

ADMINISTRATIVE PANEL DECISION

PN II, Inc. v. Sanais Pulte, Gaba
Case No. D2024-5277

1. The Parties

The Complainant is PN II, Inc., United States of America (“United States”), represented by Adams and Reese LLP, United States.

The Respondent is Sanais Pulte, Gaba, Nigeria.

2. The Domain Name and Registrar

The disputed domain name <pultegrouphomesinc.com> is registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 21, 2024. On December 23, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 23, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 24, 2024, 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 December 27, 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 Respondent of the Complaint, and the proceedings commenced on January 2, 2025. In accordance with the Rules, paragraph 5, the due date for Response was January 22, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 23, 2025.

The Center appointed Charles Gielen as the sole panelist in this matter on January 27, 2025. 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 wholly owned subsidiary of PulteGroup, Inc. PulteGroup, Inc. and its subsidiaries offer home building, real estate, mortgage lending, and related services under several trade marks in whole or in part consisting of the term “Pulte”, and advertise these services through various websites, including <pulte.com> and <pultegroupinc.com>, as well as through print media and other advertising and promotional campaigns. PulteGroup, Inc. is one of the largest homebuilding companies in the United States and currently operates in approximately fifty markets. The Complainant and its predecessors have been using the trade marks PULTE and PULTE HOMES since at least as early as 1969, and the trade mark PULTEGROUP mark since at least as early as 2010.

The Complainant holds a portfolio of registrations for trade marks in the United States and Canada. This portfolio includes among others:

- United States registration No. 1942747 for the trade mark PULTE, registered on December 19, 1995 for services in classes 36 and 37;
- United States registration No. 1942626 for the trade mark PULTE HOMES, registered on December 19, 1995 for services in class 37;
- United States registration No. 4077463 for the trade mark PULTEGROUP, registered on December 27, 2011 for services in class 37.

Since many years the Complainant operates its principal websites under the domain names <pulte.com>, <pultegroup.com>, and <pultegroupinc.com>.

The disputed domain name was registered on October 14, 2024, and resolved to a website passing off as the Complainant by prominently featuring the Complainant’s trade marks and copyright-protected content. The disputed domain name has been used to send fraudulent emails impersonating the Complainant.

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 the Complainant’s trade marks. The first and most prominent element of the disputed domain name is the trade mark PULTE in its entirety, and the disputed domain name also incorporates the trade marks PULTE HOMES and PULTEGROUP in their entireties. This should be considered sufficient to establish confusing similarity. The addition of the term “inc”, which is an abbreviation of the generic word “incorporated”, does not prevent the disputed domain name from being confusingly similar to the trade marks of the Complainant.

Furthermore, the Complainant contends that the Respondent does not have any rights or legitimate interests in the disputed domain name. The Complainant gives several reasons for this. First, the Respondent is not known by the disputed domain name and does not offer any genuine goods or services. The fact that the Respondent used the surname Pulte in the registration of the disputed domain name does not create any rights or legitimate interest in the disputed domain name. According to the Complainant, this family name is fake. The Complainant contends that from publicly available data such a family name is not used in Nigeria,

where the Respondent is living. Also, the Respondent's address in Lagos appears to be non-existing. Second, the Complainant argues that it has not licensed or otherwise permitted the Respondent to use the trade marks PULTE, PULTE HOMES or PULTEGROUP, or to apply for or use any domain name incorporating these trade marks. Third, the Respondent is clearly not using the disputed domain name in a fair manner. On the contrary, the disputed domain name is directing to a website mimicking the Complainant's official website by illegally featuring the Complainant's trade marks and copyright-protected content. Also, the Respondent uses the disputed domain name to impersonate an employee of the Complainant, and in furtherance of an attempt to obtain goods from a third-party supplier (presumably without paying for those goods). These activities constitute identity fraud, wire fraud, and attempted theft, and as such, cannot be considered legitimate noncommercial or fair use of the disputed domain name.

Finally, the Complainant argues that the Respondent registered and is using the disputed domain name in bad faith. First, the Complainant contends that it is not plausible that the Respondent could have been unaware of the Complainant at the time of registration. The Respondent's actual knowledge of the Complainant is evidenced by the Respondent's use of the disputed domain name to direct to a website that mimics the Complainant's official website and features the Complainant's trade marks and copyright-protected content and the Respondent's use of the disputed domain name to impersonate one of the Complainant's employees in correspondence with at least one other entity, and the Respondent's use of the Complainant's official logo in an email send by the Respondent. Second, the use by the Respondent of false information in the Whois record, including a fake surname and a nonexistent address, represents a deliberate attempt to conceal its identity, and supports a finding of bad faith registration and use of the disputed domain name. Third, the Respondent is using the disputed domain name to redirect Internet users, and particularly potential customers, investors, and vendors of the Complainant, away from the Complainant's website to the Respondent's website, which includes a "Contact Us" form. In doing so, the Respondent passes itself off as the Complainant in order to collect personal information from unwitting visitors. The Respondent's unauthorized use of the Complainant's trade marks and copyrighted content on the website associated with the disputed domain name serves as definitive evidence of the Respondent's bad faith use. Finally, the Respondent registered and is using the disputed domain name to impersonate an employee of the Complainant by sending emails purporting to be from the Complainant, with the intention of fraudulently obtaining goods from a supplier. In doing so, the Respondent clearly registered the disputed domain name for commercial gain, and to trade on the Complainant's goodwill and reputation, and may have violated criminal laws in the process. Such fraudulent use of the disputed domain name demonstrates clear bad faith on the part of the Respondent.

B. Respondent

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

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 trade mark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of trade marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the trade marks are clearly recognizable within the disputed domain name, that contains the terms PULTE, PULTE HOMES and PULTEGROUP, all identical to the trade marks of the Complainant. Accordingly, the disputed domain name is confusingly similar to the trade marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. The only difference between the trade marks and the disputed

domain name (leaving aside the generic Top-Level Domain “.com”) is that the term “inc” has been added to the term “pultegrouphomes”. This difference does not prevent the finding of confusing similarity between the trade marks and the disputed domain name. [WIPO Overview 3.0](#), section 1.8.

Therefore, the requirement under paragraph 4(a)(i) of the Policy is met.

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.

First, the Respondent did not show that it owns any rights to the name “pultegrouphomesinc” nor that it has any license from the Complainant to use its trade mark. Second, the Respondent did not argue that it is commonly known, or that it has ever been known under the name “pultegrouphomesinc”. The use by the Respondent of the surname Pulte in the registration of the disputed domain name, seems to be an attempt to show rights in that name. However, the Complainant showed that this surname, as well as the address of the Respondent do not appear to exist in Nigeria, since no such name or address is used in any available record. Furthermore, the Panel did not find any evidence that the Respondent has used, or prepared to use, the disputed domain name in connection with a bona fide offering of goods or services. On the contrary, the disputed domain name redirects to a website on which some of the trade marks of the Complainant as well as certain copyright protected content are being used. Also, the Respondent uses the disputed domain name to impersonate an employee of the Complainant by sending fraudulent emails, and in furtherance of an attempt to obtain goods from a third-party supplier. Such activities constitute at least identity fraud and can never be a bona fide offering of goods or services and do not create a legitimate interest in the disputed domain name.

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 by registering the disputed domain name the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website accessed via the disputed domain name by creating a likelihood of confusion with the Complainant’s trade marks as to the source, sponsorship, affiliation, or endorsement of its website. The Panel is of the opinion that the Complainant showed the fraudulent intent by the Respondent because the Respondent is using the disputed domain

name for unlawful purposes by creating a website that mimics the website of the Complainant. Not only are some of the Complainant's trade marks being used but also copyright protected content has been copied. Also, the Respondent likely used a fake name and address for its website thereby concealing its true identity. The bad faith of the use of the disputed domain name is furthermore demonstrated by the fact that the Respondent impersonated an employee of the Complainant by sending emails purporting to be from the Complainant, with the intention of fraudulently obtaining goods from a supplier. This behavior is evidence of both registration and use of a disputed domain name in bad faith.

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 <pultegrouphomesinc.com> be transferred to the Complainant.

/Charles Gielen/

Charles Gielen

Sole Panelist

Date: February 4, 2025