

ADMINISTRATIVE PANEL DECISION

Magpul Industries Corp. v. Jeremiah Fender, Central Service Inc
Case No. D2022-4288

1. The Parties

Complainant is Magpul Industries Corp., United States of America (“United States”), represented by Sideman & Bancroft LLP, United States.

Respondent is Jeremiah Fender, Central Service Inc, United America.

2. The Domain Name and Registrar

The disputed domain name <magpuls.com> is registered with Hostinger, UAB (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 10, 2022. On November 11, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 14, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Domain Admin, Privacy Protect, LLC) and contact information in the Complaint. The Center sent an email communication to Complainant on November 14, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on November 16, 2022.

The Center verified that the 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 Respondent of the Complaint, and the proceedings commenced on November 17, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 7, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on December 8, 2022.

The Center appointed Clark W. Lackert as the sole panelist in this matter on December 9, 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

Complainant was founded over 20 years ago, and its business consists primarily of the design, manufacture, and sale of products that are used as accessories to firearms. Complainant has invested substantial effort and resources to develop and promote public recognition of the word “magpul”, the MAGPUL brand, and of the family of MAGPUL-related trademarks. Complainant’s products are sold through its website “www.magpul.com”, through authorized distributors, and/or through its own supply chain. Since the company’s inception in 1999, the MAGPUL trademark has been consistently used and prominently displayed on Complainant’s firearm accessory-related products, on the packaging for such products, and in the brand’s marketing and promotions.

Additionally, Complainant has registered its trademark MAGPUL in a number of countries including in the United States (Registration No. 3381306, registered February 12, 2008), Switzerland (Registration No. 651480, registered November 26, 2013), China (Registration No. 12973313, registered January 7, 2015), European Union Trade Mark (Registration No. 12003349, dated July 22, 2013), Japan (Registration No. 5657582, registered March 20, 2014), Russian Federation (Registration No. 592916, registered October 28, 2016), and in many others. Moreover, Complainant owns a number of domain names incorporating the trademark MAGPUL, including <magpul.com> registered on January 10, 1999, and others.

The disputed domain name was registered on October 20, 2022, long after the priority date of Complainant’s trademark rights in the term MAGPUL. According to Complainant, the disputed domain name has been used in relation to a fraudulent email scheme.

5. Parties’ Contentions

A. Complainant

The disputed domain name is confusingly similar to Complainant’s strong and well-known MAGPUL mark, and is a plural misspelling of Complainant’s <magpul.com> domain name and MAGPUL trademark. Complainant’s MAGPUL mark is clearly recognizable within the disputed domain name. The <magpuls.com> domain name merely inverts the second and third letters of Complainant’s MAGPUL mark and <magpul.com> domain name, and adds an “s” at the end of the word, which does not avoid the confusing similarity of the disputed domain name with Complainant’s MAGPUL mark. “A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element.” WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.9.

There is also no relationship between Complainant and Respondent, and Complainant has not licensed the MAGPUL mark to Respondent or authorized Respondent to register the disputed domain name or email domains. Respondent’s use, or lack thereof, of the disputed domain name further supports a finding that Respondent lacks rights and legitimate interest in the disputed domain name. Here, Respondent is neither using the disputed domain name for the *bona fide* offering of goods and services, nor making a legitimate non-commercial or fair use of the disputed domain name. “Where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name”. [WIPO Overview 3.0](#), section 2.1.

Respondent has also engaged in bad faith, importantly, by spoofing and typosquatting. “[B]ad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant’s mark.” [WIPO Overview 3.0](#), section 3.1. Here, Respondent likely registered the disputed domain name to specifically target Complainant and those trying to access Complainant’s “www.magpul.com” website. At the time Respondent registered the disputed domain name, Complainant

had been using the <magpul.com> domain name for over twenty years, and the MAGPUL mark is one of the world's most recognizable brands in firearms accessories and sports and outdoors equipment industries. Respondent then registered the disputed domain name that typo-squatted on Complainant's well-known MAGPUL mark and <magpul.com> domain name indicating that Respondent intends to capitalize on Complainant's MAGPUL mark and <magpul.com> domain name, and quite possibly to tarnish Complainant's MAGPUL mark. [WIPO Overview 3.0](#), section 3.2.1 (registering "a typo of a widely-known mark", "a clear absence of rights or legitimate interests coupled with no credible explanation for the respondent's choice of the domain name", and "other indicia generally suggesting that the respondent had somehow targeted the complainant" is evidence of bad faith).

Here, Respondent's use of Complainant's MAGPUL mark in the disputed domain name and email domains to spoof or impersonate Complainant and defraud third parties does not support any right or legitimate interest in the disputed domain name or email domains. Such conduct is deceptive and in previous UDRP decisions has been found to be evidence of registration and use in bad faith; see, e.g., *The Coca-Cola Company v. Marcus Steiner*, WIPO Case No. [D2012-1804](#).

On information and belief, Respondent has attempted a spoofing scheme using the names of actual Complainant employees, but with the email using the disputed domain name. On or around November 1, 2022, disguised as an employee of Complainant, Respondent sent an email to a third-party customer of Complainant advising the customer that Complainant has "updated the ACH information" (*i.e.*, "automated clearing house") which "will be required to confirm payment run date with [customer] and update our payment information". Despite the spoofed email containing the "@mapguls.com" element, Respondent sent a document to the customer that contained the proper spelling of the company and mark, MAGPUL, but presumably with fraudulent bank information that will be routed to Respondent. Use of this form of illegal scheme is clearly evidence of bad faith. [WIPO Overview 3.0](#), section 2.13.1.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

The Panel has reviewed the Complaint, all supporting evidence, and the proceeding history as set forth in the record. The Panel notes that no response has been filed in this proceeding and that the record supports a decision in Complainant's favor.

A. Identical or Confusingly Similar

The disputed domain name is clearly a typosquatted domain name, by inverting the letters "g" and "p" and adding a plural "s", and as such is confusingly similar to Complainant's trademark. "A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element." [WIPO Overview 3.0](#), section 1.9. This inversion of letters has been found to be typoquatting, see., e.g., *Marlink SA v. wire lord*, WIPO Case No. [D2020-2172](#) (finding confusing similarity where disputed domain name <marilnk.com> consisted of complainant's MARLINK mark but with the order of the letters "l" and "i" inverted); *Allstate Insurance Co. v. PrivacyProtect.org / Webs Services Pty, Aditya Roshni*, WIPO Case No. [D2011-0289](#) (finding <allstae.com> confusingly similar to Complainant's ALLSTATE mark).

The requirements of paragraph 4(a)(i) of the Policy have been satisfied.

B. Rights or Legitimate Interests

The *prima facie* case presented by Complainant shifts the burden of production to Respondent, and Respondent has not presented any arguments or evidence in its favor. Respondent has not submitted a reply to the Complaint, and there is no evidence to refute Complainant's allegations concerning this UDRP element.

The requirements of paragraph 4(a)(ii) of the Policy have been satisfied.

C. Registered and Used in Bad Faith

The reversal of the letters “g” and “p”, with a plural additive, in the disputed domain name is clearly an example of typosquatting, which many panels have found to be evidence of bad faith under UDRP Policy 4(b)(iv). See, e.g., *Admiral Group Plc and EUI Limited v. Compress Schweiz, Cimpres Schweiz GmbH*, WIPO Case No. [D2017-0043](#): “It is well settled that the practice of typosquatting constitutes an evidence of the bad faith registration of a domain name. See, *Longs Drug Stores California, Inc. v. Shep Dog*, [WIPO Case No. D2004-1069](#) (finding typosquatting to be evidence of bad faith domain name registration); *Lexar Media, Inc. v. Michael Huang*, [WIPO Case No. D2004-1039](#) (“Typosquatting has been held under the Policy to be evidence of bad faith registration of a domain name”); *Wal-Mart Stores, Inc. v. Longo*, [WIPO Case No. D2004-0816](#) (“[typosquatting] is presumptive of registration in bad faith”).

Apart from typosquatting, the illegal and fraudulent use of the disputed domain name for fraudulent emails to mislead Complainant's customers into believing that Respondent was sponsored by or connected with Complainant is evidence of bad faith use and registration. See, e.g., *Ropes & Gray LLP v. Onso Onso*, WIPO Case No. [D2019-0822](#) concerning the domain name <ropegrays.com>. As the panel stated therein: “Moreover, the use of the domain name to illegally spoof and phish existing clients of the Complainant into believing that they are authorized to receive funds on behalf of client is a violation of Policy, paragraph 4(b)(iv). *Caffitaly System S.p.A. v. WhoisGuard Protected, WhoisGuard, Inc. / Organization: Winsomgroup, Robert Hills*, [WIPO Case No. D2018-2804](#), and [WIPO Overview 3.0](#), Section 3.1.4. As the panel stated therein: “Complainant provided evidence that the disputed domain name <caffitaly.com> was used to create fraudulent email addresses, which were then used the very same day the disputed domain name was registered to commit fraud, in an attempt to have one of Complainant's clients transfer money into a foreign bank account. In accordance with section 3.1.4 of [WIPO Overview 3.0](#), the use of a domain name for fraudulent activities is considered evidence of bad faith.” This situation in this case is made worse in this case by Respondent using the names of actual employees of Complainant to fraudulently obtain bank information from Complainant's customers. Accordingly, the Panel finds that the disputed domain name has been registered and used in bad faith.

The requirements of paragraph 4(a)(iii) of the Policy have been satisfied.

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 disputed domain name <mapguls.com> be transferred to Complainant.

/Clark W. Lackert/

Clark W. Lackert

Sole Panelist

Date: December 22, 2022