

## **ADMINISTRATIVE PANEL DECISION**

LO IP SA, Banque Lombard Odier & Cie SA v. Desmond Manga  
Case No. D2024-1198

### **1. The Parties**

The Complainants are LO IP SA and Banque Lombard Odier & Cie SA, Switzerland, represented by Baker & McKenzie AG, Switzerland.

The Respondent is Desmond Manga, Chile.

### **2. The Domain Name and Registrar**

The disputed domain name <lombardodier.com> is registered with NameSilo, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 20, 2024. On March 20, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 21, 2024, 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 (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 21, 2024, 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 April 4, 2024.

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 April 5, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 25, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 26, 2024.

The Center appointed Delia-Mihaela Belciu as the sole panelist in this matter on April 30, 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 Rules, paragraph 7.

#### 4. Factual Background

- The Complainants are both members of the Lombard Odier group of companies, a renowned bank which was founded in Geneva in 1796 and which is among the leading providers of wealth management services worldwide.

The Complainant LO IP SA owns the following trademarks:

- The International trademark registration No. 627468 for LOMBARD ODIER & CIE, registered on October 13, 1994, for services in class 36;
- The Swiss national trademark No. 2P-412721 for LOMBARD ODIER & CIE, registered on October 13, 1994, with invoked priority since 1830, for services in class 36.
- Moreover, the Complainant Banque Lombard Odier & Cie SA owns the domain name containing the trademark's dominant feature LOMBARD ODIER, <lombardodier.com>, registered since July 29, 1996, which is used in relation to its website "www.lombardodier.com".
- The disputed domain name <lombardodler.com> was registered on February 16, 2024. The disputed domain name resolves to an inactive webpage.

#### 5. Parties' Contentions

The Complainants contend that they have satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainants contend that:

- (i) the disputed domain name is confusingly similar to the LOMBARD ODIER denomination which the Complainants contend to be the exclusive intellectual property of Lombard Odier group of companies, denomination used by such whether as a trademark, as a company name or within a company name, or within a domain name. The Complainants consider that the disputed domain name incorporates the dominant feature LOMBARD ODIER of their trademarks with the difference that the letter "I" (written with caps lock) in the trademark element ODIER is substituted with the letter "i" (written with small letters), which in their view is extremely similar;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name for a number of reasons, among which that, (1) the Respondent appeared to be hidden as registrant, (2) the Respondent is not related to the Complainants, nor has the Complainants' authorization to register the disputed domain name, (3) the Respondent does not have rights or legitimate interests in relation to the disputed domain name as there is no effective use of it;
- (iii) the disputed domain name was registered and is being used in bad faith for a number of reasons, among which that, (1) the disputed domain name constitutes a clear case of domain name squatting and/or typosquatting, (2) the Complainants fear that the disputed domain name has been registered by the Respondent in order to send emails in order to mislead recipients about the origin of the emails, to defraud private individuals and other investors into placing money with them, (3) the Respondent it is an unrelated third party, (4) there would be five UDRP similar cases with favorable decisions regarding the registered trademark of the Complainants.

#### B. Respondent

The Respondent did not reply to the Complainants' contentions.

## 6. Discussion and Findings

In order for the Complainants to succeed, such must prove, according to paragraph 4(a) of the Policy, that:

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

In case all three elements above have been fulfilled, the Panel is able to grant the remedy requested by the Complainants. Thus, the Panel will deal with each of the requirements in turn.

### 6.1 Consolidation of Complainants

The Complaint was filed by two Complainants against a single Respondent. Neither the Policy nor the Rules expressly provides for or prohibits the consolidation of multiple complainants. In this regard, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.1, states that: "In assessing whether a complaint filed by multiple complainants may be brought against a single respondent, panels look at whether (i) the complainants have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected the complainants in a similar fashion, and (ii) it would be equitable and procedurally efficient to permit the consolidation."

As stated above, both Complainants are members of the same group of companies and have a common interest with respect the LOMBARD ODIER & CIE trademarks (and the respective domain names incorporating the dominant element of the trademarks), which are commonly affected by the actions of the Respondent. The Panel finds accordingly that the Complainants have a specific common grievance against the Respondent and it is equitable and procedurally efficient to permit the consolidation of their complaints.

### 6.2 Substantive Issues

#### A. Identical or Confusingly Similar

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 name. [WIPO Overview 3.0](#), section 1.7.

The Complainants have shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the mark is recognizable within the disputed domain name. The disputed domain name incorporates the LOMBARD ODIER part of the Complainants' LOMBARD ODIER & CIE trademark, with the difference that the letter "l" (written with caps lock) in the trademark element ODIER is substituted with the letter "l" (written with small letters). Therefore, the Panel finds that the disputed domain name consists of a common, obvious, or intentional misspelling of a trademark which is considered to be confusingly similar to the relevant mark for purposes of the first element. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.7 and 1.9.

In what concerns the addition of the generic Top-Level Domain ".com" in relation to the disputed domain name, such is viewed as a standard registration requirement, and is disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

The Panel therefore finds that the Complainants have satisfied paragraph 4(a)(i) of the Policy.

Based on the available record, the Panel finds the first element of the Policy has been established.

## **B. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although 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 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 name. 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 name such as those enumerated in the Policy or otherwise.

Thus, based on the available evidence, the Respondent does not appear to be related to the Complainants, nor has the Complainants’ authorization to register the disputed domain name.

Moreover, the Respondent does not appear to be commonly known by the disputed domain name based on the information disclosed by the Registrar, and the disputed domain name resolves to an inactive webpage.

Furthermore, the disputed domain name consists of a common, obvious, or intentional misspelling of the dominant part of the Complainants’ prior LOMBARD ODIER & CIE trademark, and particularly the Complainant’s own domain name <lombardodier.com>, which is very likely to lead to confusion for Internet users seeking or expecting the Complainants.

All the above does not amount to a bona fide offering of goods or services, or to a legitimate noncommercial or fair use of the disputed domain name.

Based on the available record, the Panel finds the second element of the Policy has been established.

## **C. Registered and Used in Bad Faith**

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the Complainants’ rights in the LOMBARD ODIER & CIE marks predate the registration date of the disputed domain name. In addition, the disputed domain name consists of a common, obvious, or intentional misspelling of the LOMBARD ODIER dominant part of the Complainants’ LOMBARD ODIER & CIE prior trademarks.

In light of the above as well as of the fact that, Lombard Odier group of companies from which the Complainants are part of, is a renowned bank, founded in Geneva in 1796, being among the leading providers of wealth management services worldwide, the Panel finds that it is not conceivable that the Respondent registered the disputed domain name without knowledge of the Complainants’ LOMBARD ODIER & CIE marks, which supports a finding of bad faith registration. [WIPO Overview 3.0](#), section 3.2.2.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3.

In the present case, the Panel notes that, the Respondent does not appear to be related to the Complainants, appeared to have engaged in the use of a privacy service to mask its details on the publicly-available Whois, and the disputed domain name resolves to an inactive webpage. Moreover, as mentioned above as well, the disputed domain name comprises a typo of the dominant portion of the Complainant's trademark (namely, LOMBARD ODIER) and the Complainant's domain name, leading thus to confusion for Internet users.

Based on the available record, the Panel finds that the Complainants have established the third element 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 disputed domain name <lombardodler.com> be transferred to the Complainant LO IP SA.

*/Delia-Mihaela Belciu/*

**Delia-Mihaela Belciu**

Sole Panelist

Date: May 14, 2024