

## **ADMINISTRATIVE PANEL DECISION**

Automobili Lamborghini S.p.A. v. Domain Administrator  
Case No. DAI2024-0030

### **1. The Parties**

The Complainant is Automobili Lamborghini S.p.A., Italy, represented by HK2 Rechtsanwälte, Germany.

The Respondent is Domain Administrator, India

### **2. The Domain Names and Registrars**

The disputed domain name <lamborghini.ai> is registered with .AI Registry (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 3, 2024. On April 4, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 1, 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 May 1, 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 amendment to the Complaint on May 3, 2024.

The Center verified that the Complaint together with the amendment to 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 May 7, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 27, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 29, 2024.

The Center appointed Marilena Comanescu as the sole panelist in this matter on June 3, 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 – commonly referred to as Lamborghini - is an Italian manufacturer of high-performance sports cars based in Sant'Agata Bolognese, Italy. The Complainant was founded in 1963 by Ferruccio Lamborghini and its vehicles belong to the world's most famous luxury sports cars.

The Complainant owns worldwide trademark registrations for LAMBORGHINI, such as the following:

- the International trademark registration number 959504 for LAMBORGHINI (word), registered on February 28, 2008, for goods in International classes 12 and 28, and designating numerous jurisdictions worldwide; and
- the European Union trademark registration number 001098383 for LAMBORGHINI (word), filed on March 3, 1999, and registered on June 21, 2000, covering goods and services in International classes 7, 9, 12, 14, 16, 18, 25, 27, 28, 36, 37, and 41.

The Complainant is the owner of domain names incorporating the mark LAMBORGHINI, such as <lamborghini.com>, its main website available in different languages worldwide.

The Complainant's trademark is well-known worldwide trademark, as also confirmed by previous UDRP decisions.

At the time of filing the Complaint, the disputed domain name <lamborghini.ai> redirected to the website of a domain name seller, "Dan.com", and was offered for public sale. The registration date of the disputed domain name is not disclosed, but the Panel notes that the ".ai" Top-Level Domain ("TLD") was initially released in 2009 as a country code TLD for Anguilla.

According to Annex 02 to the Complaint, on March 7, 2024, before commencing the present proceedings, the Complainant received an email from a third party, offering the disputed domain name for sale.

#### **5. Parties' Contentions**

##### **A. Complainant**

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 the disputed domain name is identical or at least confusingly similar to its worldwide well-known trademark LAMBORGHINI; that the Respondent has no rights or legitimate interests in the disputed domain name; and that the Respondent registered and is using the disputed domain name in bad faith primarily for the purpose of selling it to the Complainant or a competitor, for a valuable consideration in excess of its documents out-of-pocket costs directly related to the disputed domain name; the Respondent tried to sell the disputed domain name to the Complainant in a commercially professionalized approach, being well aware of its misconduct and potential legal issues; the mere registration of a disputed domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith; there is no conceivable legitimate use of the disputed domain name.

##### **B. Respondent**

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

## 6. Discussion and Findings

Under the Policy, the Complainant is required to prove on the balance of probabilities 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 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

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

Based on the available record, the Panel finds 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 Panel finds the entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark 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 disputed domain name incorporates the Complainant's highly distinctive trademark in its entirety, it was offered for sale to the Complainant directly, and, at the time of filing the Complaint, it was offered for public sale on a third party website. These facts, together with the other circumstances in this case, do not amount to a bona fide or legitimate use.

The composition of the disputed domain name carries a high risk of implied affiliation, being identical to the Complainant's mark and highly similar to its trade name and main domain name. UDRP panels have largely

held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. [WIPO Overview 3.0](#), section 2.5.1.

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 the disputed domain name was registered in bad faith, with knowledge of the Complainant and its trademark particularly because it reproduces exactly the Complainant's mark and company name, the use of which predate the release of the TLD under which the disputed domain name was registered by more than 40 years and is well-known worldwide.

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.

Paragraph 4(b)(i) of the Policy provides the circumstance when the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the disputed domain name 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. The Panel finds that, registering a domain name identical to the Complainant's distinctive and world famous trademark and offering it for sale to the Complainant directly, and to the public at large on a professional domain name seller website is evidence of bad faith behavior. [WIPO Overview 3.0](#), section 3.1.1.

At the time of filing the Complaint, the disputed domain name was not connected to an active website. UDRP panels have found that the non-use of a domain name (including a blank or "coming soon" page) 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. Having reviewed the available record, the Panel notes the distinctiveness and reputation of the Complainant's trademark; the composition of the disputed domain name which reproduces exactly the Complainant's trademark; the Respondent's failure to respond in the present proceedings; the implausibility of any good faith use to which the disputed domain name may be put, and finds that, in the circumstances of this case, the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Previous UDRP panels have found that the mere registration of a domain name that is identical or confusingly similar to a widely known trademark can, by itself, constitute a presumption of bad faith for the purpose of Policy. See section 3.1.4 of the [WIPO Overview 3.0](#).

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, <lamborghini.ai>, be transferred to the Complainant.

*/Marilena Comanescu/*

**Marilena Comanescu**

Sole Panelist

Date: June 13, 2024