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11 *Automobili Lamborghini S.p.A.*

12 **IN THE UNITED STATES DISTRICT COURT**
13 **FOR THE DISTRICT OF ARIZONA**

14 Richard Blair,

15 *Plaintiff,*

16 v.

17 Automobili Lamborghini S.p.A.,

18 *Defendant.*

C.A. No. 2:22-cv-01439-ESW

**DEFENDANT AUTOMOBILI
LAMBORGHINI S.P.A.’S ANSWER
TO FIRST AMENDED COMPLAINT**

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20 Defendant Automobili Lamborghini S.p.A. (“Lamborghini” or “Defendant”) answers the Complaint in Civil Action No. 2:22-cv-01439-ESW (D.I. 21) brought by Plaintiff Richard Blair (“Plaintiff”). Any and all allegations contained in Plaintiff’s Amended Complaint not expressly admitted in this Answer are denied.

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24 With respect to the allegations made in the First Amended Complaint, Lamborghini states as follows:
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1 **NATURE OF THE ACTION¹**

2 1. Paragraph 1 of the First Amended Complaint contains statements that are
3 neither allegations nor averments to which a response is required. Paragraph 1 of the First
4 Amended Complaint also states legal conclusions, to which no response is required. To
5 the extent a response is required, Defendant admits that Plaintiff purports to bring a civil
6 action for declaratory relief pursuant to 15 U.S.C. § 1114(2)(D)(v) to establish that the
7 registration and Plaintiff’s use of the domain name <Lambo.com> (“Disputed Domain”)
8 are not unlawful under the Anticybersquatting Consumer Protection Act (“ACPA”).

9 **THE PARTIES**

10 2. Defendant lacks sufficient knowledge and information to form a belief as to
11 the truth of the allegations of Paragraph 2 as pled and denies those allegations on that
12 basis.

13 3. Admitted.

14 **JURISDICTION AND VENUE**

15 4. Paragraph 4 contains legal conclusions and allegations to which no
16 response is required. To the extent a response is required, Defendant does not contest
17 subject matter jurisdiction over Plaintiff’s claims under 28 U.S.C. § 1331, 15 U.S.C. §
18 1114(2)(D)(v), and 28 U.S.C. § 2201 for purposes of this this action only. Defendant
19 denies the remaining allegations in Paragraph 4 of the First Amended Complaint.

20 5. Paragraph 5 contains legal conclusions and allegations to which no
21 response is required. To the extent a response is required, Defendant does not contest that
22 this Court has personal jurisdiction for purposes of this action only. Defendant denies the
23 remaining allegations in Paragraph 5 of the First Amended Complaint.

24 6. Paragraph 6 contains legal conclusions and allegations to which no
25 response is required. To the extent a response is required, Defendant does not contest

26 _____
27 ¹ This Answer reproduces the headings of the Complaint for convenience only. This
28 reproduction of the headings should not be construed as an admission of any of the
allegations in the Complaint.

1 venue for purposes of this action only. Defendant denies the remaining allegations in
2 Paragraph 6 of the First Amended Complaint.

3 7. Paragraph 7 contains legal conclusions and allegations to which no
4 response is required. Defendant further lacks sufficient knowledge and information to
5 form a belief as to the truth of the remaining allegations of Paragraph 7 as pled and
6 denies those allegations on that basis. To the extent a response is required, Defendant
7 does not contest venue for purposes of this action only. Defendant denies the remaining
8 allegations in Paragraph 7 of the First Amended Complaint.

9 **FACTS COMMON TO ALL CLAIMS FOR RELIEF**

10 8. Defendant lacks sufficient knowledge and information to form a belief as to
11 the truth of the allegations of Paragraph 8 as pled and denies those allegations on that
12 basis.

13 9. Defendant lacks sufficient knowledge and information to form a belief as to
14 the truth of the allegations of Paragraph 9 as pled and denies those allegations on that
15 basis.

16 10. Defendant admits that the WHOIS records for <Lambo.com> appear to
17 show that the Disputed Domain was originally registered for on March 5, 2000.
18 Defendant further admits that as of March 5, 2000, Defendant had yet to register a
19 trademark for the term LAMBO.

20 11. Defendant lacks sufficient knowledge and information to form a belief as to
21 the truth of the allegations of Paragraph 11 as pled and denies those allegations on that
22 basis.

23 12. Defendant lacks sufficient knowledge and information to form a belief as to
24 the truth of the allegations of Paragraph 12 as pled and denies those allegations on that
25 basis.

26 13. Defendant lacks sufficient knowledge and information to form a belief as to
27 the truth of the allegations of Paragraph 13 as pled and denies those allegations on that
28 basis.

1 14. Defendant lacks sufficient knowledge and information to form a belief as to
2 the truth of the allegations of Paragraph 14 as pled and denies those allegations on that
3 basis.

4 15. Defendant lacks sufficient knowledge and information to form a belief as to
5 the truth of the allegations of Paragraph 15 as pled and denies those allegations on that
6 basis.

7 16. Defendant lacks sufficient knowledge and information to form a belief as to
8 the truth of the allegations of Paragraph 16 as pled and denies those allegations on that
9 basis.

10 17. Defendant admits that it had a U.S. registration for the mark LAMBO, the
11 application for which listed foreign registration (Section 44(e)) as the filing basis.
12 Defendant admits that the mark was canceled by the USPTO in 2017. On information and
13 belief, Defendant admits that Plaintiff claims to have acquired the Disputed Domain in
14 February 2018. Defendant denies any remaining allegations of Paragraph 17.

15 18. Denied.

16 19. Paragraph 19 contains legal conclusions and allegations to which no
17 response is required. To the extent a response is required, Defendant denies the
18 allegations of Paragraph 19.

19 20. Defendant lacks sufficient knowledge and information to form a belief as to
20 the truth of the remaining allegations of Paragraph 20 as pled and denies those allegations
21 on that basis. Moreover, Paragraph 20 contains legal conclusions and allegations to which
22 no response is required.

23 21. Denied.

24 22. Paragraph 22 contains legal conclusions and allegations to which no
25 response is required. To the extent a response is required, Defendant denies the
26 allegations of Paragraph 22.

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1 23. Paragraph 23 contains legal conclusions and allegations to which no
2 response is required. To the extent a response is required, Defendant denies the
3 allegations of Paragraph 23.

4 24. Defendant admits that Plaintiff has never contacted Lamborghini about
5 buying the Disputed Domain. Defendant lacks sufficient knowledge and information to
6 form a belief as to the truth of the remaining allegations of Paragraph 24 as pled and
7 denies those allegations on that basis. Moreover, the allegations in Paragraph 24
8 regarding bad faith constitute legal conclusions and allegations to which no response is
9 required. To the extent a response is required, Defendant denies the allegations of
10 Paragraph 24.

11 25. Admitted.

12 26. Paragraph 26 contains legal conclusions and allegations to which no
13 response is required. To the extent a response is required, Defendant denies the
14 allegations of Paragraph 26.

15 27. Defendant admits that the UDRP proceeding, *Automobili Lamborghini*
16 *S.p.A. v. Domain Administrator, SeePrivacyGuardian.org / Richard Blair*, Case No.
17 D2022-1570 (the “WIPO Proceeding”), was decided by a three-member WIPO panel
18 with one panelist dissenting. Defendant further admits that the majority panel members
19 issued a decision on August 3, 2022 to transfer the Disputed Domain to Defendant.
20 Defendant also admits that Plaintiff was self-represented. Defendant denies any
21 remaining allegations.

22 28. Paragraph 28 contains legal conclusions and allegations to which no
23 response is required. To the extent a response is required, Defendant admits that Section
24 4(k) of the Uniform Domain Name Dispute Resolution Policy (“UDRP”) states that “[i]f
25 an Administrative Panel decides that your domain name registration should be canceled
26 or transferred, we will wait ten (10) business days . . . before implementing that
27 decision.” Defendant further admits that if official documentation that a lawsuit has been
28 commenced “against the complainant in a jurisdiction to which the complainant has

1 submitted,” then the Administrative Panel’s decision will not be implemented and no
2 further action will be taken “until we receive (i) evidence satisfactory to us of a resolution
3 between the parties; (ii) evidence satisfactory to us that your lawsuit has been dismissed
4 or withdrawn; or (iii) a copy of an order from such court dismissing your lawsuit or
5 ordering that you do not have the right to continue to use your domain name.” Defendant
6 denies the remaining allegations

7 29. Paragraph 29 contains legal conclusions and allegations to which no
8 response is required. To the extent a response is required, Defendant states that it does
9 not dispute jurisdiction of this Court for the purposes of this matter only. Defendant
10 denies any remaining allegations of Paragraph 29.

11 30. Paragraph 30 contains legal conclusions and allegations to which no
12 response is required. To the extent a response is required, Defendant denies the
13 allegations of Paragraph 30.

14 31. Paragraph 31 contains legal conclusions and allegations to which no
15 response is required. To the extent a response is required, Defendant denies the
16 allegations of Paragraph 31.

17 32. Paragraph 32 contains legal conclusions and allegations to which no
18 response is required. To the extent a response is required, Defendant denies the
19 allegations of Paragraph 32.

20 33. Paragraph 33 contains legal conclusions and allegations to which no
21 response is required. To the extent a response is required, Defendant denies the
22 allegations of Paragraph 33.

23 34. Paragraph 34 contains legal conclusions and allegations to which no
24 response is required. To the extent a response is required, Defendant denies the
25 allegations of Paragraph 34.

26 35. Defendant admits, on information and belief, that the Disputed Domain was
27 registered in 2000. Defendant further admits that in 2000, it did not have a registered U.S.
28 trademark for LAMBO. Defendant denies any remaining allegations in Paragraph 35.

1 36. Paragraph 36 contains legal conclusions and allegations to which no
2 response is required. To the extent a response is required, Defendant denies the
3 allegations of Paragraph 36.

4 37. Defendant admits that Plaintiff has never contacted Lamborghini about
5 buying the Disputed Domain, but it denies Plaintiff's allegations in Paragraph 37 that
6 Plaintiff has never offered the Disputed Domain for sale. Defendant denies the remaining
7 allegations in Paragraph 37.

8 38. Defendant lacks sufficient knowledge and information to form a belief as to
9 the truth of the allegations of Paragraph 38 as pled and denies those allegations on that
10 basis.

11 39. Defendant admits that in the WIPO Proceeding, it claimed that one
12 indication of bad faith included offering for sale the Disputed Domain for high prices.
13 Defendant further admits that the dissenting panelist claimed that "[o]ffering a domain
14 name for sale, at any price, is not in bad faith when the domain name may be of interest
15 and value to a wide variety of potential purchasers within any of its many meanings of
16 which evidence has been given. That is the only use in question, as the Respondent has
17 not used the domain name for anything else. Putting the domain name up for sale is the
18 only use to which he has put the domain name and that use is entirely lawful, no matter
19 what the price the seller asks." Defendant denies the remaining allegations. The
20 remaining allegation in Paragraph 39 contains legal conclusions to which no response is
21 required. To the extent a response is required, Defendant denies the allegations of
22 Paragraph 39.

23 40. Defendant lacks sufficient knowledge and information to form a belief as to
24 the truth of the allegations of Paragraph 40 as pled and denies those allegations on that
25 basis.

26 41. Defendant lacks sufficient knowledge and information to form a belief as to
27 the truth of the allegations of Paragraph 41 as pled and denies those allegations on that
28 basis.

1 42. Defendant admits that Plaintiff purports to seek a declaration that the
2 Disputed Domain is owned by Plaintiff. Defendant lacks sufficient knowledge and
3 information to form a belief as to the truth of the remaining allegations of Paragraph 42
4 as pled and denies those allegations on that basis.

5 43. Admitted.

6 **COUNT ONE**

7 44. Defendant incorporates by reference its responses to Paragraphs 1–43.

8 45. Denied.

9 46. Denied.

10 47. Denied.

11 48. Denied.

12 49. Defendant admits, on information and belief, that the Disputed Domain was
13 registered for on March 5, 2000. Defendant denies the remaining allegations of Paragraph
14 49.

15 50. Denied.

16 51. Denied.

17 52. Denied.

18 53. Denied.

19 54. Denied.

20 55. Admitted.

21 **COUNT TWO**

22 **Declaratory Judgment**

23 56. Defendant incorporates by reference its responses to Paragraphs 1–55.

24 57. Paragraph 57 contains legal conclusions and allegations to which no
25 response is required. To the extent a response is required, Defendant admits that a dispute
26 exists between Plaintiff and Defendant concerning Plaintiff’s right to acquire and use the
27 Disputed Domain.
28

1 58. Paragraph 58 contains legal conclusions and allegations to which no
2 response is required. To the extent a response is required, Defendant denies the
3 allegations of Paragraph 58.

4 **PRAYER FOR RELIEF**

5 This section of Plaintiff's First Amended Complaint constitutes Prayers for Relief
6 that do not require a response. Defendant denies that Plaintiff is entitled to any of the
7 requested relief or any other relief. Each averment and/or allegation contained in
8 Plaintiff's First Amended Complaint that is not specifically admitted herein is hereby
9 denied.

10 **AFFIRMATIVE AND OTHER DEFENSES**

11 Without conceding that any of the following necessarily must be pled as a defense,
12 or that any of the following is not already at issue by virtue of the foregoing denials, and
13 without prejudice to Defendant's right to plead additional defenses as discovery in the
14 facts of the matter warrant, Defendant asserts the following defenses:

15 **FIRST DEFENSE**

16 Plaintiff's claims for injunctive and declaratory relief are barred by the doctrine of
17 unclean hands.

18 **SECOND DEFENSE**

19 Plaintiff's claims are barred by the doctrine of estoppel because he misrepresented
20 his reasons for acquiring the disputed domain subject to this action.

21 **THIRD DEFENSE**

22 Plaintiff's claims are barred because they are based upon material misstatements
23 to the WIPO panel.

24 **RESERVATION OF DEFENSES**

25 Defendant lacks sufficient knowledge or information to form a belief as to whether
26 it may have yet unstated separate and additional defenses available. Defendant
27 accordingly reserves the right to revise, supplement, or amend its answer and defenses,
28 including reserving all defenses permitted under the Federal Rules of Civil Procedure,

1 under federal trademark law, and/or in law or equity that may now exist or may in the
2 future be available based on discovery and/or further investigation in this case.

3 **AUTOMOBILI LAMBORGHINI S.P.A.'S COUNTERCLAIMS**

4 Defendant and Counterclaim-Plaintiff Automobili Lamborghini S.p.A.
5 (“Lamborghini” or “Counterclaim-Plaintiff”) brings the following counterclaim against
6 Plaintiff and Counterclaim-Defendant Richard Blair (“Mr. Blair” or “Counterclaim-
7 Defendant”).

8 **The Parties**

9 1. Counterclaim-Plaintiff Automobili Lamborghini S.p.A. (“Lamborghini”) is
10 an Italian company with an address at 12 Via Moderna, I-40019, Sant’Agata Bolognese,
11 Italy.

12 2. Upon information and belief, Counterclaim-Defendant Richard Blair is a
13 citizen of the United Kingdom with a residence at 8 West St., San Rafael, CA 94901.

14 **Jurisdiction and Venue**

15 3. This Court has original subject matter jurisdiction over Counterclaim
16 Plaintiff’s Lanham Act counterclaim pursuant to 28 U.S.C. §§ 1331 and 1338(a).

17 4. This Court has personal jurisdiction over Counterclaim-Defendant because
18 Mr. Blair consented to jurisdiction by suing Lamborghini in this District.

19 5. Venue is legally proper in this District under 28 U.S.C. § 1391(b)(2) and/or
20 by Mr. Blair’s choice of forum.

21 **Factual Background**

22 6. Counterclaim-Plaintiff is a manufacturer of high-performance sports cars. It
23 trades as LAMBORGHINI and is the owner of a number of trademarks for this trading
24 style as well as the domain name <lamborghini.com>.

25 7. Counterclaim-Plaintiff promotes Lamborghini vehicles on the internet at
26 <lamborghini.com>. LAMBORGHINI is world famous not only as a trademark but also
27 as Counterclaim-Plaintiff’s name.

28

1 8. On January 16, 1990, Automobili Lamborghini S.p.A. filed an application,
2 Serial No. 74019105, with the United States Patent and Trademark Office (“USPTO”) to
3 register the LAMBORGHINI mark.

4 9. The USPTO granted the application, and the LAMBORGHINI mark
5 received its federal registration, U.S. Registration No. 1622382, on November 13, 1990.

6 10. Counterclaim-Plaintiff is the owner and exclusive rights holder of the
7 LAMBORGHINI mark and has used the LAMBORGHINI mark in the sale of
8 automobiles and structural parts since its registration date.

9 11. The LAMBORGHINI mark is a suggestive mark and, by virtue of its
10 federal registration, is presumptively distinctive and entitled to the utmost protection.

11 12. The LAMBORGHINI mark is distinctive to the consuming public and in
12 the trade.

13 13. “LAMBO,” a well-known and commonly used abbreviation of
14 Counterclaim-Plaintiff’s LAMBORGHINI mark, has also been registered by the
15 Counterclaim-Plaintiff, and its current registrations for LAMBO include a European
16 Union Trade Mark, application number 006113451, registered on April 28, 2008 in
17 classes 7, 9, and 12.

18 14. Additionally, the Counterclaim-Plaintiff has continuously used “LAMBO”
19 in its marketing and advertisements to refer to its vehicles. Consequently, it has
20 established “LAMBO” as a common law trademark so that, in the mind of the public,
21 “LAMBO” identifies and distinguishes Lamborghini’s vehicles.

22 15. Counterclaim-Plaintiff has invested substantial time, money, and resources
23 into marketing, advertising, and promoting its products and services offered under the
24 LAMBORGHINI and LAMBO marks.

25 16. The LAMBORGHINI and LAMBO marks, and the goodwill associated
26 with them, are valuable assets to Counterclaim-Plaintiff.

27 17. Upon information and belief, the domain <Lambo.com> was originally
28 registered on March 5, 2000.

1 18. Upon information and belief, Counterclaim-Defendant Blair acquired the
2 domain <Lambo.com>, which is confusingly similar to the registered LAMBORGHINI
3 mark and common law LAMBO mark, in February 2018.

4 19. Upon information and belief, Counterclaim-Defendant was aware of
5 Counterclaim-Plaintiff's ownership and use of the LAMBORGHINI and LAMBO marks
6 before it acquired the < Lambo.com> domain.

7 **COUNT I**

8 **Violation of Anticybersquatting Protection Act, 15 U.S.C. § 1125(d)**

9 20. Counterclaim-Plaintiff reasserts and realleges the allegations in the
10 foregoing paragraphs as if fully set forth herein.

11 21. On information and belief, Counterclaim-Defendant acquired the domain
12 name <Lambo.com> which was registered in 2000, after the registration of
13 Counterclaim-Plaintiff's LAMBORGHINI trademark and after LAMBO had been
14 established as a common law trademark.

15 22. On information and belief, Counterclaim-Defendant had and continues to
16 have a bad faith intent to profit from the registration and use of the domain name
17 <Lambo.com> by creating an association with Counterclaim-Plaintiff's LAMBORGHINI
18 trademark as to source and sponsorship.

19 23. Mr. Blair is offering the domain name publicly for direct sale of
20 \$75,000,000.00 or for lease to own at \$1,625,000.00 a month. *See* Exhibit. 1. These
21 prices far exceed the reasonable out-of-pocket costs for registering the disputed domain
22 name.

23 24. The <Lambo.com> domain name is confusingly similar to and dilutes the
24 distinctiveness of Counterclaim-Plaintiff's federally registered LAMBORGHINI mark
25 and LAMBO common law trademark.

26 25. Counterclaim-Defendant's unlawful use of the <Lambo.com> domain has
27 caused and continues to cause damage, the infliction of which has caused and will
28 continue to cause Counterclaim-Plaintiff to suffer irreparable harm.

CERTIFICATE OF SERVICE

This is to certify that on July 28, 2023, a true and correct copy of the foregoing was filed electronically using the Clerk of Court’s CM/ECF system, which will provide notice to all counsel of record.

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