

ADMINISTRATIVE PANEL DECISION

Openlane, Inc. v. Name Redacted¹
Case No. D2024-3188

1. The Parties

The Complainant is Openlane, Inc., United States of America (“United States”), represented by CSC Digital Brand Services Group AB, Sweden.

The First Respondent is Name Redacted, Romania.

The Second Respondent is Name Redacted, Romania.

The Third Respondent is Name Redacted, Romania.

2. The Domain Names and Registrar

The disputed domain names <buyer-openlane.com>, <client-openlane.com>, <item-openlane.com>, <open-lane.org>, <openlane-privatesale.com>, <openlane-prv.com>, <private-openlane.org>, and <privatesale-openlane.com> (the “Domain Names”) are registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 2, 2024. On August 5, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. On August 12, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Names which differed from the named Respondent (REDACTED FOR PRIVACY/Data Protected) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 13, 2024 with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar,

¹ The Respondents appear to have used the names of third parties when registering the disputed domain names. In light of the potential identity theft, the Panel has redacted the Respondents’ names from this decision. However, the Panel has attached as Annex 1 to this decision an instruction to the Registry regarding transfer of the disputed domain names, which includes the names of the Respondents. The Panel has authorized the Center to transmit Annex 1 to the Registry as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

requesting the Complainant to either file separate complaints for the Domain Names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all Domain Names are under common control. The Complainant filed an amended Complaint on August 13, 2024.

The Center verified that the Complaint together with the 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 Respondents of the Complaint, and the proceedings commenced on August 21, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 10, 2024. The Respondents did not submit any response. Accordingly, the Center notified the Respondents' default on September 17, 2024.

The Center appointed Piotr Nowaczyk as the sole panelist in this matter on September 23, 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

The Complainant is a provider of digital automotive marketplaces and technology platforms bringing together the OEMs, dealers, fleet operators, rental companies and financial institutions to match the right automobile buyer with the right car.

The Complainant submits that it has 4,500 employees and more than 100 operating locations across North America, Europe, the Philippines and Uruguay. Its automotive marketplaces, technology platforms and ancillary services support customers in over 50 countries around the globe. According to the Complainant, it has sold over 1.3 million vehicles in 2023, which generated a revenue in the amount of USD 1.6 billion.

The Complainant is the owner of numerous OPENLANE trademark registrations, including:

- the European Union Trade Mark Registration for OPENLANE (word) No. 018868545, registered on September 12, 2023;
- the United Kingdom Trademark Registration for OPENLANE (word) No. UK00003906284, registered on July 21, 2023; and
- the United States Trademark Registration for OPENLANE (word) No. 4268846, registered on January 1, 2013.

The Complainant is also the owner of the domain names incorporating its OPENLANE trademark, such as <openlane.com> and <openlane.eu>.

The Domain Name <buyer-openlane.com> was registered on April 1, 2024.

The Domain Name <client-openlane.com> was registered on April 1, 2024.

The Domain Name <item-openlane.com> was registered on April 1, 2024.

The Domain Name <open-lane.org> was registered on April 18, 2024.

The Domain Name <openlane-privatesale.com> was registered on January 23, 2024.

The Domain Name <openlane-prv.com> was registered on January 23, 2024.

The Domain Name <private-openlane.org> was registered on July 10, 2024.

The Domain Name <privatesale-openlane.com> was registered on January 23, 2024.

As of the date of this decision, as well as at the time of submitting the Complaint, the Domain Names have either resolved to inactive websites or redirected Internet users to the Complainant's domain name <openlane.eu>.

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 Domain Names.

First, the Complainant submits that the Domain Names are identical or confusingly similar to the OPENLANE trademark in which the Complainant has rights.

Second, the Complainant argues that the Respondents have neither rights nor legitimate interests in the Domain Names.

Third, the Complainant contends that the Domain Names were registered and are being used in bad faith.

B. Respondent

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

6. Discussion and Findings

6.1. Preliminary Matters

A. Consolidation of Multiple Respondents

The amended Complaint was filed in relation to nominally different Domain Name registrants. The Complainant alleges that the Domain Name registrants are the same entity or mere alter egos of each other, or under common control.

The Domain Name registrants did not comment on the Complainant's request for consolidation.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant's request, the Panel will consider whether (i) the Domain Names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See section 4.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

As regards common control, the Panel notes the following:

First, the Domain Names were registered in close proximity in time, i.e., between January 23, 2024 and July 10, 2024.

Second, all the Domain Names follow similar naming patterns. They consist of the Complainant's OPENLANE trademark, an additional term, a hyphen and the generic Top-Level Domain ("gTLD") ".com" or the gTLD ".org". Only one Domain Name, <open-lane.org>, differs from the OPENLANE trademark by the addition of a hyphen between the terms "open" and "lane".

Third, all of the Domain Names are registered with the same Registrar.

Fourth, the registrant information of all the Domain Names have been concealed using privacy services.

Fifth, the Registration Data for all the Domain Names contains addresses in Romania.

Sixth, as of the date of this decision, as well as at the time of submitting the Complaint, the Domain Names have been used in a similar manner. They have either resolved to inactive websites or redirected Internet users to the Complainant's domain name <openlane.eu>.

Seventh, the registrant of one of the Domain Names listed in the present case has been involved in a previous UDRP case, *OPENLANE Europe NV, OPENLANE, Inc. v. Name Redacted*, WIPO Case No. [DEU2024-0020](#), where the Panel found the potential identity theft and thus, redacted the name of this registrant from the decision.

Lastly, the Respondents have not denied that the Domain Names are under a common control.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different Domain Name registrants (referred to below as "the Respondent") in a single proceeding.

6.2. Substantive Matters – Three Elements

Paragraph 4(a) of the Policy places a burden on the Complainant to prove the presence of three separate elements, which can be summarized as follows:

- (i) the Domain Names are 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 Domain Names; and
- (iii) the Domain Name have been registered and are being used in bad faith.

The requested remedy may only be granted if the above criteria are met. At the outset, the Panel notes that the applicable standard of proof in UDRP cases is the "balance of probabilities" or "preponderance of the evidence". See section 4.2 of the [WIPO Overview 3.0](#).

A. Identical or Confusingly Similar

Under the first element, the Complainant must establish that the Domain Names are identical or confusingly similar to the trademark in which the Complainant has rights.

The Complainant holds valid OPENLANE trademark registrations. The Domain Names incorporate this trademark in its entirety. As numerous UDRP panels have held, incorporating a trademark in its entirety is sufficient to establish that a domain name is identical or confusingly similar to that trademark. See *PepsiCo, Inc. v. PEPSI, SRL (a/k/a P.E.P.S.I.) and EMS COMPUTER INDUSTRY (a/k/a EMS)*, WIPO Case No. [D2003-0696](#).

The addition of other terms such as "buyer-", "client-", "item-", "-privatesale", "-prv", "private-", "privatesale-" in the Domain Names does not prevent a finding of confusing similarity between the Domain Names and the Complainant's OPENLANE trademark. Panels have consistently held that where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive,

geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. See section 1.8 of the [WIPO Overview 3.0](#).

Moreover, the disputed domain name <open-lane.org> differs from the OPENLANE trademark by the addition of a hyphen between the terms “open” and “lane”. It is well established that use or absence of punctuation marks, such as hyphens, does not alter the fact that a trademark is recognizable within the disputed domain name. See *Six Continents Hotels, Inc. v. Helen Siew*, WIPO Case No. [D2004-0656](#).

The gTLD “.com” and gTLD “.org” in the Domain Names are viewed as a standard registration requirement and as such are typically disregarded under the first element test. See section 1.11.1 of the [WIPO Overview 3.0](#).

Given the above, the Panel finds that the Domain Names are confusingly similar to the Complainant’s OPENLANE trademark. Thus, the first element of the Policy has been established.

B. Rights or Legitimate Interests

Under the second requirement, the Complainant must prove that the Respondent has no rights or legitimate interests in the Domain Names.

The respondent may establish a right or legitimate interest in the domain name by demonstrating in accordance with paragraph 4(c) of the Policy any of the following:

- (i) that it has used or made preparations to use the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services prior to the dispute; or
- (ii) that it is commonly known by the domain name, even if it has not acquired any trademark rights; or
- (iii) that it is making a legitimate, noncommercial, or fair use of the domain name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark.

Based on the records, the Panel finds that the Complainant has established a prima facie case that the Respondent does not have any rights or legitimated interests in the Domain Names, and the burden of production of evidence shifts to the Respondent. See section 2.1 of the [WIPO Overview 3.0](#). Although given the opportunity, the Respondent has not submitted any evidence indicating that any of the circumstances foreseen in paragraph 4(c) of the Policy are present in this case.

On the contrary, it results from the evidence on record that the Complainant’s OPENLANE trademark predates the Respondent’s registration of the Domain Names. There is no evidence in the case record that the Complainant has licensed or otherwise permitted the Respondent to use its trademark or to register the Domain Names incorporating the trademark. There is also no evidence to suggest that the Respondent has been commonly known by the Domain Names. In fact, the Panel finds that the Respondent appears to have used the names of third parties when registering the Domain Names which constitutes the potential identity theft.

Moreover, it results from the evidence on record that the Respondent does not make use of the Domain Names in connection with a bona fide offering of goods or services, nor does it make a legitimate noncommercial or fair use of the Domain Names. On the contrary, as of the date of this decision, as well as at the time of submitting the Complaint, part of the Domain Names have not resolved to any active websites. In fact, it does not result from the case evidence that these Domain Names have been used in any active way to date.

Furthermore, the rest of the Domain Names have been used to redirect Internet users to the Complainant’s official website at <openlane.eu>. UDRP panels have consistently held that use of the disputed domain name to redirect Internet users to the complainant’s own website cannot confer any rights or legitimate

interests in the disputed domain name to the respondent. See *Ann Summers Limited v. Domains By Proxy, LLC / Mingchun Chen*, WIPO Case No. [D2018-0625](#); *Carrefour v. WhoisGuard, Inc., WhoisGuard Protected / Robert Jurek, Katrin Kafut, Purchasing clerk, Starship Tapes & Records*, WIPO Case No. [D2017-2533](#).

In addition, noting the construction of the Domain Names, which either consists of the Complainant's trademark with addition of a hyphen or the Complainant's trademark along with the terms that are descriptive of the Complainant's services, the nature of the Domain Names is such to carry a risk of implied affiliation with the Complainant. See section 2.5.1 of the [WIPO Overview 3.0](#).

In sum, the Respondent has failed to invoke any circumstances, which could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights or legitimate interests in respect of the Domain Names. Thus, there is no evidence in the case file that refutes the Complainant's prima facie case.

The Panel concludes that the second element of the Policy has been established.

C. Registered and Used in Bad Faith

Under the third element, the Complainant must prove that the Domain Names have been registered and are being used in bad faith.

Bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark. See section 3.1 of the [WIPO Overview 3.0](#).

Under paragraph 4(b) of the Policy, evidence of bad faith registration and use includes without limitation:

- (i) circumstances indicating the domain name was registered or acquired primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the owner of a trademark or to a competitor of the trademark owner, for valuable consideration in excess of the documented out-of-pocket costs directly related to the domain name; or
- (ii) circumstances indicating that the domain name was registered in order to prevent the owner of a trademark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) circumstances indicating that the domain name was registered primarily for the purpose of disrupting the business of a competitor; or
- (iv) circumstances indicating that the domain name has intentionally been used in an attempt to attract, for commercial gain, Internet users to a website or other online location, by creating a likelihood of confusion with a trademark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on a website or location.

As indicated above, the Complainant's rights in the OPENLANE trademark predate the registration of the Domain Names. The Panel finds that the Respondent was or should have been aware of the Complainant's trademark at the time of registration. This finding is supported by the composition of the Domain Names, which either consists of the Complainant's trademark with addition of a hyphen or the Complainant's trademark along with the terms that are descriptive of the Complainant's services. Moreover, some of the Domain Names have been used to redirect Internet users to the Complainant's own website. Finally, it has been proven to the Panel's satisfaction that the Complainant's OPENLANE trademark is well known and unique to the Complainant. Thus, the Respondent could not ignore the reputation of products and services under this trademark. In sum, the Respondent in all likelihood registered the Domain Names with the expectation of taking advantage of the reputation of the Complainant's OPENLANE trademark.

Furthermore, the Respondent shows a pattern of cybersquatting, as it registered eight Domain Names that include the Complainant's OPENLANE trademark. In addition, the Complainant showed that the Respondent has previously been involved in UDRP case *OPENLANE Europe NV, OPENLANE, Inc. v. Name Redacted*, WIPO Case No. [DEU2024-0020](#), which constitutes further evidence of cybersquatting.

Next, the Domain Names have been used by the Respondent in bad faith. As noted above, some of the Domain Names have redirected Internet users to the Complainant's official website at <openlane.eu>. Panels have consistently found that redirecting the disputed domain name to the complainant's website constitutes evidence to support a finding that a respondent has registered a domain name to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the complainant's mark. See section 3.1.3 of the [WIPO Overview 3.0](#). In the present case, the redirection from the Domain Names to the Complainant's official website reinforces the likelihood of confusion. Internet users are likely to consider these Domain Names as in some way endorsed by or connected with the Complainant, particularly taking into consideration the reputation of the OPENLANE trademark. See, *Ann Summers Limited v. Domains By Proxy, LLC / Mingchun Chen*, WIPO Case No. [D2018-0625](#); *Marie Claire Album v. Whoisguard Protected, Whoisguard, Inc. / Dexter Ouwehand, DO*, WIPO Case No. [D2017-1367](#).

On the other hand, the rest of the Domain Names have not resolved to any active websites. Considering the overall circumstances of this case, the Panel finds that the Respondent's passive holding of the Domain Names does not prevent a finding of bad faith. As numerous UDRP panels have held, passive holding, under the totality of circumstances of the case, would not prevent a finding of bad faith under the Policy. See section 3.3 of the [WIPO Overview 3.0](#). Here, given the well-known nature of the Complainant's OPENLANE trademark, the failure of the Respondent to submit a formal response, and the implausible good faith use to which the Domain Names may be intrinsically put, the Panel agrees with the above.

Finally, the Respondent's use of privacy services that concealed registrant information for the Domain Names further supports a finding of bad faith.

For the reasons discussed above, the Panel finds that the third element of the Policy 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 Domain Names <buyer-openlane.com>, <client-openlane.com>, <item-openlane.com>, <open-lane.org>, <openlane-privatesale.com>, <openlane-prv.com>, <private-openlane.org>, <privatesale-openlane.com> be transferred to the Complainant.

/Piotr Nowaczyk/

Piotr Nowaczyk

Sole Panelist

Date: October 7, 2024