

ADMINISTRATIVE PANEL DECISION

Pacific Logistics LLC v. Malcome Gana, Calson Media Space
Case No. D2024-2016

1. The Parties

Complainant is Pacific Logistics LLC, United States of America (“US”), represented by Milord Law Group, US.

Respondent is Malcome Gana, Calson Media Space, US.

2. The Domain Name and Registrar

The disputed domain name <pacificlogisticscompany.com> is registered with Dynadot Inc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 14, 2024. On May 16, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 16, 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 (Super Privacy Service LTC c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to Complainant on May 21, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. No amendment was filed but Respondent’s information has been updated to reflect the registrant and contact information disclosed by the Registrar.

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 Respondent of the Complaint, and the proceedings commenced on May 29, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 18, 2024. Respondent sent an email communication to the Center on June 1, 2024.

The Center appointed Timothy D. Casey as the sole panelist in this matter on June 27, 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

Complainant is a logistics company providing shipping, air freight, ground transport, warehousing logistics and supply claim logistics.

Complainant has registrations for a number of trademarks that include PACIFIC LOGISTICS, or an acronym of Complainant prior name, (the "PACIFIC LOGISTICS Marks") as an element of the trademarks, as follows:

Mark	Jurisdiction	Class(es)	Registration No.	Registration Date
PLC PACIFIC LOGISTICS CORP (and design)	US	39	4,245,361	November 20, 2012
PACIFIC LOGISTICS CORP	US	39 & 35	5,954,837 & 5,954,839	January 7, 2020
PACIFIC LOGISTICS	US	39 & 35	6,349,055 & 6,349,056	May 11, 2021
PLC	US	39	4,245,364	November 20, 2012

Complainant also claims that it is the owner of the domain names <pacific-logisitics.com> and <pacificlogisitics.com>.

The disputed domain name was registered on September 7, 2023, and at the time of filing the Complaint, the disputed domain name resolved to a website bearing the name "pacific logistic company" and marketing freight forwarding and logistic services. Complainant provided evidence from a third party sent via LinkedIn to Complainant noting that the disputed domain name was being used by a "fake online site using your headquarters address on their webpage and duping people into paying a refundable 'insurance package release fee'."

5. Parties' Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, Complainant contends it has rights in the PACIFIC LOGISTICS Marks as evidenced by the facts above. Complainant contends the disputed domain name incorporates in its entirety the PACIFIC LOGISTICS Marks and is therefore confusingly similar to the PACIFIC LOGISTICS Marks.

Complainant contends that Respondent has no legitimate use for the website to which the disputed domain name resolves and only adopted the disputed domain name to divert Internet traffic from Complainant's own business in an attempt to trade off of Complainant's goodwill. Complainant contends there is no evidence that Respondent is making a legitimate noncommercial or fair use of the disputed domain name. To Complainant's knowledge, Respondent is not and has never been a representative of Complainant or licensed to use the PACIFIC LOGISTICS Marks. Complainant contends that through the disputed domain name and the website to which it resolves Respondent uses Complainant's identity, reproduces the PACIFIC LOGISTICS Marks, and seeks to confuse Internet users into thinking that Respondent's business is associated with Complainant.

Complainant contends the disputed domain name was registered and has been used in bad faith by Respondent. Complainant contends that Respondent was aware of the PACIFIC LOGISTICS Marks and registered the disputed domain name with that knowledge. Respondent's website reproduces the trademarks and falsely duplicates Complainant's website. Complainant contends that Respondent's website diverts Internet traffic and defrauds customers and extorts payments related to various scams. Respondent's use of the disputed domain name in association with the noted website seeks to attract, for commercial gain, Internet users to Respondent's website by creating a likelihood of confusion, is further evidence of bad faith.

B. Respondent

Respondent replied to Complainant's contentions by stating that Respondent did not understand the proceedings, noting that the disputed domain name has been locked and is not in use, and that Complainant could purchase the disputed domain name when it expires. Respondent denies that the disputed domain name was purchased to be resold at a higher price and stated that "its of no use since it was bought and from the look of things am not sure it has use again since its now bringing problems."

6. Discussion and Findings

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 Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

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 PACIFIC LOGISTICS mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, "company", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name 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 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 Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Respondent has not rebutted Complainant's 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.

Panels have held that the use of a domain name for illegal activity here, claimed impersonation/passing off, or other types of fraud, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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 Respondent has registered the disputed domain name and used Complainant's PACIFIC LOGISTICS Marks to create a false website that reproduces aspects of Complainant's website in an effort to disrupt the business of Complainant and intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with Complainant's marks. While Respondent notes that the disputed domain name is no longer of use because it is locked and it is now bringing problems, that is a direct result of the fraudulent manner in which the disputed domain name has been used and therefore does refute Complainant's contentions in any manner. Moreover, despite being aware of and participating in this proceeding, the Panel notes Respondent has not attempted to dispute Complainant's serious claims of fraud, or provide any explanation for the registration of the disputed domain name.

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 held that the use of a domain name for illegal activity here, claimed impersonation/passing off, or other types of fraud, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

The Panel finds that 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 name <pacifilogisticscompany.com> be transferred to Complainant.

/Timothy D. Casey/

Timothy D. Casey

Sole Panelist

Date: July 16, 2024