

ADMINISTRATIVE PANEL DECISION

TENEROCH, S.A. DE C.V. v. Name Redacted

Case No. D2024-3631

1. The Parties

The Complainant is TENEROCH, S.A. DE C.V., Mexico, represented by Mariano Gracia de la Peña, Mexico.

The Respondent has adopted the name Name Redacted¹.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 7, 2024. On September 9, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 9, 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 (Identity of the respondent(s) secured as private on behalf of the domain’s registrars) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 13, 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 September 18, 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”).


¹ The Respondent appears to have used the name of a third party when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted the Respondent’s name from this decision. However, the Panel has attached as Annex 1 to this decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST 12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on October 3, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 23, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 24, 2024.

The Center appointed Kiyoshi Tsuru as the sole panelist in this matter on October 29, 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 Complainant is a Mexican company, specializing in hospitality and tourism services. The Complainant owns the following trademark registration:

Trademark	Registration No.	Jurisdiction	Date of Registration	Class
	2552833	Mexico	May 26, 2023	Class 43

The Complainant also owns the domain name <legendaryvacationclub.com> which resolves to its official website.

The disputed domain name <legendaryvacationsclubs.com> was registered on April 25, 2024. At the time of writing this decision, the disputed domain name resolves to the Registrar's default sponsored parking page.

5. Parties' Contentions

A. Complainant

The Complainant, through an email communication sent to the Center on September 18, 2024, affirmed that there are more than 50 fraudulent domain names that are similar to its trademark LEGENDARY VACATION CLUB and that are being used to deceive the Complainant's clients by illegitimately using the Complainant's brand, which is causing significant harm to the Complainant's business (the Complainant did not submit evidence to support this affirmation).

In the same communication, the Complainant stated that it was likely that the registrant of the disputed domain name used the name of a third-party. This is because the third-party is a well-established and renowned tourism and hotel group in the region and worldwide, and it is evident that they are not responsible for these actions. The email provided by the registrant is a generic Gmail address, further suggesting the use of false information".

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

Notably, the Complainant contends that:

I. Identical or Confusingly Similar

That the disputed domain name is identical or confusingly similar to the Complainant's LEGENDARY VACATION CLUB registered trademark.

II. Rights or Legitimate Interests

That there is no evidence that the Respondent has used or prepared to use the disputed domain name in connection with a bona fide offering of goods or services.

That the Respondent is not commonly known by the disputed domain name and that it has not acquired any trademark right in connection to the disputed domain name.

That the Respondent is not making any legitimate noncommercial or fair use of the disputed domain name, but that it is rather misleading users for commercial gain.

III. Registered and Used in Bad Faith

That the Respondent has used an email address linked to the disputed domain name to contact clients of the Complainant, offering and executing false reservations, inviting said clients to make payments to re-activate memberships, and/or promising refunds if certain payments are made within certain timeframes. The Complainant argues that the email address is confusingly similar to its LEGENDARY VACATION CLUB trademark.

That the disputed domain name was registered for the purpose of causing confusion to customers by mimicking the Complainant's legitimate domain names.

That the Respondent registered the disputed domain name to prevent the Complainant from reflecting its LEGENDARY VACATION CLUB trademark in corresponding domain names.

That the disputed domain name was registered to disrupt the Complainant's business by defrauding customers and damaging the Complainant's reputation.

That the Respondent intentionally attempted to attract Internet users for commercial gain by creating a likelihood of confusion regarding the Complainant's LEGENDARY VACATION CLUB trademark and its source.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy sets out the three requirements that the Complainant must prove in order to successfully request remedies:

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

Given the Respondent's default and therefore, failure to specifically address the case merits as they relate to the three UDRP elements, the Panel may decide this proceeding based on the Complainant's undisputed factual allegations under paragraphs 5(f), 14(a), and 15(a) of the Rules (see *Joseph Phelps Vineyards LLC v. NOLDC, Inc., Alternative Identity, Inc., and Kentech*, WIPO Case No. [D2006-0292](#); *Encyclopaedia Britannica, Inc. v. null John Zuccarini, Country Walk*, WIPO Case No. [D2002-0487](#); see also Overview 3.0, section 4.3).

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 of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of the LEGENDARY VACATION CLUB trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The disputed domain name entirely comprises the Complainant's LEGENDARY VACATION CLUB trademark followed by the letter "s" after the term "vacation", and after the term "club". The Panel finds that the Complainant's LEGENDARY VACATION CLUB registered trademark is recognizable within the disputed domain name. [WIPO Overview 3.0](#), sections 1.7 and 1.9.

It is also well established that the addition of the gTLD ".com" is viewed as a standard registration requirement and as such is typically disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

Accordingly, the disputed domain name is confusingly similar to the Complainant's LEGENDARY VACATION CLUB trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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

The case file contains no evidence that demonstrates that the Respondent has used or has made demonstrable preparations to use the disputed domain name in connection with a bona fide offering of goods or services (see *Valentino S.p.A. v. Qiu Yufeng, Li Lianye*, WIPO Case No. [D2016-1747](#); and *Associated*

Newspapers Limited v. Manjeet Singh, WIPO Case No. [D2019-2914](#)). To the contrary, the case file comprises evidence of fraudulent use of the disputed domain name.

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 Complainant has submitted evidence showing that the disputed domain name has been used to impersonate the Complainant by sending fraudulent emails to actual clients of the Complainant, in order to request payments, by implementing an elaborate scam. The evidence comprised in the case file indicates that the Respondent has entirely reproduced the Complainant's LEGENDARY VACATION CLUB trademark (including its design) to forge email communications which look like genuine messages from the Complainant.

The case docket shows that the Respondent has targeted the Complainant and its clients, which constitutes opportunistic bad faith (see section 3.2.1 of the [WIPO Overview 3.0](#); see also *L'Oréal v. Contact Privacy Inc. Customer 0149511181 / Jerry Peter*, WIPO Case No. [D2018-1937](#); and *Gilead Sciences Ireland UC / Gilead Sciences, Inc. v. Domain Maybe For Sale c/o Dynadot*, WIPO Case No. [D2019-0980](#)).

Impersonation constitutes bad faith under the Policy. [WIPO Overview 3.0](#), section 3.4. (see *Arla Foods Amba v. Michael Guthrie, M. Guthrie Building Solutions*, WIPO Case No. [D2016-2213](#); *Minerva S.A. v. Whoisguard Protected, Whoisguard, Inc., / GREYHAT SERVICES*, WIPO Case No. [D2016-0385](#)). The use of a domain name for illegal purposes, such as fraud or phishing activities, also constitutes bad faith under the Policy (see *Banque Palatine v. Alex McQueen, HN LTD*, WIPO Case No. [D2022-3190](#)).

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

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 <legendaryvacationsclubs.com> be transferred to the Complainant.

/Kiyoshi Tsuru/

Kiyoshi Tsuru

Sole Panelist

Date: November 14, 2024.