

ADMINISTRATIVE PANEL DECISION

Magpul Industries Corp. v. 丽华 李
Case No. D2023-0350

1. The Parties

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

The Respondent is 丽华 李, China.

2. The Domain Name and Registrar

The disputed domain name <magpulstores.com> is registered with Name.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 25, 2023. On January 26, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 26, 2023, 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 (Li Hua Li) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 27, 2023 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 January 30, 2023.

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 January 31, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 20, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 21, 2023.

The Center appointed Rodrigo Azevedo as the sole panelist in this matter on February 22, 2023. 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 Magpul Industries Corp., the producer and distributor of firearms accessories under the brand MAGPUL, which was founded in 1999, in the United States.

The Complainant is the owner of numerous trademark registrations incorporating the term “Magpul”, in different jurisdictions of the world, including the United States Trademark Registration No. 3381306, registered on February 12, 2008.

The Complainant is also the owner of several domain names also incorporating the MAGPUL trademark, such as <magpul.com>, registered on January 10, 1999.

The Respondent registered the disputed domain name <magpulstores.com> on September 14, 2022.

The Panel accessed the disputed domain name on March 5, 2023, at which time the disputed domain name was pointing to a commercial website reproducing the Complainant’s MAGPUL trademark and logo to offer for sale products under such brand.

5. Parties’ Contentions

A. Complainant

The Complainant makes the following contentions:

(i) The disputed domain name is identical or confusingly similar to the Complainant’s trademark. “Magpul” is a coined term taken from one of the company’s first products, the “MagPul” or a magazine puller. The Complainant is the exclusive owner of a global portfolio of trademarks, used worldwide in connection with the MAGPUL brand. The Complainant has developed a strong reputation within the industry and among members of the consuming public as a leading manufacturer of firearm-related products and accessories and lifestyle products. MAGPUL’s products are sold through the Complainant’s official website at “www.magpul.com”, through authorized distributors, and/or through the Complainant’s own supply chain. Also, the Complainant owns a number of domain names that incorporate the MAGPUL trademark, many of which were registered years prior to the date in which the Respondent has registered the disputed domain name. The Complainant’s MAGPUL mark is clearly recognizable within the disputed domain name. Apart from the generic Top-Level Domain (“gTLD”) suffix “.com”, the disputed domain name merely takes the “MAGPUL + generic word(s)” model. The word - in this case, “stores” - added after MAGPUL is related to the Complainant’s retail business. It is established by numerous decisions made under the Policy that adding words that are related to a complainant’s business is likely to lead the Panel to find a confusing similarity between the disputed domain name and the complainant’s trademark.

(ii) The Respondent has no rights or legitimate interests in 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. The Respondent is not commonly known as “Magpul” and therefore does not have rights or legitimate interests in the disputed domain name on that basis. There is also no relationship between the Complainant and the Respondent, and the Complainant has not licensed the MAGPUL mark to the Respondent or authorized the Respondent to register the disputed domain name. The Respondent’s use of the disputed domain name further supports a finding that the Respondent lacks rights and legitimate interests in the disputed domain name. Here, the Respondent is marketing unauthorized MAGPUL products to customers via the Internet, reproducing the MAGPUL trademarks. Registration and use of the disputed domain name to advertise/offer unauthorized and/or suspected counterfeit products, such as firearm accessories, t-shirts, hats, sunglasses or other accessories, does not constitute a *bona fide* offering of goods or services nor a legitimate noncommercial or fair use under the UDRP, and alone constitutes sufficient grounds to find that the Respondent has no rights or legitimate

interests in the disputed domain name. Moreover, the advertising and offering of unauthorized and/or suspected counterfeit products under the Complainant's trademarks unfairly competes with the Complainant and creates confusion in the marketplace. There can be no rights or legitimate interests in the sale of unauthorized and/or suspected counterfeit products. Irrespective of whether the products at the disputed domain name are counterfeit or not, the composition of the disputed domain name carries a risk of implied affiliation with the Complainant.

(iii) The Respondent registered and is using the disputed domain name in bad faith. Bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark. The Respondent appears to have registered the disputed domain name to specifically target the Complainant and those trying to access the Complainant's official website. At the time the Respondent registered the disputed domain name, the Complainant had been using its official domain name <magpul.com> and the MAGPUL trademark for over twenty years. Such use by the Complainant resulted in MAGPUL mark becoming one of the world's most recognizable brands in firearms accessories and sports and outdoors equipment industries. Moreover, the Respondent is making malicious use of the disputed domain name by taking advantage of customers who are looking to purchase authentic MAGPUL products. The Complainant has received a report of a victim finding the Respondent's website through a search engine web search, viewing products they believe are authentic, and ordering such products, but receiving no product from the Respondent. Also, the contact details for the Respondent informed at the website linked to the disputed domain name appear to be incorrect. Evidence of bad faith registration can be shown by the Respondent's provision of false contact information. The only conclusion that can be drawn from the facts at hand is that the Respondent has constructed an elaborate fraud scheme that has resulted in at least one known victim, and likely many others. At minimum, the facts stated herein cast doubt on whether the Respondent's website is even operated as an actual ecommerce site or is a pretense for some other type of fraudulent activity trading off the Complainant's reputation and goodwill.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that in order to be entitled to a transfer of the disputed domain name, the Complainant shall prove the following three elements:

- (i) The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) The Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) The disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

Annex 4 to the Complaint shows registrations for MAGPUL trademark owned by the Complainant in different jurisdictions of the world since at least 2008.

The trademark MAGPUL is wholly encompassed within the disputed domain name.

The disputed domain name differs from the Complainant's trademark basically by the addition of the suffix "stores".

Previous UDRP decisions have found that the addition of other terms to the trademark (such as "stores") does not avoid a finding of confusing similarity. This has been held in many UDRP cases

(see, e.g., *Inter-IKEA Systems B.V. v. Evezon Co. Ltd.*, WIPO Case No. [D2000-0437](#); *The British Broadcasting Corporation v. Jaime Renteria*, WIPO Case No. [D2000-0050](#); *Volvo Trademark Holding AB v. SC-RAD Inc.*, WIPO Case No. [D2003-0601](#); *Wal-Mart Stores, Inc. v. Lars Stork*, WIPO Case No. [D2000-0628](#); *America Online, Inc. v. Dolphin@Heart*, WIPO Case No. [D2000-0713](#); *AltaVista Company v. S. M. A., Inc.*, WIPO Case No. [D2000-0927](#)).

It is also already well established that the addition of a generic Top-Level Domain (“gTLD”) extension such as “.com” is irrelevant when determining whether a domain name is confusingly similar to a complainant’s trademark.

As a result, the Panel finds the disputed domain name to be confusingly similar to the Complainant’s trademark.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides some examples without limitation of how a respondent can demonstrate a right or legitimate interest in a domain name:

- (i) Before receiving any notice of the dispute, the respondent used or made demonstrable preparations to use the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) The respondent has been commonly known by the domain name; or
- (iii) The respondent is making a legitimate noncommercial or fair use of the domain name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark at issue.

Based on the Respondent’s default and on the *prima facie* evidence in the Complaint, the Panel finds that the above circumstances are not present in this particular case and that the Respondent has no rights or legitimate interests in the disputed domain name.

The Complainant has not licensed nor authorized the use of its trademark to the Respondent, and the Panel finds no indication that the Respondent is commonly known by the disputed domain name.

The Respondent has not indicated any reason to justify why he has chosen such trademark to compose the disputed domain name together with the term “stores”, and pointing to a website entitled “Magpul”, reproducing the Complainant’s brand design and offering for sale products bearing the Complainant’s MAGPUL trademark without authorization.

Therefore, the use of the Complainant’s trademark in the context of the disputed domain name cannot qualify as a *bona fide* offering of services.

Consequently, the Panel is satisfied that the Complainant has proven the second element of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy states that the following circumstances in particular, but without limitation, shall be evidence of registration and use of a domain name in bad faith:

- (i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of documented out-of-pocket costs directly related to the domain name; or

- (ii) The respondent registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) The respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website or location or of a product or service on its website or location.

When the disputed domain name was registered by the Respondent in 2022, the trademark MAGPUL was already directly connected to the Complainant's firearms accessories.

The disputed domain name encompasses the previously registered trademark MAGPUL.

According to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 3.1.4, UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a widely known trademark by an unaffiliated entity can by itself create a presumption of bad faith.

Actually, the Panel considers that in the present case the addition to the Complainant's trademark of the term "stores" may even enhance the risk of confusion, suggesting that the disputed domain name refers to official online retail of the Complainant.

This circumstance is emphasized by the fact that the website linked to the disputed domain name is entitled "Magpul" and presents reproductions of the Complainant's trademark and logo, offering for sale goods under the MAGPUL brand without authorization.

Also, the Complainant brought evidence that products sold at the website linked to the disputed domain name were not being delivered by the Respondent, which is another evidence of bad faith use of the disputed domain name, possibly to perform consumer frauds.

Accordingly, the Panel finds that the disputed domain name was registered and is being used in bad faith, and the Complainant has also satisfied the third element of the Policy.

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 <magpulstores.com> be transferred to the Complainant.

/Rodrigo Azevedo/

Rodrigo Azevedo

Sole Panelist

Date: March 9, 2023