

ADMINISTRATIVE PANEL DECISION

**Advance Magazine Publishers Inc. v. Privacy service provided by
Withheld for Privacy ehf / Vivas media
Case No. D2022-0563**

1. The Parties

The Complainant is Advance Magazine Publishers Inc., United States of America, (“United States”) represented by Flaster Greenberg P.C., United States.

The Respondent is Privacy service provided by Withheld for Privacy ehf, Iceland / Vivas media, Israel.

2. The Domain Name and Registrar

The disputed domain name <revistaglamur.com> (‘the Domain Name’) is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 17, 2022. On February 18, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On February 18, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on February 19, 2022 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 February 24, 2022.

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 Respondent of the Complaint, and the proceedings commenced on February 25, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 17, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 18, 2022.

The Center appointed Dawn Osborne as the sole panelist in this matter on March 23, 2022. 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 the owner of the trade mark GLAMOUR registered, *inter alia*, in the United States as registration no. 407439, registered on June 6, 1944 for magazines. It operates an online magazine at the domain name <glamour.com>.

The Domain Name, registered on August 2, 2018, has been used for a competing online magazine suggesting falsely that it is based in California, United States.

5. Parties' Contentions

A. Complainant

The Complainant's contentions can be summarised as follows:

The Complainant is the owner of the trade mark GLAMOUR registered, *inter alia*, in the United States since 1944 for magazines. It operates an online magazine at the domain name <glamour.com>.

The Domain Name registered in 2018 is confusingly similar to the Complainant's trade mark consisting of "glamur", which means glamour in Spanish, and adding only the dictionary word "revista", which is Spanish for magazine, and the generic Top-Level Domain ("gTLD") ".com". None of these alterations or additions prevent said confusing similarity. The website falsely claims it is based in California, United States.

Respondent does not have any rights or legitimate interests in the Domain Name, is not commonly known by it, and is not authorised by the Complainant.

The Domain Name resolves to a website that purports to provide competing online magazine services misdirecting Internet users looking for the Complainant to a commercial website that has no such connection. This is not a *bona fide* offering of goods or services or a legitimate noncommercial or fair use. It is registration and use in bad faith diverting and confusing Internet users using false indications of country of establishment.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Domain Name consists of "glamur", a Spanish translation of the Complainant's GLAMOUR mark (registered, *inter alia*, in the United States since at least 1944 for magazines), the word "revista", and the gTLD ".com".

Previous UDRP panels have found that a domain name that incorporates a translation of a trademark will normally be found to be identical or confusingly similar to the mark, where the trademark – or its variant – is incorporated or otherwise recognizable in the domain name. Further, previous UDRP panels have found confusing similarity when a respondent merely adds an additional term and a gTLD to a sign recognizable as a complainant's mark. Here, despite the omission of a single letter, the Complainant's mark remains recognizable in the Domain Name. The Panel also finds that the addition of the word "revista" and the gTLD

“.com” to a Spanish translation of the Complainant’s mark (differing only by one letter from that mark) does not prevent confusing similarity between the Domain Name and the Complainant’s trade mark pursuant to the Policy.

Accordingly, the Panel holds that the Domain Name is confusingly similar for the purposes of the Policy with a mark in which the Complainant has rights.

As such the Panel holds that Paragraph 4(a)(i) of the Policy has been satisfied.

B. Rights or Legitimate Interests

The Complainant has not authorised the use of its mark. There is no evidence or reason to suggest the Respondent is commonly known by the Domain Name.

The Respondent has used the site attached to the Domain Name to offer commercial online magazine services. These are commercial so cannot be legitimate noncommercial fair use. He does not make it clear that there is no commercial connection with the Complainant. The Panel finds this use is confusing. As such it cannot amount to the *bona fide* offering of goods and services.

The Respondent has not responded to this Complaint or put any reasons or evidence forward as to why he should be entitled to register and use the Domain Name in the above way.

As such the Panel finds that the Respondent does not have rights or legitimate interests in the Domain Name and that the Complainant has satisfied the second limb of the Policy.

C. Registered and Used in Bad Faith

In the opinion of the Panel the use made of the Domain Name in relation to the site is confusing and disruptive in that visitors to the site might reasonably believe it is connected to or approved by the Complainant, in particular that it is the Spanish version of the Complainant’s official site because of the use of a Spanish version of the Complainant’s trade mark and the Spanish word for magazine in the Domain Name to offer competing magazine services to the Complainant’s without any explanation. Further the site suggests falsely that it is based in the United States where the Complainant is based.

Accordingly, the Panel holds that the Respondent has intentionally attempted to attract for commercial gain Internet users to his website by creating a likelihood of confusion with the Complainant’s trade mark as to the source, sponsorship, affiliation or endorsement of that website or services offered on it likely to disrupt the business of the Complainant.

As such, the Panel believes that the Complainant has made out its case that the Domain Name was registered and is being used in bad faith and has satisfied the third limb of the Policy under paragraph 4(b)(iv) and 4(b)(iii).

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 Domain Name <revistaglamur.com> be transferred to the Complainant.

/Dawn Osborne/

Dawn Osborne

Sole Panelist

Date: March 31, 2022