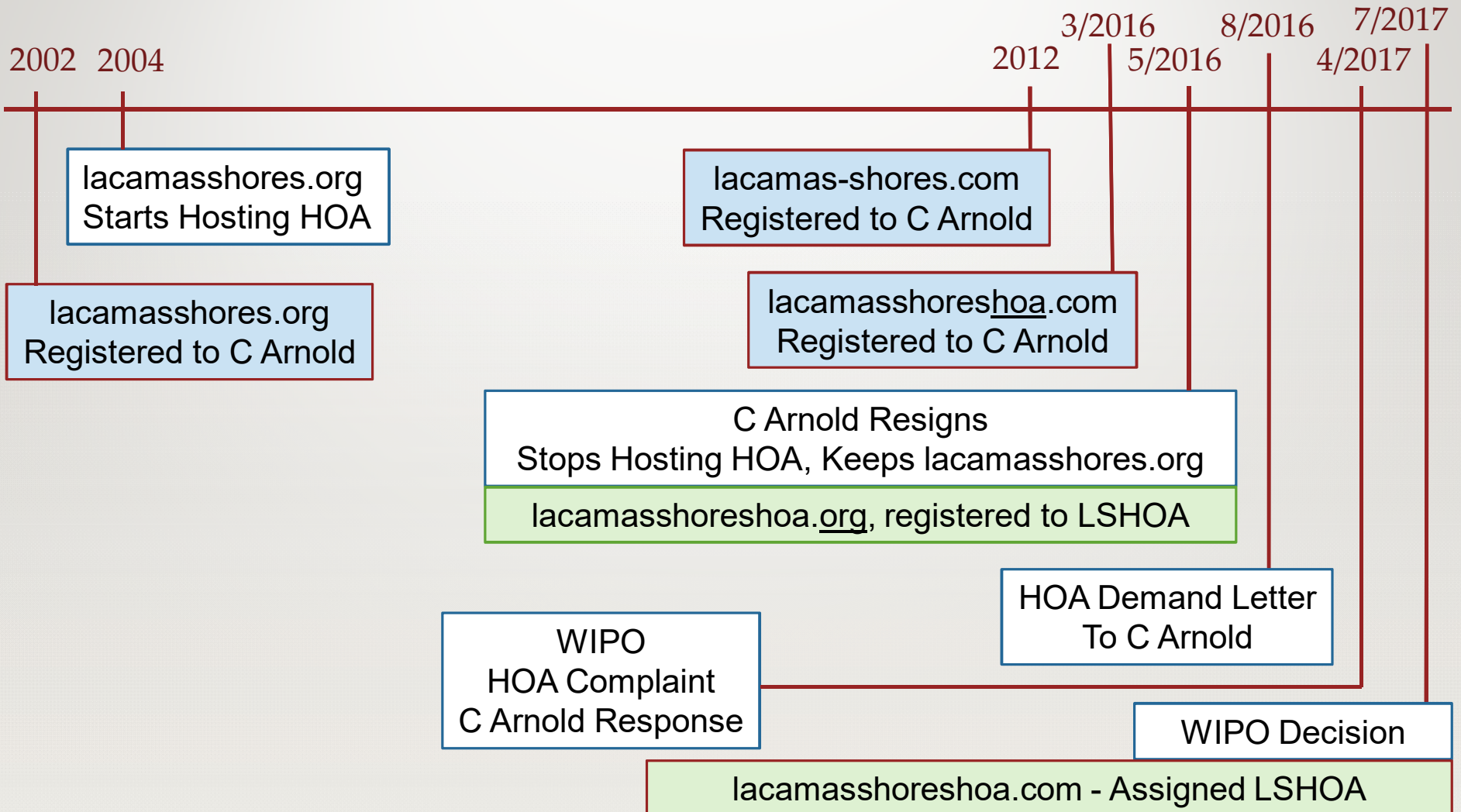


Lacamas Shores HOA Domain Dispute Board of Directors Discussion

Presented by Mark Guthrie

7/24/17

Time Line of Events



The WIPO

World Intellectual Property Organization

- Part of the United Nations
- Mission is to lead a balanced International Intellectual Property System
- Provide Policy and Services to protect Intellectual Property and Resolve Disputes
- They handle over 3,000 disputes per year
- Simplified dispute resolution process
 - No Attorneys required
 - Simple process of 1 complaint, 1 response, and a ruling
 - One low fee for a single binding arbitrator's decision (\$1,500)
- Do not rule on contractual disputes – only IP rights, which enable people to benefit from their creations/efforts and protect the public from confusion

The Dispute

- The Board of the HOA felt the domain names were the rightful property of the Association.
- C Arnold felt the domain names were her personal rightful property.
- The Board requested in April of 2016 to obtain Association ownership of the domains.
- C Arnold disagreed with the Board and retained administrative control of the domains.
- The Board pursued the Association's ownership rights via a complaint with the WIPO via the Uniform Dispute Resolution Process.

WIPO Ruling lacamasshoreshoa.com

The WIPO ruled in favor of the Association

- The Association has common law trademark rights in the name Lacamas Shores Homeowners Association
- C Arnold did not demonstrate any rights or legitimate interest in this domain
- “Respondent’s (C Arnold) conduct with respect to this Domain Name smacks of the kind of lack of legitimate interest that constitutes abusive cybersquatting.” (pg6, 6.14)
- “The Panel finds that the lacamasshoreshoa.com was registered and used in bad faith, in violation of paragraph 4(a)(iii) of the Policy.” (pg7 6.24)
- As a result, the domain name ownership was administratively removed from C Arnold and assigned to the Association

Results of the WIPO Ruling lacamasshores.org & lacamas-shores.com

The WIPO ruled in favor of C Arnold

- “Although it is a close question” lacamasshores and lacamas-shores is not distinct enough in description to the HOA to rule like it did on lacamasshoreshoa.com
- While the names are confusingly similar to a trademark in which the Association has rights, the Respondent is not acting in bad faith in the use of the domains.

Results of the WIPO Ruling lacamasshores.org & lacamas-shores.com

The WIPO also state that they do not rule on any contractual claims to domains and leave that to the court system:

“Any contention by the Complainant that the Respondent is obligated by some agreement to transfer Domain Names to the HOA (such as because the HOA Paid for the Domain Name registrations through 2022) is a contractual issue that is beyond the scope of the proceeding. If the parties have a contractual dispute, they could present that to a court for resolution”

Results of the WIPO Ruling lacamasshores.org & lacamas-shores.com

They also state regarding the website

“Although the disclaimer could be clearer (in noting that these are no longer the official HOA websites, and providing a link to the HOA’s new website) and more prominent (preferably at the top of the webpage instead of at the bottom), it appears clear from the overall content of the websites (which include some posts that are critical of the HOA) that these are not the official websites of the HOA.”

What Does Domain Confusion Cost?

- Association Budget
 - Since the Association was forced to launch a new website in 2016, over \$1,500 has been spent buying a new domain, launching the site, advertising, and trying to get ranked in the search results.
 - The Association will continue to spend money hosting, advertising, and working to place high in the search results so our members can find the official HOA website www.lacamasshoreshoa.org.
- Association Confusion
 - Members, realtors, and other members of the community continue to send emails, forms, complaints, and requests to the wrong website email addresses. This creates delays in the HOA's ability to respond, frustrates members, and creates unnecessary confusion.

Possible Next Steps

If the Board feels it is obligated by its fiduciary duties to pursue financial damages to the Association caused by the cost of having to create, launch and promote a new 'official HOA' website and may wish to consider seeking damages in civil litigation.

Also, if the Board feels that continuing confusion exist with lost emails and confused members seeking official HOA information, it may wish to consider seeking domain ownership via civil litigation.