

PANEL DECISION

OPENLANE Europe NV and OPENLANE, Inc. v. Micu Florin Case No. DEU2024-0033

1. The Parties

The Complainants are OPENLANE Europe NV, Belgium and OPENLANE, Inc., United States of America (“United States” or “U.S.”), (collectively also “the Complainants”), represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Micu Florin, Romania.

2. The Domain Names, Registry and Registrar

The Registry of the disputed domain names <es-openlane.eu>, <es-sellers-openlane.eu>, <esp-openlane.eu>, <openlane-sl.eu> and <privado-openlane.eu> is the European Registry for Internet Domains (“EURid” or the “Registry”). The Registrar of the disputed domain names is Romarg Srl.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 24, 2024. On October 25, 2024, the Center transmitted by email to the Registry a request for registrar verification in connection with the domain names <buy-open-lane.eu>, <es-openlane.eu>, <esp-openlane.eu>, <es-sellers-openlane.eu>, <openlane-prv.eu>, <openlane-sl.eu>, <privado-openlane.eu>, and <prv-openlane.eu>. On October 28, 2024, the Registry transmitted by email to the Center its verification response disclosing registrant and contact information for the domain names which differed from the named Respondent (Unknown) and contact information in the Complaint.

The Center sent an email communication to the Complainant on November 7, 2024 providing the registrants and contact information disclosed by the Registry, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on November 11, 2024.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the .eu Alternative Dispute Resolution Rules (the “ADR Rules”) and the World Intellectual Property Organization Supplemental Rules for .eu Alternative Dispute Resolution Rules (the “Supplemental Rules”).

In accordance with the ADR Rules, Paragraph B(2), the Center formally notified the Respondents of the Complaint concerning the domain names and the proceedings commenced on November 12, 2024. In accordance with the ADR Rules, Paragraph B(3), the due date for Response was December 2, 2024. The Respondents did not submit any response. Accordingly, the Center notified the Respondents default on December 4, 2024.

The Center appointed Zoltán Takács as the sole panelist in this matter on December 11, 2024. 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 ADR Rules, Paragraph B(5).

On December 12, 2024, the Complainants requested to add the domain name <opanlane.eu> (“Additional Domain Name”) to the pending proceeding. On December 17, 2024, the Center transmitted by email to the Registry a request for registration verification in connection with the Additional Domain Name. On December 18, 2024, the Registrar transmitted to the Center its verification response disclosing registrant and contact information for the Additional Domain Name.

On December 18, 2024, the Center issued Administrative Panel Procedural Order No. 1:

- 1) requesting the Complainants to amend the Complaint adding the Additional Domain Name and the disclosed registrant’s information, as well to as provide any further arguments in view thereof by December 23, 2024; and
- 2) inviting the Respondent of the Additional Domain Name to respond to the Complainants’ submission by December 28, 2024; and
- 3) extending the due date for the Decision to January 3, 2025.

On December 19, 2024, the Complainants filed an amended Complaint requesting that the Additional Domain Name be consolidated into the pending proceeding. The Respondent(s) did not submit any response.

4. Factual Background

The Complainants are OPENLANE Europe NV (“the First Complainant”), a company organized under the laws of Belgium and OPENLANE, Inc. (“the Second Complainant”) a company organized under the laws of Delaware, United States (collectively also referred to as “OPENLANE”).

The Second Complainant is a provider of digital automotive marketplaces and technology platforms bringing together the original equipment manufacturers (OEM’s), dealers, fleet operators, rental companies and financial institutions to match the right automobile buyer with the right car.

OPENLANE has 4,500 employees and is present in more than 100 operating locations in North America, Europe, the Philippines and Uruguay, supporting customers in over 50 countries. In 2023, it has sold over 1.3 million vehicles, translating into USD 1.6 billion in revenue.

OPENLANE’s digital marketplace sales are initiated online and include OPENLANE US, OPENLANE Canada and OPENLANE Europe sales.

The First Complainant, headquartered in Belgium is a wholly-owned subsidiary of the Second Complainant with sales operations in Belgium, France, Germany, Italy, the Netherlands, Spain and the United Kingdom. It has sold over 90,000 cars across Europe.

The Second Complainant among others owns the United States Trademark Registration No. 4268846 OPENLANE registered since January 1, 2013 and the European Union Trademark Registration (“EUTM”) No. 018868545 OPENLANE since September 12, 2023.

The Complainants own the domain name <openlane.eu> registered since March 16, 2016, which resolves to the First Complainant's official website.

The domain names were registered on the following dates: <buy-open-lane.eu> on April 18, 2024; <es-openlane.eu> on January 23, 2024; <esp-openlane.eu>, <es-sellers-openlane.eu> and <openlane-sl.eu> on February 2, 2024; <openlane-prv.eu> and <prv-openlane.eu> on July 10, 2024; <privado-openlane.eu> on January 31, 2024 and <opanlane.eu> on July 22, 2024.

According to the evidence submitted by the Complainants at the time of filing of the Complaint the domain names <buy-open-lane.eu>, <es-openlane.eu> and <openlane-prv.eu> redirected users to the Complainants' official website, while the domain names <es-sellers-openlane.eu>, <esp-openlane.eu>, <openlane-sl.eu>, <privado-openlane.eu> and <prv-openlane.eu> were inactive.

The Additional Domain Name <opanlane.eu> appears not to have resolved to an active website, however, according to the evidence supplied by the Complainants it was used to send a fraudulent email which had the appearance of coming from the Complainants.

Currently none of the disputed domain names resolve to any active websites.

5. Parties' Contentions

A. Complainants

The Complainants contend that the domain names all incorporating their OPENLANE trademark are confusingly similar to it since the addition of hyphens and terms "prv", "buy", "es", "sellers", "esp", "sl" and "privado" to the mark does not prevent a finding of confusing similarity between the mark and the domain names. In the domain name <opanlane.eu> the first letter "e" from the mark has been replaced with letter "a", resulting in a purposeful misspelling of the OPENLANE mark and an unlawful practice known as typosquatting.

The Complainants contend that the Respondent(s) have no rights or legitimate interests in respect of the domain names and are unable to rely on any of the circumstances set out in Paragraph B(11)(e) of the ADR Rules.

The Complainants claim that due to the composition of the domain names and reputation of the OPENLANE mark in the relevant business sector the Respondent(s) registered the domain names with the Complainants' business and mark in mind intending to unlawfully profit from the reputation of their business and the mark which is evidence of bad faith.

The fact that the Respondent of the Additional Domain Name has used it for fraudulent purposes is further evidence of bad faith.

The Complainants request that the domain names be transferred to the First Complainant.

B. Respondent

The Respondent did not reply to the Complainants' contentions.

6. Discussion and Findings

According to Paragraph B(11)(d)(1) of the ADR Rules "the Panel shall issue a decision granting the remedies requested under the Procedural Rules in the event that the Complainant proves in and ADR Proceeding

where the Respondent is the holder of a .eu domain name registration in respect of which the Complaint was initiated, that:

- (i) The domain name is identical or confusingly similar to a name in respect of which a right is recognized or established by the national law of a Member State and/or European Union law and; either
- (ii) The domain name has been registered by the Respondent without rights or legitimate interest in the name; or
- (iii) The domain name has been registered or is being used in bad faith”.

The Panel notes that due to the substantive similarities between the ADR Rules and the Uniform Domain Name Dispute Resolution Policy (“UDRP”) it will also refer to UDRP precedents, where appropriate and take into account the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”).

6.1 Procedural Matters

Consolidation - Multiple Complainants and Multiple Underlying Respondents

The amended Complaint was filed by two Complainants in relation to nine domain names registered by nominally three different registrants.

The ADR Rules do not expressly contemplate the possibility of a .eu ADR complaint filed by multiple complainants against multiple respondents.

Regarding the multiple complainants, the First Complainant and the Second Complainant belong to the same group of companies and therefore have common interest in the disputed domain names and common grievance against the Respondent. The Complainants hold relevant trademark rights regarding the disputed domain names as well.

With respect to multiple respondents, according to Paragraph B1(c) of the ADR Rules “the Complaint may relate to more than one domain name, provided that the Parties and the language of the ADR Proceedings are the same”.

Since the Complaint was filed in relation to nine domain names registered by nominally three different registrants, these conditions are not satisfied in this proceeding and the Panel rejects the Complainants’ request to have the Complaint filed against multiple respondents.

In the circumstances of this proceeding and in accordance with the ADR Rules, this decision shall, in the Panel’s sole discretion deal only with the disputed domain names <es-openlane.eu>, <es-sellers-openlane.eu>, <esp-openlane.eu>, <openlane-sl.eu> and <privado-openlane.eu> where the Respondent is Micu Florin.

The Complainants may decide to file two separate Complaints in respect of the domain names <buy-open-lane.eu>, <opanlane.eu>, <openlane-prv.eu> and <prv-openlane.eu>.

6.2 Substantive Matters

A. Identical or Confusingly Similar to a name in respect of which a right or rights are recognized or established by national law of a Member State and/or European Union law

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 Complainants' trademark and the disputed domain names. [WIPO Overview 3.0](#), section 1.7.

The Complainants have shown rights in respect of a trademark protected in the territory of the European Union.

The disputed domain names all contain the OPENLANE trademark and are therefore confusingly similar to it. The addition of hyphens and various terms ("es", , "esp", "sellers", "sl" and "privado") to the mark does not prevent and finding of confusing similarity between the disputed domain names and the trademark. [WIPO Overview 3.0](#), sections 1.7 and 1.8.

The Panel finds that the requirements of Paragraph B(11)(d)(1)(i) of the ADR Rules are met.

B. Rights or Legitimate Interests

Paragraph B11(e) of the ADR Rules provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although pursuant to paragraph B11(d) of the ADR Rules the overall burden of proof that the Respondent has registered the disputed domain name without having rights or legitimate interests in the disputed domain name 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 Complainants have established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain names. The Respondent has not rebutted the Complainants' 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 ADR Rules or otherwise.

It is evident that the Complainants have never authorized, licensed, or allowed the Respondent to use the OPENLANE mark in the disputed domain names or in any other way that would confer validity or legitimacy upon such usages.

The record of the case shows that the Respondent never made any, let alone legitimate noncommercial or fair use of the disputed domain names <es-sellers-openlane.eu>, <esp-openlane.eu>, <openlane-sl.eu> and <privado-openlane.eu> as they have been pointing merely to inactive websites. The disputed domain name <es-openlane.eu> redirected users to the Complainants' official website without permission of the Complainants. These facts and circumstances cannot establish any rights or legitimate interests on the Respondent regarding the disputed domain names.

The Panel finds that the requirements of Paragraph B(11)(d)(1)(ii) of the ADR Rules are met.

C. Registered or Used in Bad Faith

The Complainants have met the criteria under the paragraph B(11)(d)(1)(ii) of the ADR Rules and thus it is not necessary for the Panel to examine the Complainants' assertions on the Respondent's bad faith registration and or use of the disputed domain names.

However, the Panel notes that the Complainants provided sufficient arguments and evidence which demonstrate the Respondent's bad faith in registration and use of the disputed domain names as follows.

The Complainants' mark which the Respondent fully incorporated into the disputed domain names is inherently distinctive for the services at issue and predates the registration of the disputed domain names.

A basic Internet search against the OPENLANE mark returns solely the Complainants and their business.

These facts and circumstances alone convince the Panel that the Respondent had the Complainants' activities and trademark in mind at registration of the disputed domain names and had obtained them in order to target the Complainants and their OPENLANE trademark within the meaning of paragraph B(11)(f)(4) of the ADR Rules, which is evidence of bad faith registration.

Use of the disputed domain name <es-openlane.eu> to redirected users to the Complainants' official website without permission of the Complainants is evidence of bad faith registration and use since the Respondent retains control over the redirection and thus creates a real or implied ongoing threat to the Complainants. [WIPO Overview 3.0](#), section 3.1.4.

The Panel finds that the Complainants have also established the criteria set out in paragraph B(11)(d)(1)(iii) of the ADR Rules.

7. Decision

For the foregoing reasons, in accordance with Paragraph B(11) of the ADR Rules, the Panel orders that the disputed domain names <es-openlane.eu>, <es-sellers-openlane.eu>, <esp-openlane.eu>, <openlane-sl.eu> and <privado-openlane.eu> be transferred to the First Complainant having its registered office in Belgium, and thus satisfying the general eligibility criteria for registration of a .eu domain name as set out in Article 3(c) of Regulation (EU) 2019/517 ¹.

/Zoltán Takács/

Zoltán Takács

Sole Panelist

Date: January 15, 2025

¹ The decision shall be implemented by the Registry within thirty (30) days after the notification of the decision to the Parties, unless the Respondent initiates court proceedings in a Mutual Jurisdiction, as defined in Paragraph A(1) of the ADR Rules.