

ADMINISTRATIVE PANEL DECISION

PN II, Inc. v. Redacted for Privacy, Alejandro Alvarado / The PHomes Case No. D2023-2360

1. The Parties

The Complainant is PN II, Inc., United States of America (“Unites States” or “USA”), 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 <pultehombresgroupcorpo.com> 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 May 31, 2023. On June 1, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 2, 2023, 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 June 8, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 28, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 30, 2023.

The Center appointed Daniel Peña as the sole panelist in this matter on July 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 has been using the PULTE and PULTE HOMES trademarks since at least as early as 1969. The Complainant offers home building, real estate, mortgage lending, and related services under the PULTE and PULTE HOMES marks.

The Complainant is the owner of the registered trademarks PULTE, PULTE HOMES, and PULTEGROUP. The Complainant's relevant United States registrations include the following:

Country	Trademark	Registration No.	Registration Date
USA	BUILT TO HONOR	4917144	March 15, 2016
USA	KITCHENOLOGY	5667182	January 29, 2019
USA	LIFE TESTED	4156592	June 12, 2012
USA	MORE LIFE BUILT IN	5302884	October 3, 2017
USA	PULTE	3676026	September 1, 2009
USA	PULTE	1942747	December 19, 1995
USA	PULTE CARES	6701411	April 12, 2022
USA	PULTE ENERGY ADVANTAGE	4333668	May 14, 2013
USA	PULTEGROUP	4077463	December 27, 2011
USA	PULTE HOMES	1942626	December 19, 1995
USA	PULTE MORTGAGE	2886826	September 21, 2004
USA	QUALITY IN EVERY SQUARE FOOT	6598291	December 21, 2021
USA	WE BUILD CONSUMER INSPIRED HOMES AND COMMUNITIES TO MAKE LIVES BETTER	5151465	February 28, 2017
USA	WE BUILD HOME	6503687	September 28, 2021

The Complainant is the registrant of the domain names <pulte.com> and <pultegroupinc.com>.

The disputed domain name was registered on April 22, 2023, and resolves to a website featuring the Complainant's trademarks and similar content from the Complainant's website.

5. Parties' Contentions

A. Complainant

The Complainant is a wholly-owned subsidiary of PulteGroup, Inc.

The Complainant offers home building, real estate, mortgage lending, and related services under the PULTE trademarks.

The disputed domain name is identical or confusingly similar to the Complainant's PULTE trademarks.

The first and most prominent element of the disputed domain name is the PULTE trademark in its entirety, and the disputed domain name incorporates the PULTEGROUP trademark in its entirety.

The disputed domain name incorporates a common misspelling of the PULTE HOMES trademark by adding an “m” to the word “homes.”

The addition of the word “corpo,” a common misspelling of the word “corp” which is an abbreviation of the generic word “corporation,” does not prevent the disputed domain name from being confusingly similar to the PULTE trademarks.

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.

The Respondent is using the disputed domain name to direct to a website using the Complainant’s trademarks and copyrighted content to pass itself off as the Complainant and including a “Contact Us” form to collect personal information.

According to MX records, the Respondent is potentially using the disputed domain name for sending and receiving emails, likely for the purposes of misleading email recipients into believing that the Respondent is an agent or employee of the Complainant.

Given the trademark registrations for the PULTE trademarks, the Complainant’s ownership of domain names incorporating the PULTE trademarks, and the Complainant’s widespread reputation, it is not plausible that the Respondent could have been unaware of the Complainant at the time of registration.

The Respondent registered and is using the disputed domain names in bad faith.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules requires that the Panel’s decision be made “on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”. It has been a consensus view in previous UDRP decisions that a respondent’s default (*i.e.*, failure to submit a response) would not by itself mean that the Complainant is deemed to have prevailed; a respondent’s default is not necessarily an admission that the complainant’s claims are true (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.3).

A complainant must evidence each of the three elements required by paragraph 4(a) of the Policy in order to succeed on the complaint, namely 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 respect of the disputed domain name; and (iii) the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights. The Complainant has provided evidence of its rights in the trademarks PULTE, PULTEHOMES, and PULTE GROUP on the basis of its multiple trademark registrations in the USA. A trademark registration provides a clear indication that the rights in the trademark belong to the Complainant (see [WIPO Overview 3.0](#), section 1.2.1). Mere addition of the letter “m” as well as the terms “group” and “corpo” does not prevent a finding of confusing similarity with the Complainant’s PULTE HOMES marks. As noted in [WIPO Overview 3.0](#), section 1.8: “Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms

(whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity under the first element". Similarly, the generic Top-Level Domain ("gTLD") ".com" is viewed as a standard registration requirement and as such is disregarded for the purpose of determining whether a domain name is identical or confusingly similar to a trademark (see also [WIPO Overview 3.0](#), section 1.11.1).

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the trademark in which the Complainant has rights, meaning that the Complainant has satisfied the requirement under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving 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 (see [WIPO Overview 3.0](#), section 2.1).

The Complainant has made a *prima facie* showing that the Respondent does not have any rights or legitimate interests in the disputed domain name, particularly by asserting that the Respondent is not affiliated with it in any way and that it never authorized the Respondent to use its trademarks as part of the disputed domain name.

Furthermore, the nature of the disputed domain name, comprising the Complainant's trademarks with the misspellings of one of the Complainant's trademarks or the additional terms, indicates an awareness of the Complainant and its trademarks and intent to take unfair advantage of such, which does not support a finding of any rights or legitimate interests.

The Respondent is not known under the disputed domain name. The Panel notes that the Respondent has not filed any response and thus did not deny the Complainant's assertions, nor brought any information or evidence for demonstrating any rights or legitimate interests. Accordingly, the Panel finds that the Complainant satisfied the requirements of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy stipulates that any of the following circumstances, *inter alia*, shall be considered as evidence of the registration and use of a domain name in bad faith: (i) circumstances indicating that a respondent 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 respondent's documented out-of-pocket costs directly related to the domain name; or (ii) circumstances indicating that the respondent 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 respondent has engaged in a pattern of such conduct; or (iii) circumstances indicating that the respondent registered the domain name primarily for the purpose of disrupting the business of a competitor; or (iv) circumstances indicating that the respondent is using the domain name to intentionally attempt to attract, for commercial gain, Internet users to its 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 respondent's website or location or of a product or service on its website or location.

With regard to the bad faith at the time of registration, the Panel notes that it is not likely that the Respondent was not aware of the Complainant and its trademarks. On the contrary, the Panel finds that it is likely that

the Respondent was aware of the Complainant and its rights and reputation in the PULTE, PULTE HOME and PULTE GROUP trademarks at the time the disputed domain name was registered. Bad faith can be presumed based on the widely evidenced recognition of the Complainant's trademarks and the use made of the disputed domain name. The Panel finds that the fact that the Respondent has registered the disputed domain name that contains the Complainant's trademarks PULTE, PULTE HOME and PULTE GROUP, merely including either the expression "corpo" or the term "group" and misspelling the Complainant's trademarks reinforces the Respondent's bad faith.

The Complainant has provided record evidence in the form of MX records printout showing that the disputed domain name has active MX records allowing the Respondent to use the disputed domain name to send and receive emails. The Panel considers, in the circumstances of the case, that this is an additional factor in finding bad faith.

The Panel notes that the disputed domain name directs to a website that contains the Complainant's logo and copyright protected material and allegedly offers the Complainant's trademarked goods. The Panel is satisfied that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation, or endorsement of its website or of the products on its website (see [WIPO Overview 3.0](#), section 3.1.4).

Under paragraph 4(b)(iv) of the Policy, the Panel finds that the disputed domain name was registered and 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 <pultehommesgroupcorpo.com> be transferred to the Complainant.

/Daniel Peña/

Daniel Peña

Sole Panelist

Date: July 20, 2023