

ADMINISTRATIVE PANEL DECISION

Kendrick Lamar Duckworth and Nomo Hashimoto, LLC v. Tomas Lain, Saratovskaya Oblast, Chung Do, Abid Ali, proin SEO, ijaz amin, Bhavya Popli, sajid mahe, itnas
Case No. D2024-1805

1. The Parties

The Complainants are Kendrick Lamar Duckworth, United States of America (“United States”), and Nomo Hashimoto, LLC, United States, represented by Fross Zelnick Lehrman & Zissu, PC, United States.

The Respondents are Tomas Lain, Peru, Saratovskaya Oblast, Russian Federation, Chung Do, Viet Nam, Abid Ali, Pop Smoke Merch, Pakistan, proin SEO, bapes, Pakistan, ijaz amin, Pakistan, Bhavya Popli, Australia, and sajid mahe, itnas, Pakistan.

2. The Domain Names and Registrars

The disputed domain name <kendricklamarmerchandise.com> is registered with Synergy Wholesale Accreditations Pty Ltd.

The disputed domain names <kendricklamarmerchandise.store>, <kendricklamarmerch.com>, <kendricklamarmerch.shop>, <kendrick-lamar.shop>, <kendrick-lamar.store> are registered with NameCheap, Inc.

The disputed domain name <kendricklamarmerch.shop> is registered with Hostinger Operations, UAB.

The disputed domain name <kendrickmerchandise.com> is registered with Squarespace Domains II LLC (the “Registrars”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 29, 2024. On April 30, and May 3, 2024, the Center transmitted by email to the Registrars requests for registrar verification in connection with the disputed domain names. On April 30, May 1, 2, and 3, 2024, the Registrars transmitted by email to the Center their verification responses disclosing registrant and contact information for the disputed domain names, which differed from the named Respondents (Privacy service

provided by Withheld for Privacy ehf, Contact Privacy Inc. Customer 7151571251, Privacy Protect, LLC (PrivacyProtect.org)) and contact information in the Complaint.

The Center sent an email communication to the Complainants on May 8, 2024, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrars, requesting the Complainants to either file separate complaint(s) for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all domain names are under common control. The Complainants 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 Respondents of the Complaint, and the proceedings commenced on May 22, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 11, 2024. One Respondent sent email communications to the Center on May 27, and June 11, 2024.

The Center appointed Federica Togo as the sole panelist in this matter on June 18, 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

It results from the Complainants' undisputed allegations that they are the musician Kendrick Lamar Duckworth ("Kendrick Lamar") which is a musician of the 21st century, with multiple #1 albums and singles, album sales in the millions, international concert tours, branded merchandise, and collaborations with influential fashion brands, and the company Nomo Hashimoto, LLC ("Nomo"). It uses the KENDRICK LAMAR trademark on a wide array of items, including his albums, concert tours, music videos, and a wide variety of clothing (including t-shirts, hoodies and hats). It operates a website under the domain name <oklama.com>.

The Complainant Nomo Hashimoto, LLC is the registered owner of United States trademark registration No. 4595808 for KENDRICK LAMAR, registered on September 2, 2014 for services in class 41 and United States trademark registration No. 5076690 registered on November 8, 2016 for goods in classes 9 and 25.

The disputed domain names were registered as follows:

<kendrick-lamar.shop> was registered on December 16, 2022,
<kendrick-lamar.store> was registered on July 21, 2023,
<kendrickmerchandise.com> was registered on August 28, 2022,
<kendricklamarmerchandise.com> was registered on April 23, 2020,
<kendricklamarmerch.shop> was registered on May 2, 2023,
<kendricklamarmerch.shop> was registered on April 1, 2024,
<kendricklamarmerch.com> was registered on July 27, 2022, and
<kendricklamarmerchandise.store> was registered on October 10, 2023.

Furthermore, the undisputed evidence provided by the Complainants proves that, at the time of filing the Complaint, the disputed domain names all resolved to largely similar websites, purportedly offering for sale products under the Complainants' trademark and prominently displaying the Complainants' trademark without the Complainants' authorization.

5. Parties' Contentions

A. Complainant

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

Notably, the Complainants contend that the disputed domain names are confusingly similar to their trademark, since the disputed domain names <kendrick-lamar.shop>, <kendrick-lamar.store>, <kendricklamarmerchandise.com>, <kendricklamarmerch.shop>, <kendricklamarmerch.com> and <kendricklamarmerchandise.store> incorporate the Complainants' KENDRICK LAMAR trademark in its entirety. The <kendricklamarmerch.shop> disputed domain name incorporates the Complainants' KENDRICK LAMAR trademark in its entirety, merely adding an additional "M" in the "Lamar" portion of the trademark, plus the term "merch". The <kendrickmerchandise.com> disputed domain name is also confusingly similar to the Complainants' trademark, merely omitting Kendrick's surname, but adding the term "merchandise".

The Complainants further contend that the Respondents have no rights or legitimate interests in the disputed domain names. According to the Complainants, the Respondents have no connection or affiliation of any kind with the Complainants, nor has the Complainants ever granted the Respondents license or consent, express or implied, to use the KENDRICK LAMAR trademark in any manner. Furthermore, given the reputation and renown of the Complainants' KENDRICK LAMAR trademark, it is probable that a majority of Internet users who see the disputed domain names will immediately recognize the Complainants' mark and mistakenly assume that the domain names are owned, controlled or endorsed by the Complainants, particularly given the content of the websites associated with the domain names, passing themselves off as genuine websites of the Complainants, purportedly offering the Complainants' KENDRICK LAMAR products.

Finally, the Complainants contend that the disputed domain names were registered and are being used in bad faith. According to the Complainants, there can be no dispute that the Complainants' KENDRICK LAMAR trademark is extremely well known and immediately recognizable. The Respondents' adoption and use of the Complainants' trademark in its entirety in the domain names and in connection with websites that so obviously trade on the goodwill of the Complainants' trademark shows both the Respondents' familiarity with the Complainants' trademark and the Respondents' recognition of the fame of the KENDRICK LAMAR trademark. There is no reason for the Respondents to have chosen the domain names unless the Respondents were seeking to create an association with the Complainants.

B. Respondent

The Respondent did not reply to the Complainants' contentions. On May 27, 2024, the Center received an informal communication indicating "I have removed all data". The communication was sent from the email address which; according to the information received by the related Registrar, is related to the disputed domain name <kendricklamarmerch.com>.

On June 11, 2024, the Center received another communication coming from the same email address simply stating: "I Have Removed The All Data" and "I have removed all the information and all the problem is solved from my end."

6. Discussion and Findings

6.1. Procedural issues

Consolidation of the Complainants

The Complaint was filed by both Kendrick Lamar Duckworth and its company Nomo Hashimoto, LLC. The Complainants requested the disputed domain names be transferred to the Complainant Nomo Hashimoto, LLC.

As set forth in section 4.11.1 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"): "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."

In the light of the above, the Panel finds that the Complainants have a specific common grievance against the Respondents because they share a common legal interest in the trademark rights on which this Complaint is based since both Complainants allege a corporate connection. Against this background, the Panel does not see reasons why a consolidated Complaint brought by the Complainants against the Respondents would not be fair and equitable. Moreover, the Respondents failed to come forward with any allegations or evidence to object the consolidation. For reasons of procedural efficiency, fairness and equity the Panel therefore accepts the joint Complaint. Therefore, throughout the remainder of the current Decision, the Panel will refer to both Complainants as "the Complainant".

Consolidation: Multiple Respondents

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are the same entity or mere alter egos of each other, or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The disputed domain name registrants did not comment on the Complainant's request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See [WIPO Overview 3.0](#), section 4.11.2.

As regards common control, the Panel notes that the Complainant submitted sufficient evidence to justify the consolidation in terms of common control of the domain names or corresponding websites.

As set forth in section 4.11.2 of [WIPO Overview 3.0](#): "Panels have considered a range of factors, typically present in some combination, as useful to determining whether such consolidation is appropriate, such as similarities in or relevant aspects of (i) the registrants' identity(ies) including pseudonyms, (ii) the registrants' contact information including email address(es), postal address(es), or phone number(s), including any pattern of irregularities, (iii) relevant IP addresses, name servers, or webhost(s), (iv) the content or layout of websites corresponding to the disputed domain names, (v) the nature of the marks at issue (e.g., where a registrant targets a specific sector), (vi) any naming patterns in the disputed domain names (e.g., <mark-country> or <mark-goods>), (vii) the relevant language/scripts of the disputed domain names particularly

where they are the same as the mark(s) at issue, (viii) any changes by the respondent relating to any of the above items following communications regarding the disputed domain name(s), (ix) any evidence of respondent affiliation with respect to the ability to control the disputed domain name(s), (x) any (prior) pattern of similar respondent behavior, or (xi) other arguments made by the complainant and/or disclosures by the respondent(s).”

The Panel considers the consolidation as appropriate, taking into consideration the following factors: in particular 1) the disputed domain names resolves to websites containing very similar graphics and allegedly offering the Complainants’ branded clothing, using the Complainants’ KENDRICK LAMAR trademarks without authorization; 2) the disputed domain names follow the same naming pattern by incorporating a trademark “KENDRICK LAMAR” (but <kendrickmerchandise.com>, using the dominant feature of the Complainants’ trademark) followed by “descriptive term” relating to shopping. All these elements give evidence of a common control of the domain names at issue.

On the balance of probabilities and taking into account the above circumstances of the present case, the Panel finds that the disputed domain names are under common control.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below as “the Respondent”) in a single proceeding.

6.2. Substantive issues

Paragraph 15(a) of the Rules instructs this Panel to “decide a complaint 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”. Paragraph 4(a) of the Policy requires a complainant to prove each of the following three elements in order to obtain an order that each disputed domain name be transferred or cancelled:

- (i) the disputed 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 disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The Panel will therefore proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied.

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 Complainant’s trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

The Complainant has 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 entirety of the mark is reproduced within the disputed domain names <kendrick-lamar.shop> and <kendrick-lamar.store>. Accordingly, the disputed domain names are identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Furthermore, the entirety of the mark is reproduced within the remaining disputed domain names (but <kendrickmerchandise.com>) with different additional terms. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

In addition, the Panel finds that the dominant feature of the relevant mark (i.e. “Kendrick”) is also recognizable within the disputed domain name <kendrickmerchandise.com>. Accordingly, the disputed domain name is also confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. The Panel finds that the content of the website associated with this disputed domain name confirms the confusing similarity.

Finally, the Panel finds the mark is recognizable within the disputed domain name <kendricklammarmarch.shop>, being the double letter “m” a common, obvious, or intentional misspelling of the trademark. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.9.

Although the addition of other terms (here, “merch” and “merchandise”) may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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 Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain names. The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain names such as those enumerated in the Policy or otherwise.

The Panel notes that the nature of the disputed domain names <kendrick-lamar.shop> and <kendrick-lamar.store> carries a high risk of implied affiliation, since the disputed domain names are identical to the Complainant’s trademark (plus a hyphen) and that the trademark KENDRICK LAMAR is not a combination of terms that one would legitimately adopt as a domain name unless to suggest an affiliation with the Complainant. Generally speaking, previous UDRP panels have found that domain names identical to a complainant’s trademark carry a high risk of implied affiliation (see [WIPO Overview 3.0](#), at section 2.5.1). The Panel shares this view.

In addition, the Panel notes that the remaining disputed domain names are clearly constituted by the Complainant's registered trademark (or by the dominant feature of the Complainant's registered trademark for <kendrickmerchandise.com>) - and a term, i.e. "merchandise" or "merch" which is an abbreviation of the English term "merchandise" which clearly refer to the Complainant's core business, tending to suggest sponsorship or endorsement by the Complainant. This is also confirmed by the content of the websites to which the disputed domain names resolve, allegedly selling the Complainant's products and reproducing without authorization the Complainant's trademark. There are no accurate and prominent disclaimers regarding the Respondent's relationship with the Complainant on the websites at the disputed domain names.

The composition of the disputed domain names directly targeting the Complainant's field of activity enhances the false impression that the disputed domain names are somehow officially related to the Complainant and official websites promoting the Complainant's business. Such composition of the disputed domain names cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. See section 2.5.1 of the [WIPO Overview 3.0](#). This is the case in the present proceeding.

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.

One of these circumstances is that the Respondent by using the disputed domain name, has intentionally attempted 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 its website or location or of a product or service on its website or location (paragraph 4(b)(iv) of the Policy).

In the present case, the Panel notes that it results from the Complainant's documented allegations that the disputed domain names resolve to websites displaying the Complainant's trademark and purportedly offering for sale products under the Complainant's trademark. For the Panel, it is therefore evident that the Respondent positively knew the Complainant's mark. Consequently, and in the absence of any evidence to the contrary, the Panel is convinced that the Respondent also knew that the disputed domain names included the Complainant's trademark when it registered the disputed domain names.

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.

In this regard, the further circumstances surrounding the disputed domain names' registration and use confirm the findings that the Respondent has registered and is using the disputed domain names in bad faith:

(i) the nature of the disputed domain names (i.e. a domain name identical to the Complainant's trademark for <kendrick-lamar.shop> and <kendrick-lamar.store>; or a domain name incorporating the Complainant's mark (or the dominant feature of the relevant mark) plus the addition of a descriptive term relevant to the Complainant's business);

(ii) the content of the websites to which the disputed domain names resolved, displaying the Complainant's trademark and purportedly offering for sale the Complainant's products;

(iii) a clear absence of rights or legitimate interests coupled with no response for the Respondent's choice of the disputed domain names;

(iv) the Respondent's use of a privacy service to concealing its identity.

The Panel finds that the Complainant has 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 names <kendricklamarmerchandise.com>, <kendricklamarmerchandise.store>, <kendricklamarmerch.com>, <kendricklamarmerch.shop>, <kendrick-lamar.shop>, <kendrick-lamar.store>, <kendricklammarmerch.shop>, <kendrickmerchandise.com> be transferred to the Complainant Nomo Hashimoto, LLC.

/Federica Togo/

Federica Togo

Sole Panelist

Date: July 2, 2024