

ADMINISTRATIVE PANEL DECISION

Pendry Intellectual Property Holding Company, LLC v. James Lynch
Case No. D2026-2186

1. The Parties

The Complainant is Pendry Intellectual Property Holding Company, LLC, United States of America (“U.S.”), represented by Neal, Gerber & Eisenberg LLP, U.S.

The Respondent is James Lynch, U.S.

2. The Domain Name and Registrar

The disputed domain name <pendryliving.com> (the “Disputed Domain Name”) is registered with Network Solutions, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 20, 2026. On May 21, 2026, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On May 21, 2026, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the 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 May 29, 2026. In accordance with the Rules, paragraph 5, the due date for the Response was June 18, 2026. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 26, 2026. The Respondent submitted a request to submit a late response on the same day.

The Center appointed Douglas M. Isenberg as the sole panelist in this matter on June 29, 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 states that its “PENDRY brand identifies a collective of contemporary luxury boutique hotels, resorts and residences that complement the local culture”; that it “focuses on providing modern-day luxury and style that is rooted in local culture and design, international inspiration and authentic service”; that it “opened its first location in San Diego, California”, U.S.; and that it “operates and is developing PENDRY-branded properties in other highly desirable locations including Manhattan, New York; the Natirar Estate, New Jersey; Baltimore, Maryland; Washington D.C.; Nashville, Tennessee; Tampa, Florida; Chicago, Illinois; Newport Beach, California; Park City, Utah; Barbados and Mexico City, Mexico”. The Complainant further states that its “private residences pair the privileged access to the signature amenities of Pendry’s luxury hotels and resorts with the comfort and privacy of a home”; and that “Pendry and its development partners are also developing and/or managing residences in locations such as the Natirar Estate, New Jersey; Nashville, Tennessee; Tampa, Florida; Park City, Utah; Barbados and Mexico City, Mexico”.

The Complainant states, and provides documentation in support thereof, that its services associated with the PENDRY Trademark (as defined below) have “garnered tremendous media attention and critical acclaim in international publications such as the New York Times, USA Today, the Los Angeles Times, Condé Nast Traveler, and Travel + Leisure”; and that its services “have garnered numerous high-profile and coveted industry awards, including without limitation, inclusion in Travel + Leisure’s World’s Best Awards, Condé Nast Traveler’s Reader’s Choice Awards, and the Forbes Four Star Award”.

The Complainant provided a schedule of trademark registrations that consist of or contain the mark PENDRY (the “PENDRY Trademark”), which appears to show 73 registrations in 27 jurisdictions. In support thereof, the Complainant provides copies of registration certificates for the following:

- U.S. Reg. No. 5,219,650 for THE PENDRY (registered June 6, 2017) for use in connection with, inter alia, hotels;
- U.S. Reg. No. 5,566,253 for PENDRY (registered September 18, 2018) for use in connection with, inter alia, hotels;
- U.S. Reg. No. 5,680,972 for THE PENDRY (registered February 19, 2019) for use in connection with, inter alia, men’s clothing;
- U.S. Reg. No. 5,617,532 for PENDRY (registered November 27, 2018) for use in connection with, inter alia, hotels;
- U.S. Reg. No. 5,694,337 for SPA PENDRY (registered March 12, 2019) for use in connection with, inter alia, “health spa services for health and wellness of the body and spirit”; and
- U.S. Reg. No. 5,708,135 for PENDRY (registered March 26, 2019) for use in connection with, inter alia, hotels.

The Complainant provides its services via the domain names <pendry.com>, and <pendryhotels.com>.

The Disputed Domain Name was created on April 27, 2025. According to the Complaint, the Disputed Domain Name is not associated with an active website.

As stated in the Complaint and as supported by appropriate documentation, the Complainant contacted the Respondent about the Disputed Domain Name on June 6, 2025, and again on November 10, 2025. Over the course of multiple emails that continued until April 13, 2026, the Parties discussed the dispute, with the Respondent ultimately refusing to transfer the Disputed Domain Name to the Complainant for less than USD 7,500. During the course of their communications, the Complainant said that “[t]he registration was made without any intent to infringe upon, profit from, or interfere with Pendry’s trademarks”, but the Respondent never answered the Complainant’s inquiries (raised on November 21, 2025; December 16, 2025; and March 11, 2026) as to why the Respondent registered the Disputed Domain Name.

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 identical or confusingly similar to the PENDRY Trademark because, inter alia, the Disputed Domain Name “consists of Complainant’s registered PENDRY mark plus the generic term ‘living,’ which... is meant to refer to the hospitality and residential services that Complainant offers under the PENDRY Mark” and the word “living” “is insufficient to avoid confusion between the Disputed Domain Name and the PENDRY Mark because this is a generic term that refers to the very Services Complainant offers under the PENDRY Mark”.
- The Respondent has no rights or legitimate interests in the Disputed Domain Name because, inter alia, “Respondent has no legal relationship with Complainant through which Respondent can claim any rights to the PENDRY Mark or to the Disputed Domain Name, nor has Complainant consented to Respondent’s registration or use of the Disputed Domain Name”; and “the Disputed Domain Name does not appear to resolve to any active website, and such passive holding of the Disputed Domain Name is neither a bona fide offering of goods or services pursuant to the Policy paragraph 4(c)(i) nor a legitimate noncommercial fair use pursuant to Policy paragraph 4(c)(iii)”.
- The Disputed Domain Name was registered and is being used in bad faith because, inter alia, “[g]iven the renown of Complainant’s PENDRY Mark, it is not plausible that Respondent innocently registered the Disputed Domain Name without a design to exploit its similarity to the PENDRY Mark”; “Respondent’s passive holding of the Disputed Domain Name is further indicia of Respondent’s bad faith”; “registration of a well-known trademark as a domain name clearly indicates bad faith in itself, even without considering additional elements”; and “Respondent’s attempts to sell the Disputed Domain Name to Complainant for a price which is thousands of dollars higher than Respondent’s out-of-pocket costs for registering the Disputed Domain Name is further evidence of Respondent’s bad faith”.

B. Respondent

Despite his communications with the Complainant about the Disputed Domain Name prior to the filing of the Complaint (as discussed above and as included in annexes to the Complaint), the Respondent did not reply to the Complainant’s contentions. However, on June 26, 2026, Respondent sent an email to the Center stating that he “intended to submit a Response”; that he “accept[ed] responsibility for missing the response deadline”; and “request[ed] that the Administrative Panel consider exercising its discretion to accept a late Response”.

6. Discussion and Findings

A. Preliminary Issue: Request to Submit Late Response

As stated above, the Respondent was notified of the Complaint on May 29, 2026, and failed to submit a response by the deadline of June 18, 2026. Only after the Center notified the Respondent of its default on June 26, 2026, did the Respondent send any communications to the Center, at that time asking for permission to submit a late response.

The Respondent did not deny receiving the Center's notification of Complaint on May 29, 2026, nor did he provide any explanation for his failure to submit a timely Response, stating only that he had "intended" to do so and even adding that he "accept[ed] responsibility for missing the response deadline".

Although paragraph 5(a) of the Rules requires submission of a Response within 20 days of the date of commencement of the administrative proceeding, paragraph 10(c) of the Rules allows a panel to "extend, in exceptional cases, a period of time fixed by these Rules or by the Panel". Here, the Panel has received no evidence that this is an exceptional case and, therefore, denies the Respondent's request – submitted eight days after the deadline – to file a late Response in this case. See e.g., *Accenture Global Services Limited v. 王兵 (Wangbing)*, WIPO Case No. [D2020-2852](#) (refusing to accept a response filed seven days after the deadline, where "the Respondent received all of the relevant communications in respect of this proceeding from the Center, but chose not to file a Response until after the deadline had expired").

B. Identical or Confusingly Similar

Based upon the trademark registrations cited by the Complainant, it is apparent that the Complainant has rights in and to the PENDRY Trademark.

As to whether the Disputed Domain Name is identical or confusingly similar to the PENDRY Trademark, the relevant comparison to be made is with the second-level portion of the Disputed Domain Name only (i.e., "pendryliving") because "[t]he applicable Top-Level Domain ('TLD') in a domain name (e.g., '.com', '.club', '.nyc') is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test". WIPO Overview of WIPO Panel Views on Select UDRP Questions ("[WIPO Overview 3.1](#)"), section 1.11.1.

As set forth in section 1.7 of [WIPO Overview 3.1](#), "in cases where a domain name incorporates the entirety of a trademark,... the domain name will normally be considered confusingly similar to that mark". Further, as set forth in section 1.8 of [WIPO Overview 3.1](#), "[w]here 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". Here, the Disputed Domain Name contains the entirety of the PENDRY Trademarks that consist solely of "pendry", and the addition of the word "living" does not prevent a finding of confusing similarity.

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

C. Rights or Legitimate Interests

The Complainant has argued that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because, inter alia, "Respondent has no legal relationship with Complainant through which Respondent can claim any rights to the PENDRY Mark or to the Disputed Domain Name, nor has Complainant consented to Respondent's registration or use of the Disputed Domain Name"; and "the Disputed Domain Name does not appear to resolve to any active website, and such passive holding of the Disputed Domain Name is neither a bona fide offering of goods or services pursuant to the Policy paragraph 4(c)(i) nor a legitimate noncommercial fair use pursuant to Policy paragraph 4(c)(iii)".

[WIPO Overview 3.1](#), section 2.1, states: “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 often impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.”

The Panel finds that the Complainant has established its prima facie case and without any evidence from the Respondent to the contrary, the Panel is satisfied that the Complainant has satisfied the second element of the Policy.

D. Registered and Used in Bad Faith

Whether a domain name is registered and used in bad faith for purposes of the Policy may be determined by evaluating four (non-exhaustive) factors set forth in the Policy: (i) circumstances indicating that the registrant has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the registrant’s documented out-of-pocket costs directly related to the domain name; or (ii) the registrant has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the registrant has engaged in a pattern of such conduct; or (iii) the registrant has registered the domain name primarily for the purpose of disrupting the business of a competitor; or (iv) by using the domain name, the registrant has intentionally attempted to attract, for commercial gain, Internet users to the registrant’s website or other online location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the registrant’s website or location or of a product or service on the registrant’s website or location. Policy, paragraph 4(b).

Initially, the Panel notes that, as set forth in section 3.1.4 of [WIPO Overview 3.1](#): “Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a well-known trademark, and particularly in the case of coined or fanciful marks, can by itself create a presumption of bad faith.” Here, the PENDRY Trademark is, for the reasons described above, well-known, and its inclusion in the Disputed Domain Name along with the word “living”, which describes (or, at least, is associated with) the PENDRY Trademark is significant. See also, section 1.8 of [WIPO Overview 3.1](#) (descriptive words in a domain name in addition to a complainant’s trademark “may... bear on assessment of the second and third elements”).

The Panel next considers whether the Respondent’s offer to sell the Disputed Domain Name to the Complainant for USD 7,500 constitutes bad faith pursuant to paragraph 4(b)(i) of the Policy, which refers to attempts to sell a domain name “for valuable consideration in excess of [a respondent’s] documented out-of-pocket costs directly related to the domain name”. The Panel is mindful that it is sometimes difficult to evaluate whether a specific price satisfies this paragraph of the Policy. However, here, pre-Complaint correspondence between the Parties is helpful, given that the Respondent informed the Complainant in writing that its total costs for registration, renewal and “DNS Management/ Account Maintenance” for the Disputed Domain Name amounted to USD 76.98. Given this, the Panel has no hesitation in finding that the Respondent’s efforts to sell the Disputed Domain Name to the Complainant for USD 7,500 – a multiple of nearly 100 – is indeed “for valuable consideration in excess of [the Respondent’s] documented out-of-pocket costs directly related to the domain name”. Further, many of the circumstances set forth in paragraph 3.1.1 of [WIPO Overview 3.1](#) that support a finding of bad faith under paragraph 4(b)(i) are present here, namely, “the respondent’s likely knowledge of the complainant’s rights”, “the distinctiveness of the complainant’s mark” and “failure of a respondent to present a credible evidence-backed rationale for registering the domain name”. Therefore, the Panel finds that the Disputed Domain Name was registered and used in bad faith pursuant to paragraph 4(b)(i) of the Policy.

Further, as set forth in [WIPO Overview 3.1](#), section 3.3 (citing *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)):

From the inception of the UDRP, panelists have found that the non-use of a domain name (including a blank or “coming soon” page) would not by itself prevent a finding of bad faith under the doctrine of passive holding. To the contrary, in looking at the totality of circumstances in each case, panelists have found that the registration and non-use of a domain name can still constitute bad faith for purposes of the Policy.

Factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant’s mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent’s taking active steps to conceal its identity or (iv) the use of false or inaccurate contact details (noted to be in breach of the respondent’s registration agreement).

Taking the above factors into consideration, panels assess the overall plausibility of any (claimed) good faith use to which the domain name may be put in light of the composition of the domain name in relation to the relevant mark, such that, the more arbitrary or distinctive a mark the less plausible a claimed non-infringing good faith use is likely to be, and vice versa.

Here, the PENDRY Trademark appears to be distinctive and appears to have a high degree of reputation given that it is protected by 73 registrations in 27 countries or jurisdictions, the oldest of which was registered at least eight years prior to the Disputed Domain Name. Further, the Respondent did not submit a response or provide any evidence of actual or contemplated good-faith use – either in this proceeding or in response to multiple inquiries by the Complainant prior to the filing of the Complaint.

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 <pendryliving.com> be transferred to the Complainant.

/Douglas M. Isenberg/

Douglas M. Isenberg

Sole Panelist

Date: June 30, 2026