

ADMINISTRATIVE PANEL DECISION

TENEROCH, S.A. DE C.V. v. Carmen Ximena Munoz Miranda
Case No. D2025-1312

1. The Parties

The Complainant is TENEROCH, S.A. DE C.V., Mexico, internally represented.

The Respondent is Carmen Ximena Munoz Miranda, Chile.

2. The Domain Name and Registrar

The disputed domain name <reslegendary.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the "Registrar").

3. Procedural History

The Complaint was filed 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 (Domain Admin) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 3, 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 Complaint on April 7, 2025.

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 April 15, 2025. In accordance with the Rules, paragraph 5, the due date for Response was May 5, 2025. The Respondent sent email communications to the Center on April 3, 4, and 16, 2025.

The Center appointed Pablo A. Palazzi as the sole panelist in this matter on May 15, 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 Mexican company, specializing in hospitality and tourism services. The Complainant owns the following trademark registration:

The Complainant owns the following trademark registration for Mexico: LEGENDARY VACATION CLUB and design, reg. no 2552833, registered on May 26, 2023, for Class 43.

The Complainant also owns the domain name <legendaryvacationclub.com> which resolves to its official website.

The disputed domain name was registered on December 26, 2024. At the time of writing this Decision, the disputed domain name is not active. However, the Complaint states that it received several reports from clients who 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 timeframes. These emails are sent with the identification "LEGENDARY VACATION CLUB" 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.

B. Respondent

The Respondent contends that the Complainant has not satisfied all three of the elements required under the Policy for a transfer of the disputed domain name, namely:

- 1) the domain name is not identical nor confusingly similar to the Complainant's trademark: the Complainant's domain name is <legendaryvacationclub.com>, while the disputed domain name is <reslegendary.com>. These domain names are clearly distinct. While both contain the word "legendary", the term is generic, widely used, and not exclusive to the Complainant. Additionally, the prefix "res" in the disputed domain name is derived from "residences" and is used in a different context and format.
- 2) The disputed domain name is used by a legally incorporated business: the disputed domain name is associated with a company legally incorporated under the name "LEGENDARY", in the State of Quintana Roo, Mexico. This company is registered with the proper authorities and operates under that name.
- 3) The disputed domain name was acquired legally: the disputed domain name was publicly available at the time of acquisition and was purchased through a legitimate registrar.
- 4) Use of the word "legendary": The word "legendary" is a descriptive and commonly used English term that cannot reasonably be monopolized by a single company. The use of this word in the disputed domain name does not equate to an attempt to replicate the Complainant's full brand.

6. Discussion and Findings

According to paragraph 4(a) of the Policy, the Complainant must prove that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests with respect to 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 entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms like "res" (which may mean reservations or residences) may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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 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.

The Respondent states the disputed domain name "is associated with a company legally incorporated under the name LEGENDARY, in the State of Quintana Roo, Mexico".

However, the Panel has verified that the disputed domain name is not in use, it is registered in the name of the Respondent who according to the Whois is domiciled in Chile and has not provided any evidence of use of the disputed domain name by the Respondent or by the Respondent's company, including the lack of documents about the existence of the company or its purposes.

Furthermore, the Panel considers that even if the Respondent had incorporated a company with a name corresponding to the disputed domain name that would not have been sufficient in itself to establish rights or legitimate interests in the circumstances of this case (see *Philip Morris USA Inc. v. Domains By Proxy, LLC / Robert Simpson, Covetrus Group Ltd*, WIPO Case No. [D2021-2187](#); *The Dannon Company Inc., Compagnie Gervais Danone v. Muhammad Bashir Ibrahim*, WIPO Case No. [D2016-2270](#); *Chicago Mercantile Exchange Inc., CME Group Inc. v. Globex Biz Solutions*, WIPO Case No. [D2015-0671](#)).

Panels may undertake limited factual research into matters of public record if it would consider such information useful to assessing the case merits and reaching a decision. This may include visiting the website linked to the disputed domain name in order to obtain more information about the respondent or its use of the domain name, consulting historical resources such as the Internet Archive (www.archive.org) in order to obtain an indication of how a domain name may have been used in the relevant past, reviewing dictionaries or encyclopedias or accessing trademark registration databases. [WIPO Overview 3.0](#), section 4.8.

In this sense, the Panel visited archive.org and was able to verify that while the Complainant has been using its website to promote hotel services since 2022¹, the disputed domain name is not resolving to a website since its registration.

In the present case the Complainant stated that the disputed domain name was used to commit fraud to its customers by sending email with fake payments details. The Complainant includes as evidence several annexes (7.1, 7.2, 7.3, 7.4 and 7.5) with the original .EML files of these emails from the disputed domain name.

The Panel reviewed the evidence of the Complaint and note all the email contains a pay link to a third-party website and app for payments. In addition, the emails are sent from an email "certificados" using the disputed domain name and those emails contains the complete trademark of the Complainant incurring in an impersonation of the Complainant identity.

Panels have held that the use of a domain name for illegal activity here, claimed as applicable to this case: phishing, impersonation/passing off, or other types of fraud 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, 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 the Complainant has submitted evidence showing that the disputed domain name has been used to impersonate the Complainant by sending fraudulent emails to actual clients of the Complainant, in order to request payments, by implementing an elaborate scam. The Respondent answer was completely silent about these serious allegations.

The evidence comprised in the case file indicates that the Respondent has entirely reproduced the

¹ https://web.archive.org/web/20220915000000*/legendaryvacationclub.com

Complainant's LEGENDARY VACATION CLUB trademark (including its design) to forge email communications which look like genuine messages from the Complainant.

The case docket shows that the Respondent has targeted the Complainant and its clients, which constitutes opportunistic bad faith (see section 3.2.1 of the [WIPO Overview 3.0](#); see also *L'Oréal v. Contact Privacy Inc. Customer 0149511181 / Jerry Peter*, WIPO Case No. [D2018-1937](#); and *Gilead Sciences Ireland UC / Gilead Sciences, Inc. v. Domain Maybe For Sale c/o Dynadot*, WIPO Case No. [D2019-0980](#)). Impersonation constitutes bad faith under the Policy. [WIPO Overview 3.0](#), section 3.4. (see *Arla Foods Amba v. Michael Guthrie, M. Guthrie Building Solutions*, WIPO Case No. [D2016-2213](#); *Minerva S.A. v. Whoisguard Protected, Whoisguard, Inc., / GREYHAT SERVICES*, WIPO Case No. [D2016-0385](#)).

The use of a domain name for illegal purposes, such as fraud or phishing activities, also constitutes bad faith under the Policy (see *Banque Palatine v. Alex McQueen, HN LTD*, WIPO Case No. [D2022-3190](#)).

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 activity like phishing, impersonation/passing off, or other types of fraud) constitutes 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.

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 <reslegendary.com> be transferred to the Complainant.

/Pablo A. Palazzi/

Pablo A. Palazzi

Sole Panelist

Date: May 29, 2025