Decision for dispute CAC-UDRP-107072

Case number	CAC-UDRP-107072
Time of filing	2024-11-21 10:56:10
Domain names	lamborghinilatin.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Automobili Lamborghini S.p.A.

Complainant representative

Organization	Nctm Studio Legale

Respondent

Organization	Smile Market Inc.

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of Italian trademarks LAMBORGHINI, Reg. No. 1606272 (since 3 July 1974) and Reg. No. 326126 (since 21 October 1980), the United States trademark LAMBORGHINI, Reg. No. 1622382 (since 16 January 1990) and the EU trademark AUTOMOBILI LAMBORGHINI Reg No. 013500384 (since 27 November 2014).

FACTUAL BACKGROUND

The Complainant, Automobili Lamborghini S.p.A., is the well-known Italian sports car manufacturing company, founded in 1963 by Ferruccio Lamborghini. Since 1998, the Complainant is a wholly owned subsidiary of Audi AG, one of the world leading car manufacturers.

The Complainant owns a number of domain names, including the domain name <lamborghini.com>, registered on 15 September 1996, which hosts its official website, with an interactive webpage, including detailed graphics of its cars, photos and footage, but also showing its merchandise products and customer-oriented services.

The disputed domain name <lamborghinilatin.com> was registered by the Respondent (from Smile Market Inc.) on June 25, 2023, and redirects to what appears to be the official website of the company Automóviles Lamborghini Latinoamerica S.A. de C.V. (hereinafter - “Automoviles”), a company already known to the Complainant and judicially injuncted for multiple Lamborghini mark

infringements. This website displays in the header and footer sections of the pages, a sign constituting a counterfeit version of the Complainant's mark: "Automóviles Lamborghini Latinoamérica" in the cursive lettering adopted for the marks of the Complainant. Moreover, this website is built as a replica of the official website of the Complainant, i.e. the bull and the "Lamborghini" word sign within the shield logo. On the website, Automóviles deceptively claims to be the (authorized) sub-licensor of the LAMBORGHINI trademark. In addition, the website also displays blatantly counterfeit merchandise products (e.g., watches, headphones, gaming tools); for each one of them, there is a downloadable user manual, which also displays the Complainant's trademark, thus strengthening the non-existent affiliation with the Complainant.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.
No administratively compliant Response has been filed.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

The Panel agrees with the Complainant that the disputed domain name <lamborghinilatin.com> is confusingly similar to the Complainant's trademark LAMBORGHINI. The evidence provided by the Complainant shows that LAMBORGHINI is a well-known trademark worldwide. The addition of the word "Latin" to this mark does not set aside the confusing similarity between the disputed domain name and the Complainant's trademark. On the contrary, the addition of "latin" specifically heightens the likelihood of confusion, as it appears to target the Complainant's presence in South America. Therefore, such addition does not negate, but rather amplify, the appearance of confusing similarity.

The Panel acknowledges that the Complainant presented prima facie evidence leading to the unequivocal conclusion that the Respondent is not sponsored by or affiliated with Complainant in any way. Furthermore, the Complainant has not licensed, authorized, or permitted Respondent to use Complainant's trademark in any manner, including in domain names. The Respondent's name and his/her company (Smile Market Inc.) does not resemble the disputed domain name in any manner. Finally, Respondent's use of the disputed domain name does not constitute a bona fide offering of goods or services or a legitimate non-commercial or fair use (Policy Para. 4(c)). As no administratively compliant response has been provided to the Panel and the prima facie evidence was not challenged by the Respondent, the Panel concludes that the Respondent, when he/she registered the disputed domain name, meant nothing else except the Complainant's trademark LAMBORGHINI (see WIPO Overview 3.0, para. 3.1.1).

Previous UDRP panels have also consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. Having regard to (i) the fact that the Complainant's trademark is well-known, (ii) the Respondent failed to submit a response or to provide any evidence of actual or

contemplated good-faith use, (iii) the deceptiveness of the Respondent's use of the disputed domain name to redirect it to a website falsely claiming to be owned by an (authorized) sub-licensor of the LAMBORGHINI trademark, and displaying blatantly counterfeit merchandise (e.g., watches, headphones, gaming tools) bearing the Complainant's trademark, (iv) the implausibility of any good faith use to which the disputed domain name may be put, the panel has come to the conclusion that the disputed domain was used in bad faith (see WIPO Overview 3.0, para. 3.3).

Accordingly, the Panel finds that the disputed domain name was both registered and used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **lamborghinilatin.com**: Transferred

PANELLISTS

Name	**Darius Sauliūnas**

DATE OF PANEL DECISION 2024-12-24

Publish the Decision