



DOMAIN NAME DISPUTE ADMINISTRATIVE PANEL

auDRP_20_12

Single Panellist Decision

General Motors LLC

v.

Scordo Transport Services Pty Ltd ABN 59 631 629 126
(formerly known as International Motor Cars Pty Ltd)

1. The Parties

- 1.1 The Complainant is General Motors LLC of 300 Renaissance Centre, Detroit, Michigan 48265-3000 in the United States of America ("the Complainant" or "GM").
- 1.2 The Respondent is Scordo Transport Services Pty Ltd ABN 59 631 629 126 (formerly known as International Motor Cars Pty Ltd) of 41 Enterprise Way, Sunshine West, Victoria, Australia 3020 ("the Respondent").

2. Domain Name, Registrar and Provider

- 2.1 The Domain Name upon which complaint is based is www.cadillacaustralia.com.au ("the Domain Name" or "the Disputed Domain Name").
- 2.2 The Registrar of the Domain Name is Domain Directors Pty Ltd (trading as Instra) ("the Registrar").
- 2.3 The Provider in this Proceeding is Resolution Institute of Level 2, 13-15 Bridge Street, Sydney New South Wales, Australia 2000 ("the Provider" or "Resolution Institute").

3. Procedural History

- 3.1 This proceeding relates to the complaint submitted by the Complainant in accordance with the .au Dispute Resolution Policy No. 2016-01, the Rules for .au Dispute Resolution Policy ("the Rules") and the Resolution Institute's Supplemental Rules for .au Domain Name Dispute Resolution Policy ("the Supplemental Rules").
- 3.2 The Complainant lodged a Complaint with the Resolution Institute on 24.09.2020, which Complaint incorporated a schedule of attachments, being:
 - 1. Copies of articles that provide a brief history of the CADILLAC brand

2. Copies of articles that confirm the significant commercial success of the CADILLAC brand
 - 2A. An extract from GM's marketing material from September 2002 celebrating 100 years of the CADILLAC brand
 3. Copies of a Whois extract for the Disputed Domain Name; E-mail from .auDA dated 2.09.2020; and Current extract of the Respondent from the Australian Securities and Investments Commission
 4. Copy of Intra Terms and Conditions
 5. .au Dispute Resolution Policy approved by auDA Board on 13 August 2001
 6. Schedule of GM's Australian trademark registrations – CADILLAC mark
 7. Schedule of GM's worldwide trademark registrations - CADILLAC mark
 8. Schedule of GM's Australian trademark registrations - the Cadillac Logo marks
 9. Schedule of GM's worldwide trademark registrations - the Cadillac Logo marks
 10. Whois extract for the domain name <cadillac.com>
 11. Copies of news articles regarding CADILLAC branded vehicles at international automotive shows, and Australian news articles referring to the same
 - 11A. Extracts from the Cadillac LaSalle Club of Australia's official Australian website at www.cadillaclasalleclub.com.au
 - 11B. Australian visitor statistics for GM's website at www.cadillac.com.
 12. Oki Data Americas, Inc. v ASD Inc. D 2001-0903
 13. Copy of the "About Us" webpage hosted at the Disputed Domain Name
 14. Copies of the webpages from www.internationalmotorcars.com.au and a WHOIS extract for the domain name <internationalmotorcars.com.au> obtained from AusRegistry on 7 September 2020
 15. Croatia Airlines d.d. v. Modern Empire Internet Ltd., WIPO Case No. D2003-0455
 16. Copy of the "Home" webpage hosted at the Disputed Domain Name
 17. GM Holden Ltd. v. Bradley John Lawless WIPO Case No. DAU2010-0010
 18. Lise Charmel D 2012-874 and Xtralis Technologies v Secusense DNL 2014-0055
 19. Copy of the original letter of complaint
 20. Copies of further correspondence between the representatives
 21. Copies of article "GMSV confirmed, Corvette coming 2021" published at <https://www.caradvice.com.au/874523/gmsv-to-be-announced-today-corvette-coming-2021/>
- 3.3 On 24.09.2020 the Provider notified the Registrar via email of the Domain Name dispute with a request to clarify Respondent details and lock the Domain Name during proceedings.
 - 3.4 On 25.09.20 the Registrar confirmed via email that the Domain Name in dispute had been locked and the Provider notified auDA via email of the Domain Name complaint.
 - 3.5 On 25.09.2020 the Provider notified the Respondent via email of the Domain Name Dispute complaint, with the Registrar and the Complainant copied in.
 - 3.6 The Respondent submitted a response to the Domain Name complaint via email on the due date, being 15.10.2020, with the Provider and the Complainant copied in.
 - 3.7 Resolution Institute appointed Rowena McNally as the sole panellist in the matter on 16.10.2020. The Panellist has confirmed that she has no conflict of interest in relation to the matter. All procedural requirements appear to have been satisfied.

4. Factual Background

- 4.1 The Complainant, General Motors LLC, is a manufacturer of motor vehicles, parts and accessories. GM's motor vehicle range includes luxury motor vehicles sold under the brand

and trademark "CADILLAC", which has been part of the Complainant's portfolio since 1909.

- 4.2 The Complainant has owned registered trademark rights in its CADILLAC mark for approximately 96 years in the USA and 94 years in Australia, evidence of which was included in the Complaint.
- 4.3 The Respondent is operating a business from a facility in Melbourne where it converts second-hand motor vehicles, including Cadillac motor vehicles, to right-hand drive vehicles.
- 4.4 The Disputed Domain Name was registered by the Respondent on 6.04.2020.
- 4.5 On 30.06.2020, the Complainant's solicitors wrote to the Respondent concerning the unauthorised use by the Respondent of the Cadillac Marks and requesting, *inter alia*, that the Respondent cease all unauthorised use of the Cadillac Marks, including trading under the name Cadillac Australia and cease using the Cadillac Marks on the Respondent's social media on Facebook at www.facebook.com/cadillacau.
- 4.6 The Respondent's solicitor replied on 4.08.2020 disputing, *inter alia*, that the Respondent was obliged to comply with the Complainant's requests or provide the Complainant's requested undertakings.
- 4.7 On 13.08.20 the Complainant wrote again to the Respondent's solicitor requesting, *inter alia*, that the Respondent reconsider its position. That correspondence indicated that GM did not object to the Respondent dealing in Cadillac vehicles or using the Cadillac word mark in a descriptive sense to inform customers that the Respondent can provide right-hand drive Cadillac vehicles for sale, provided that the Respondent did not make use of the CADILLAC word mark in GM's distinctive stylised font or the CADILLAC emblems, and provided further that the Respondent make "no statements or representation, expressed or implied, that falsely suggest an affiliation with General Motors or its Cadillac motor division". The Complainant again requested undertakings, *inter alia*, that the Respondent cease all unauthorised use of the CADILLAC Marks, including trading under the name Cadillac Australia and cease using the CADILLAC Marks on its social media at www.facebook.com/cadillacau.
- 4.8 The Complainant now seeks via the auDRP process that the registration of the Disputed Domain Name be transferred to the Complainant.

5. The Complainant's case

- 5.1 The Complainant's Complaint summarises the history and reputation of the CADILLAC brand. The Complainant says and the Panel accepts that:
 - (a) it is one of the world's oldest and largest manufacturers of motor vehicles, parts and accessories, with over 164,000 employees working in 396 facilities across 6 continents, including in Australia.
 - (b) One of the Complainant's most popular offerings is its luxury vehicle range sold under the brand and trademark CADILLAC which was established in 1902 and has been part of the Complainant's portfolio since 1909;
 - (c) The CADILLAC trademark is recognised as one of the world's most iconic luxury car brands and is very well known internationally, including in the USA, the United Kingdom, Canada, China and Australia.
 - (d) it continues to produce and sell a range of Sedan and Sports Utility Vehicle models under the CADILLAC brand, with sales showing a 14.7% increase in 2018; and

