

ADMINISTRATIVE PANEL DECISION

PN II, Inc. v. Matt Wade

Case No. D2023-2907

1. The Parties

The Complainant is PN II, Inc., United States of America (“United States” or “U.S.”), represented by Adams and Reese LLP, United States.

The Respondent is Matt Wade, United States.

2. The Domain Name and Registrar

The disputed domain name <pultegroups.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 6, 2023. On July 7, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 7, 2023, 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 (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 10, 2023, 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 the same day.

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 July 11, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 31, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 1, 2023.

The Center appointed Angela Fox as the sole panelist in this matter on August 7, 2023. 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 U.S.-based company trading in the field of home building, real estate, mortgage lending, and related services. It is a wholly-owned subsidiary of PulteGroup, Inc. The Complainant and its predecessors have been operating under the trademarks PULTE and PULTEGROUP since at least as early as 1969 and 2010, respectively. The Complainant advertises its services through various websites, including at the domain names <pulte.com> and <pultegroup.com>, as well as through print media and other advertising and promotional campaigns. Its parent company, PulteGroup, Inc., is one of the largest homebuilding companies in the United States and currently operates in some 50 markets.

The Complainant owns numerous United States and Canadian trademark registrations for PULTE and PULTEGROUP, including:

- United States trademark registration no. 77669520 for PULTE, filed on February 12, 2009, and registered on September 1, 2009;
- United States trademark registration no. 74622293 for PULTE, registered on December 19, 1995; and
- United States trademark registration no. 77772591 for PULTEGROUP, registered on December 27, 2011.

The disputed domain name was registered on July 5, 2023.

The Complainant first learned of the disputed domain name later that same day, when a business partner of the Complainant contacted it to query whether a payment request received from a sender at the disputed domain name was legitimate. The Complainant established that the email was fraudulent and reported it to the Registrar on the same date.

The disputed domain name also links to a parking page displaying a number of pay-per-click links to third party websites operating in the same fields as the Complainant.

5. Parties' Contentions

A. Complainant

The Complainant submits that the disputed domain name is identical and confusingly similar to its PULTE and PULTEGROUP trademarks. It differs from the PULTEGROUP trademark only by the addition of the letter "s", which the Complainant submits is typosquatting and is a difference likely to be overlooked by the average Internet user.

The Complainant further submits that the Respondent has no rights or legitimate interests in the disputed domain name. To the Complainant's knowledge, "PulteGroups" is not the Respondent's name, and the Respondent is not, and has never been commonly known as "PulteGroups." The Respondent is not, and has never been a licensee or franchisee of the Complainant, and has never been authorized by the Complainant to register or use the Complainant's trademarks or to apply for or use any domain name incorporating them. The Respondent is not using the disputed domain name in connection with a *bona fide* offering of goods or services, or in a legitimate noncommercial or fair manner. On the contrary, the Respondent has used the disputed domain name in furtherance of a scheme to defraud at least one of the Complainant's business partners into wiring funds to an unauthorized bank account, by using an email address at the disputed domain name to impersonate an employee of the Complainant and to send a falsified payment request. These activities constitute identity fraud, wire fraud, and phishing, and as such, cannot be considered legitimate noncommercial or fair use of the disputed domain name. The Complainant further submits that the use of the disputed domain name in respect of a page hosting commercial pay-per-

click links to competitors of the Complainant does not represent a *bona fide* offering of services capable of giving rise to give rise to a right or legitimate interest.

Finally, the Complainant asserts that the disputed domain name was registered and has been used in bad faith. The Respondent was aware of the Complainant and its trademarks when it registered the disputed domain name, as is evidenced by the Respondent's use of it on the same day to impersonate one of the Complainant's employees in correspondence with at least one other entity, in connection with a fraudulent payment request. The Respondent's use of the disputed domain name to impersonate the Complainant shows that it registered the disputed domain name with the intention of fraudulently procuring the wiring of money. In addition, the Respondent is using the disputed domain name in bad faith to divert Internet users to a commercial parking page with links related to the same type of services as offered by the Complainant. Such activities generate unjustified revenues for the Respondent from each click-through from the sponsored links, thereby illegitimately capitalizing on the Complainant's name and reputation.

B. Respondent

The Respondent did not reply to the Complainant's contentions and is in default. No exceptional circumstances explaining the default have been put forward. Therefore, in accordance with paragraphs 14(a) and (b) of the Rules, the Panel will decide the Complaint and shall draw such inferences as it considers appropriate from the Respondent's default.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, a complainant can only succeed in an administrative proceeding under the Policy if the panel finds that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (ii) the respondent has no rights or legitimate interests in the disputed domain name; and,
- (iii) the disputed domain name has been registered and is being used in bad faith.

All three elements must be present before a complainant can succeed in an administrative proceeding under the Policy.

A. Identical or Confusingly Similar

The Complainant has shown that it owns registered trademark rights in PULTEGROUP. The disputed domain name differs from the Complainant's registered trademark only in the addition of the final letter "s", which is easy to overlook. The Complainant's PULTEGROUP mark is clearly recognizable within the disputed domain name. The generic top-level-domain name suffix ".com" may be disregarded for the purpose of assessing confusing similarity (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.11).

The Panel concludes that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

The Complainant has provided evidence that the disputed domain name has been used in connection with the sending of an email fraudulently impersonating an employee of the Complainant and seeking payment from the recipient, a business partner of the Complainant. Such activities are commonly referred to as phishing scams.

[WIPO Overview 3.0](#), section 2.13.1 states, “Panels have categorically held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent.”

The Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

The Complainant has shown evidence that the Respondent used the disputed domain name on the same day on which it was registered in connection with the sending of a phishing email to a business partner of the Complainant. The Respondent has made no effort to respond to this evidence or to the Complainant’s assertions generally.

[WIPO Overview 3.0](#), section 3.1.4, states that “the use of a domain name for *per se* illegitimate activity such as... phishing... is manifestly considered evidence of bad faith”. In addition, [WIPO Overview 3.0](#), section 3.4, states that “use of a domain name for purposes other than to host a website may constitute bad faith,” such as “sending email [or] phishing,” especially where “the respondent’s use of the domain name [is] to send deceptive emails” for purposes such as “to solicit payment of fraudulent invoices by the complainant’s actual or prospective customers”.

The Panel finds that the disputed domain name was registered and has been used in bad faith.

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, <pultegroups.com>, be transferred to the Complainant.

/Angela Fox/

Angela Fox

Sole Panelist

Date: August 21, 2023