

ADMINISTRATIVE PANEL DECISION

Automobili Lamborghini S.p.A. v. Aditya Roshni, Web Services Pty
Case No. D2022-2438

1. The Parties

The Complainant is Automobili Lamborghini S.p.A., Italy, represented by HK2 Rechtsanwälte, Germany.

The Respondent is Aditya Roshni, Web Services Pty¹, India.

2. The Domain Name and Registrar

The disputed domain name <lamborghinidenver.com> (the “Domain Name”) is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 5, 2022. On July 6, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On the same date, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on July 8, 2022, 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 amendment to the Complaint on the same date.

The Center verified that the Complaint together with the amendment to 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 July 19, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 8, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 17, 2022.

¹ At the time of the filing of the Complaint, the Respondent’s identity was masked by a privacy service.

The Center appointed Jeremy Speres as the sole panelist in this matter on August 24, 2022. 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, under its LAMBORGHINI trade mark, is an Italian manufacturer of high-performance sports cars that are sold around the world and was founded in 1963. The Complainant's mark has been recognised as well known by prior UDRP panels.

The Complainant's mark is registered in many jurisdictions. One early example is European Union Trade Mark registration no. 001098383 LAMBORGHINI in classes 7, 9, 12, 14, 16, 18, 25, 27, 28, 36, 37 and 41 with a registration date of June 21, 2000.

The Domain Name was registered on February 3, 2005 and has a) resolved to a website featuring pay-per-click ("PPC") advertisements relating to the Complainant and competitors; and b) redirected to a website featuring aggregated news content.

5. Parties' Contentions

A. Complainant

The Complainant contends that the Domain Name is confusingly similar to its well-known LAMBORGHINI mark, that the Respondent has no rights or legitimate interests in the Domain Name, and the Domain Name was registered and used in bad faith given that it has been used for PPC advertisements which relate to and compete with the Complainant for the Respondent's commercial gain, taking advantage of the likelihood of the public to falsely associate the Domain Name with the Complainant's official presence in Denver, Colorado, United States of America.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant's registered and well-known mark is wholly contained within the Domain Name as its first element with only the addition of the geographic term "denver". Where the trade mark is recognisable within the disputed domain name (as in this case), the addition of other terms (including geographic terms) does not prevent a finding of confusing similarity (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") at section 1.8). The Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant's un rebutted evidence establishes that its mark was registered and has been well known for many years prior to registration of the Domain Name. The Domain Name is confusingly similar to the Complainant's mark and the Complainant has certified that the Domain Name is unauthorised by it.

Use of a domain name to host PPC links does not represent a *bona fide* offering where such links compete with or capitalise on the reputation and goodwill of the complainant's mark, as in this case ([WIPO Overview 3.0](#) at section 2.9). The Respondent's use of the Domain Name to redirect to a news aggregation website also cannot confer rights or legitimate interests. The Respondent has provided no explanation as to why it chose the Domain Name. There is no semantic relationship or any other obvious connection between the Domain Name and the news content to which it redirects which may have imbued the Respondent's actions with *bona fides*. In the circumstances, and given what is stated below in relation to bad faith, the likelihood is that the Respondent intended to take advantage of the Complainant's trade mark to divert users to the news aggregation website for its commercial gain, which cannot confer rights or legitimate interests.

There is thus no evidence that any of the circumstances set out in paragraph 4(c) of the Policy pertain, nor any others which may confer rights or legitimate interests on the Respondent. The Complainant has satisfied paragraph 4(a)(ii) of the Policy by virtue of having made out an unrebutted *prima facie* case ([WIPO Overview 3.0](#) at section 2.1).

C. Registered and Used in Bad Faith

UDRP panels have consistently found that the registration of a domain name that is confusingly similar to a well-known trade mark, for example those incorporating a well-known mark plus a geographic term as in this case, can by itself create a presumption of bad faith ([WIPO Overview 3.0](#) at sections 3.1.4 and 3.2.1).

The Domain Name has been used to advertise services relating to and competitive with those of the Complainant, which is a clear indicator of targeting for commercial gain under paragraph 4(b)(iv) of the Policy. See *Dr. Martens International Trading GmbH, Dr. Maertens Marketing GmbH v. Private Whois Service*, WIPO Case No. [D2011-1753](#). Although the advertisements may be served programmatically by a third party, the Respondent cannot disclaim responsibility for them ([WIPO Overview 3.0](#) at section 3.5).

Given the extensive repute of the Complainant's mark and the fact that the Complainant has an official dealership in Denver with which the Domain Name could well be falsely associated, there is no conceivable good faith use of the Domain Name, which indicates bad faith (*Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)).

The Respondent has listed the Domain Name for sale on a domain name marketplace. This is further evidence of bad faith in accordance with paragraph 4(b)(i) of the Policy.

The Panel draws an adverse inference from the Respondent's failure to take part in the present proceeding where an explanation is certainly called for ([WIPO Overview 3.0](#) at section 4.3).

The Complainant has satisfied paragraph 4(a)(iii) 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 Domain Name, <lamborghiniindenver.com>, be transferred to the Complainant.

/Jeremy Speres/

Jeremy Speres

Sole Panelist

Date: September 7, 2022