

## **ADMINISTRATIVE PANEL DECISION**

M. A. Mortenson Company v. John West, Lois Martin  
Case No. D2026-0071

### **1. The Parties**

The Complainant is M. A. Mortenson Company, United States of America (“United States of America”), represented by Faegre Drinker Biddle & Reath, United States.

The Respondents are John West and Lois Martin, United States.

### **2. The Domain Names and Registrars**

The disputed domain name <mortensonc.com> is registered with GMO Internet, Inc. d/b/a Discount-Domain.com and Onamae.com.

The disputed domain name <mortenson.pro> is registered with NameCheap, Inc. (the “Registrars”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 8, 2026. On January 9, 2026, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On January 9 and 14, 2026, the Registrars transmitted by email to the Center their verification responses disclosing registrant and contact information for the disputed domain names which differed from one named Respondent (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint.

The Center sent an email communication to the Complainant on January 14, 2026, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrars, requesting the Complainant to either file separate complaint(s) for the disputed 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 January 17, 2026.

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 January 23, 2026. In accordance with the Rules, paragraph 5, the due date for Response was February 12, 2026. The Respondents did not submit any response. Accordingly, the Center notified the Respondents' default on February 13, 2026.

The Center appointed Michelle Brownlee as the sole panelist in this matter on February 18, 2026. 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 corporation headquartered in Minnesota, United States. The Complainant is a family-owned business that has been providing construction and real estate development services since it was founded in 1954.

The Complainant owns the following registrations for the mark MORTENSON, among others:

United States Registration Number 1864948 for construction services in International Class 37, registered on November 29, 1994;

United States Registration Number 5001925 for services in International Classes 35, 36, 37, 42, and 45, registered on July 19, 2016; and

Canada Registration Number TMA1056913 for services in International Classes 35, 36, 37, 42, and 45, registered on October 1, 2019.

The Complainant operates a web site at the domain name <mortenson.com>, which the Complainant registered on February 29, 1996.

The disputed domain name <mortensonc.com> was registered on June 15, 2025. The disputed domain name <mortenson.pro> was registered on August 17, 2025. The disputed domain name <mortensonc.com> does not resolve to an active web site, but it was used as an email address to place a fraudulent order that appeared to originate from the Complainant. The disputed domain name <mortenson.pro> redirects to the Complainant's web site.

#### **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 names.

Notably, the Complainant contends that the disputed domain names are identical or confusingly similar to the Complainant's MORTENSON mark, that the Respondents have no rights or legitimate interests in respect of the disputed domain names and that the Respondents are using the disputed domain names in support of a fraudulent scheme to order expensive equipment without paying for it. The Complainant contends that the two disputed domain names are under common control and, therefore, requests that the Panel consolidate the cases in one decision.

##### **B. Respondents**

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

## 6. Discussion and Findings

### Consolidation: 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 Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The disputed domain name registrants did not comment on the Complainant's request.

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 disputed domain names or corresponding web sites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Select UDRP Questions ("[WIPO Overview 3.1](#)"), section 4.11.2.

As regards common control, the Panel notes that at first glance, there did not appear to be sufficient evidence to support the Complainant's assertion that the two disputed domain names were under common control. The registrants had completely different contact information from one another, the disputed domain names were registered with different registrars, and there was no common pattern in how the disputed domain names were being used. The only facts in the Complaint that suggested common control were that both disputed domain names incorporated the Complainant's trademark and were registered within a two month period. The Panel reviewed numerous decisions cited by the Complainant and in [WIPO Overview 3.1](#). The cases that found common control all had facts that more strongly suggested a common owner. For example, the domain names were registered with the same registrar, registrants had common contact information or the web sites associated with the domain names had the same content. However, upon a thorough review of the evidence submitted in support of the Complaint, the Panel found a connection between the Respondents that was not mentioned by the Complainant. The Complainant included as Annex 3 to the Complaint a document that was electronically signed to place a fraudulent order using an email address connected to the disputed domain name <mortensonc.com>. The name of the party signing that document was "LOIS MARTIN", which is the name of the Respondent associated with the disputed domain name <mortenson.pro>. Accordingly, the Panel finds that there is common control of the two disputed domain names.

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 disputed domain name registrants (referred to below as "the Respondent") in a single proceeding.

### 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 3.1](#), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.1](#), section 1.2.1.

The Panel finds the mark is recognizable within the disputed domain names. Accordingly, the disputed domain names are identical in the case of <mortenson.pro> and confusingly similar in the case of <mortensonc.com> to the mark for the purposes of the Policy. [WIPO Overview 3.1](#), section 1.7.

Although the addition of other terms here, the letter “c”, 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 <mortensonc.com> and the mark for the purposes of the Policy. [WIPO Overview 3.1](#), 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 that 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 3.1](#), 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 names. 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 names such as those enumerated in the Policy or otherwise.

Panels have held that the use of a domain name for illegal activity, here, claimed passing off as the Complainant to support a fraudulent scheme to obtain products without paying for them can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.1](#), 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 Respondent used the disputed domain name <mortensonc.com> as an email address used to conduct a fraudulent product ordering scheme. The disputed domain name <mortenson.pro> redirects to the Complainant’s web site. These actions demonstrate bad faith under paragraph 4(b)(iv) of the Policy in that the Respondent intentionally attempted to attract Internet users for financial gain by creating a likelihood of confusion with the Complainant’s mark. Further, both of the disputed domain names were set up with Mail Exchange records, which suggests a strong likelihood that the disputed domain name <mortenson.pro> would be used for a similar fraudulent scheme.

Panels have held that the use of a domain name for illegal activity, here, claimed passing off/impersonation of the Complainant to support a fraudulent email scheme to obtain products without paying for them constitutes bad faith. [WIPO Overview 3.1](#), section 3.4. Having reviewed the record, the Panel finds the Respondent’s registration and use of the disputed domain names <mortenson.pro> and <mortensonc.com> 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 names <mortensonc.com> and <mortenson.pro> be transferred to the Complainant.

*/Michelle Brownlee/*

**Michelle Brownlee**

Sole Panelist

Date: March 4, 2026