complaint, that Respondent has used the disputed domain name in connection with mortgage lending services offered by Respondent, Judith Dominguez, under the name JD MORTGAGE LOANS. Nothing in the record suggests this choice of name was intended to specifically target or take advantage of Complainant, rather it seems likely this name and the disputed domain name were elected due to Respondent's personal name and business activities.

Therefore, although Respondent has no license from, or other affiliation with, Complainant, the Panel finds that there is sufficient evidence of Respondent's "rights or legitimate interests" in the disputed domain name in accordance with paragraph 4(a)(ii) of the Policy. Complainant cannot prevail in this UDRP proceeding without establishing Respondent's lack of "rights or legitimate interests" in the disputed domain name. Nevertheless, for completeness, the Panel proceeds with an analysis of the third element.

### C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides examples of evidence that may indicate "bad faith" registration and use of a disputed domain name. These include:

- (i) circumstances indicating that Respondent has registered or has acquired the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the disputed domain name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the disputed domain name; or
- (ii) that Respondent has registered the disputed domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that Respondent has engaged in a pattern of such conduct; or

- (iii) that Respondent has registered the disputed domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) that by using the disputed domain name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent's website or other online location, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website or location or of a product or service on Respondent's website or location.

As noted above, Complainant has both alleged and submitted evidence, included as Annex 4 to the Complaint, that Respondent has used the disputed domain name in connection with mortgage lending services offered by Respondent, Judith Dominguez, under the name JD MORTGAGE LOANS. Although, as Complainant points out, the services offered by Respondent may compete with those offered by Complainant, and although Complainant has established that it owns trademark registrations for the mark JD MORTGAGE in connection with these services, the Panel concludes that Complainant has not carried its burden of proving that Respondent registered and used the disputed domain name in bad faith within the meaning of the Policy. In this regard, the Panel notes that Respondent registered the disputed domain name before either of Complainant's trademark registrations, and there is no evidence indicating Respondent knew of the Complainant or sought to target Complainant's mark when registering the disputed domain name. Rather, the evidence submitted by Complainant indicates that Respondent has made a legitimate use of the disputed domain name to market Respondent's services under that name, suggesting the distinctive component in both the disputed domain name and Complainant's trademark, "jd", was adopted for independent reasons.

The Panel finds that Complainant has failed to establish that Respondent registered and used the disputed domain name in bad faith under paragraph (4)(a)(iii) of the Policy.

## **7. Decision**

For the foregoing reasons, the Complaint is denied.

*/Lorelei Ritchie/*

**Lorelei Ritchie**

Sole Panelist

Date: October 22, 2024