

## **ADMINISTRATIVE PANEL DECISION**

Nammo Lapua Oy v. Lucas Harper, aretesteroids  
Case No. D2023-1629

### **1. The Parties**

The Complainant is Nammo Lapua Oy, Finland, represented by Heinonen & Co., Attorneys-at-Law Ltd., Finland.

The Respondent is Lucas Harper, aretesteroids, United States of America.

### **2. The Domain Name and Registrar**

The disputed domain name <lapua-ammunitionsusa.com> is registered with NameSilo, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 14, 2023. On April 14, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 14, 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 (Domain Administrator, PrivacyGuardian.org llc) and contact information in the Complaint. The Center sent an email communication to the Complainant on the same day, 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 April 18, 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 April 19, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 9, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 10, 2023.

The Center appointed Fabrizio Bedarida as the sole panelist in this matter on May 12, 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 in this proceeding is Nammo Lapua Oy, a private limited company incorporated under the laws of Finland. This company was established in 1923 and is a leading manufacturer of premium small-caliber ammunition. It is part of the Nammo Group, one of the world's largest suppliers of ammunition and rocket motors.

The Complainant further affirms that the LAPUA trademarks have become well known and reputed globally in relation to ammunition and related goods.

The Complainant is, *inter alia*, the owner of:

- United States trademark LAPUA (word) registration number 2043495, registered on May 11, 1997;
- United States trademark L LAPUA (device) registration number 3841569, registered on August 31, 2010;
  
- Canadian trademark LAPUA (word) registration number TMA772024, registered on July 15, 2010;
- Canadian trademark L LAPUA (device) registration number TMA772205, registered on July 16, 2010;
  
- European Union trademark L LAPUA (device) registration number 002295715, registered on October 7, 2002;
- European Union trademark L LAPUA (device) registration number 018586476, registered on February 17, 2022.

The disputed domain name was registered on October 15, 2022.

The disputed domain name, at the time the Complaint was filed, resolved to an active website where the content displayed showed the Complainant's trademarks as well as purported LAPUA-branded goods.

#### 5. Parties' Contentions

##### A. Complainant

The Complainant claims that:

- (a) the disputed domain name is confusingly similar to the Complainant's trademarks;
- (b) the Respondent lacks any rights or legitimate interests in the disputed domain name; and
- (c) the Respondent has registered and is using the disputed domain name in bad faith.

##### B. Respondent

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

#### 6. Discussion and Findings

In order for the Complainant to obtain a transfer of the disputed domain name, paragraphs 4(a)(i) – (iii) of the Policy require that the Complainant must demonstrate to the Panel that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (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

The Complainant has established rights in the LAPUA (word) and L LAPUA (device) trademarks. The disputed domain name contains the Complainant's LAPUA trademark, with the addition of a hyphen, as well as the terms "ammunitions", "usa" and the generic Top-Level Domain ("gTLD") ".com". The addition of these elements in the disputed domain name does not prevent the LAPUA trademark from being recognizable in the disputed domain name.

Pursuant to section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") which states: "Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. The nature of such additional term(s) may however bear on assessment of the second and third elements." Section 1.11 of the [WIPO Overview 3.0](#) further states: the gTLD "is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test".

Therefore, the Panel finds the disputed domain name to be confusingly similar to the LAPUA trademark in which the Complainant has rights.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

## B. Rights or Legitimate Interests

This Panel finds that the Complainant has made a *prima facie* case that the Respondent does not have rights or legitimate interests in the disputed domain name.

The Respondent has no connection or affiliation with the Complainant and the Complainant has not licensed or otherwise authorized the Respondent to use or register any domain name incorporating the Complainant's trademark.

The Respondent does not appear to engage in any legitimate noncommercial or fair use of the disputed domain name, nor any use in connection with a *bona fide* offering of goods or services.

Indeed, it appears that the Respondent has attempted to usurp the Complainant's goodwill in the trademark, in an attempt to confuse and deceive Internet users into doing business with the Respondent. The nature of the goods offered at the website to which the disputed domain name resolves is unclear (*i.e.*, whether genuine LAPUA-branded products or not) and whether or not there are actual goods available for sale. However, distributors or resellers can be making a *bona fide* offering of goods and thus have a right or legitimate interest in a domain name only if the following cumulative requirements are met (*Ok! Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#); [WIPO Overview 3.0](#), section 2.8.1: (i) respondent must actually be offering the goods at issue; (ii) respondent must use the site to sell only the trademarked goods; (iii) the site must accurately and prominently disclose the registrant's relationship with the trademark holder; and (iv) respondent must not try to "corner the market" in domain names that reflect the trademark.)

These requirements are not fulfilled in the present case because the disputed domain name falsely suggests the website to be an official site of the Complainant or of an entity affiliated to or endorsed by the Complainant by reproducing, without authorization by the Complainant, the Complainant's trademarks without any disclaimer of lack of association with the Complainant.

In addition, the Respondent does not appear to be commonly known by the disputed domain name or by a similar name. Moreover, the Respondent has not replied to the Complainant's contentions, claiming any rights or legitimate interests in the disputed domain name.

Moreover, the nature of the disputed domain name is inherently misleading as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. See section 2.5.1 of the [WIPO Overview 3.0](#).

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

### **C. Registered and Used in Bad Faith**

Based on the evidence put forward by the Complainant, the Panel is of the opinion that the Respondent was aware of the Complainant's trademark registrations and rights to the LAPUA trademark when it registered the disputed domain name.

The Complainant's LAPUA trademark has been registered and used for many years. The disputed domain name has been used for a website where the content displayed showed the Complainant's logo trademark, purportedly offering for sale LAPUA-branded goods, as well as images and product descriptions of the Complainant's products, all taken from the official website of the Complainant's retail partner without the authorization or approval of the Complainant.

In addition, the Complainant has shown that the disputed domain name is the third domain name containing the word LAPUA that the Respondent has registered.

Consequently, it is clear that the Respondent registered the disputed domain name with the Complainant's trademark and activity in mind, and did so with the intention to attract, for commercial gain, Internet users to its own website by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of either the Respondent and/or its website, so as to trick those users into doing business with the Respondent. This constitutes bad faith registration and use under the Policy as well as a disruption of the Complainant's business. Inference of bad faith can also be found in the failure to respond to the Complainant's contentions, and the Respondent's lack of any rights or legitimate interests in the disputed domain name.

Finally, this same Respondent has been engaged in a pattern of trademark-abusive domain name registration; see UDRP cases *Nammo Lapua Oy v. Lucas Harper*, WIPO Case No. [D2022-4369](#), *Ammunition Operations LLC v. Lucas Harper, aretesterooids*, WIPO Case No. [D2022-2171](#), and *FN HERSTAL v. Lucas Harper, aretesterooids / Charls Carl, palais de lux / AMAH ENGOH, CEO / Nkemzi Nobatel / Lucas Harper, CEO / Poliano Agbor, 420 weed / Nathan Manton*, WIPO Case No. [D2022-3471](#), where the UDRP panelists have ordered the disputed domain names to be transferred to the complainants.

Accordingly, the Panel finds, on the basis of the evidence presented, that the Respondent registered and is using the disputed domain name in bad faith.

Therefore, the Complainant has satisfied paragraph 4(a)(iii) 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, <lapua-ammunitionsusa.com>, be transferred to the Complainant.

*/Fabrizio Bedarida/*

**Fabrizio Bedarida**

Sole Panelist

Date: May 15, 2023