

ADMINISTRATIVE PANEL DECISION

PN II, Inc. v. Alejandro Alvarado, The PHomes
Case No. D2023-1038

1. The Parties

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

The Respondent is Alejandro Alvarado, The PHomes, Mexico.

2. The Domain Name and Registrar

The disputed domain name <pultehomesgroupcorp.com> (the “Domain Name”) is registered with Hosting Concepts B.V. d/b/a Registrar.eu. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 8, 2023. On March 9, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On March 10, 2023, 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 (Redacted for Privacy, Whois Privacy Protection Foundation) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 16, 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 March 16, 2023.

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 March 23, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 12, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 1, 2023.

The Center appointed Ian Lowe as the sole panelist in this matter on May 8, 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 subsidiary of PulteGroup, Inc., one of the largest homebuilding companies in the United States. PulteGroup, Inc. and its subsidiaries offer home building, real estate, mortgage lending and related services under the PULTE, PULTE HOMES and PULTE GROUP marks (the "Pulte Marks") and advertise those services through various websites, including those at <pulte.com> and <pultagroupinc.com>. The Complainant and its predecessors have been using the Pulte Marks since as early as 1969.

The Complainant is the proprietor of a number of registered trademarks in respect of the Pulte Marks, including United States trademarks number 1942626 PULTE HOMES and number 1942747 PULTE, both registered on December 19, 1995.

The Domain Name was registered on January 30, 2023. It currently resolves to a parking page comprising links to pages of pay-per-click links to third party websites. At the time of filing of the Complaint, it resolved to a substantial copy of the Complainant's website purporting to be that of PULTE GROUP, featuring a logo substantially similar to that of the Complainant's Pulte Homes logo, an identical menu bar and many references to other registered trademarks of the Complainant, including MORE LIFE BUILT IN and PULTE CARES. The website included a Contact Us box soliciting personal information and stated as the address for "Pulte Homes Group Corp" that of the address of a well-known courier company in California.

The Respondent has created an MX record in respect of the Domain Name enabling emails to be sent and received using the Domain Name.

The Respondent did not respond to a cease and desist message sent on behalf the Complainant on February 15, 2023.

5. Parties' Contentions

A. Complainant

The Complainant contends that the Domain Name is confusingly similar to its PULTE and PULTEHOMES trademarks (the "Marks"), that the Respondent has no rights or legitimate interests in respect of the Domain Name, and that the Respondent registered and is using the Domain Name in bad faith within the meaning of the Policy.

B. Respondent

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

6. Discussion and Findings

For this Complaint to succeed in relation to the Domain Name the Complainant must prove that:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has uncontested rights in the Marks, both by virtue of its trademark registrations and as a result of the substantial goodwill and reputation acquired through its use of the Marks for over 50 years. Ignoring the generic Top-Level Domain (“gTLD”) “.com”, the Domain Name comprises the entirety of the PULTE HOMES mark (and therefore also the PULTE mark) together with the terms “group” and “corp”. In the view of the Panel these additions do not prevent a finding of confusing similarity between the Marks and the Domain Name. Accordingly, the Panel finds that the Domain Name is confusing similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

The Complainant has made out a strong *prima facie* case that the Respondent could have no rights or legitimate interests in respect of the Domain Name. The Respondent is not authorized by the Complainant to use the Domain Name. The Respondent has not used the Domain Name in connection with a *bona fide* offering of goods or services, but rather has used it to connect to a website comprising a substantial copy of the Complainant’s website. In light of the nature of the Domain Name, the Panel cannot conceive of any legitimate use to which the Respondent could put the Domain Name.

The Respondent has chosen not to respond to the Complaint or to take any steps to counter the *prima facie* case established by the Complainant. In these circumstances, the Panel finds that the Respondent does not have any rights or legitimate interests in respect of the Domain Name.

C. Registered and Used in Bad Faith

In this case, as noted above, the Panel cannot conceive of any good faith use to which the Domain Name could be put. The Respondent has used the Domain Name for a website comprising a substantial copy of the Complainant’s website including use of the Pulte Marks.

The obvious inference is that the Respondent has used the Domain Name to resolve to a website comprising a substantial copy of the Complainant’s own website, incorporating the Pulte Marks, in order to deceive Internet users into believing that the Domain Name is operated or authorized by the Complainant. It no doubt did so with a view to attracting Internet users, by creating a likelihood of confusion with the Marks, for commercial gain and/or to phish for personal data for improper purposes. The creation of an MX record for the Domain Name is further evidence of this likely intention. In the Panel’s view, such activity amounts to paradigm bad faith registration and use.

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 <pultehomesgroupcorp.com> be transferred to the Complainant.

/Ian Lowe/

Ian Lowe

Sole Panelist

Date: May 21, 2023