

ADMINISTRATIVE PANEL DECISION

Teneroch, S.A. de C.V. v. Mario Avila, Vidanta
Case No. D2025-1311

1. The Parties

The Complainant is Teneroch, S.A. de C.V., Mexico, internally represented.

The Respondent is Mario Avila, Vidanta, Mexico.

2. The Domain Name and Registrar

The disputed domain name <vacationsclublegendary.com> is registered with GoDaddy.com, LLC (the "Registrar").

3. Procedural History

The Complaint was filed in English and Spanish with the WIPO Arbitration and Mediation Center (the "Center") on April 1, 2025. On April 1, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 2, 2025, 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 (Not Identified) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 4, 2025, 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 Complaints on April 7 and 10, 2025.

The Center verified that the Complaint together with the amended Complaints 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 April 17, 2025. In accordance with the Rules, paragraph 5, the due date for Response was May 7, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 8, 2025.

The Center appointed Martin Michaus Romero as the sole panelist in this matter on May 21, 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:

- 1.- Is a Mexican Corporation, incorporated in accordance with the Laws of Mexico.
- 2.- Is the holder of the registration of certain trademark dedicated to the sale and promotion of a particular vacation club, similar to the timeshare.
- 3.- For its business operation, it has a database of clients who are registered as members of such vacation club. As part of the business, the clients' accounts are managed, payments are processed, vacations are scheduled, and promotions are sent, among other functions related to the administration of vacation club and the clients and members they have registered.

The trademark LEGENDARY VACATION CLUB was issued by the official Mexican Institute of Industrial Property, with registration number 2552833, registered on May 26, 2023, and valid until May 26, 2033.

The disputed domain name has been used to send emails impersonating the Complainant, which included the Complainant's trademark and logo.

The disputed domain name was created on March 20, 2024.

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.

The Complainant contends that:

- a) The disputed domain name is confusingly similar to its trademark.
- b) It has not licensed or otherwise permitted the Respondent to use LEGENDARY VACATION CLUB trademark or any variations or combinations thereof, or to register or use any domain incorporating its trademark, any variations or combination thereof.
- c) The Respondent is not making a legitimate noncommercial or fair use of the disputed domain name.
- d) Its brand has already been targeted by fraudulent groups to create schemes to target their clients through online services (such as false internet sites and emails) using confusingly similar domain names, to those of the registered trademark.
- e) This is done in order to commit crimes like identity theft, phishing, and other illegal activities designed to scam their clients out of money by offering them false promotions, discount charges, and many others.
- f) It has received several reports from its clients who, in turn, have received emails from the disputed domain name making false promotions/offers, inviting them to make payments, or promising them to make refunds if payments are made within certain time frames. Some of these emails are sent from:

"[...]@vacationsclublegendary.com".

The disputed domain name is confusingly similar to their trademark LEGENDARY VACATION CLUB

- g) In addition, emails originating from address “[...]@vacationsclublegendary.com” are being used to send fraudulent hotel stay confirmations in the names of their client. Other messages promote vacation offers at hotels allegedly endorsed by vacation club and include bank deposit instructions or payment references to complete false reservations.
- h) These communications are neither recognized nor authorized by their brand or vacation club. Such fraudulent conduct results in both economic and reputational harm to their company, while exploiting the public’s trust in their registered trademark.
- i) The Respondent is not commonly known by the disputed domain name.
- j) The Trademark LEGENDARY VACATION CLUB was registered on May 26, 2023.

B. Respondent

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

6. Discussion and Findings

Under the Policy, the Complainant is required to prove on the balance of probabilities that:

- (i) the disputed domain name is 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 disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

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.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The LEGENDARY VACATION CLUB mark is recognizable within the disputed domain name, even though the order of the words of the trademark were inverted. That is, in the disputed domain name appears on first place, the word “vacations”, on second place the word “club”, and on third place the word “legendary”, meanwhile the trademark is LEGENDARY VACATION CLUB. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel finds the first element of the Policy has been established

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 with 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.

Panels have held that the use of a domain name for illegal activities, as has been targeted by fraudulent groups to create schemes to target the clients through online services, using email addresses in order to commit crimes like identity theft, phishing, and other illegal activities designed to scam the clients out of money by offering them false promotions, discount charges, etc., or other types of fraud can never confer rights or legitimate interests on a respondent.

The Respondent is not using the disputed domain name for a bona fide offering of goods or services, nor is making a legitimate noncommercial or fair use that might give rise to rights or legitimate interests in the disputed domain name.

Panels have held that the use of a domain name for illegal activity, such as theft and phishing, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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 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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have held that the use of a domain name for illegal activities such as identity theft, phishing, unauthorized account access, hacking, impersonation/passing off, or other types of fraud) constitute bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent’s registration and use of the disputed domain name constitutes bad faith under the Policy.

In the present case, the Panel notes that:

- a) the Respondent was aware of the existence of the Complainant and its activities.
- b) The disputed domain name is confusingly similar to the trademark LEGENDARY VACATION CLUB.
- c) The Complainant’s LEGENDARY VACATION CLUB trademark predates the registration of the disputed domain name.
- d) The Complainant has received several reports of its clients, who have received emails from the disputed domain name making them false promotions, offers, inviting them to make payments. The emails included the Complainant’s trademark and logo.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

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 <vacationsclublegendary.com> be transferred to the Complainant.

/Martin Michaus Romero/

Martin Michaus Romero

Sole Panelist

Date: June 4, 2025