

## **ADMINISTRATIVE PANEL DECISION**

Magpul Industries Corp. v. Putu Hamsa  
Case No. D2023-2007

### **1. The Parties**

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

The Respondent is Putu Hamsa, Indonesia.

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

The disputed domain name <magpuls.com> is registered with DropCatch.com LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 4, 2023. On May 5, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

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 the Respondent of the Complaint, and the proceedings commenced on May 8, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 28, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 30, 2023.

The Center appointed Dr. Clive N.A. Trotman as the sole panelist in this matter on June 2, 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, founded in 1999, is in the business of the design, manufacture and sale of firearm accessories. The Complainant's name and trademark derive from its first innovation, which was an accessory designed to aid in the pulling of a particular type of ammunition magazine from its pouch.

The Complainant has produced a list of its trademarks registered worldwide for MAGPUL, either standing alone or in combination. The list runs to 43 pages with typically 5-10 per page. Examples are:

MAGPUL, Indonesian trademark number 1631549, registered on October 13, 2022, in classes 18, 20 and 21;

MAGPUL, United States Patent and Trademark Office (USPTO) trademark number 4645326, registered on November 25, 2014, in classes 9, 13 and 25;

MAGPUL, design, USPTO trademark number 2338725, registered on April 4, 2000, in class 13;

MAGPUL, European Union trademark number 12003349, registered on January 7, 2014, in classes 9, 13, 16, 25 and 28.

The Complainant has also owned the domain name <magpul.com> since January 10, 1999, and owns some 52 other domain names incorporating "magpul" alone or in combination.

The Respondent has not provided any background information. According to the Complainant, the Respondent was found to own 223 assorted domain names at the time of search, 12 of which were alleged to relate to well-known brands or trademarks.

The disputed domain name was registered in the name of the Respondent on January 17, 2023, and has recently resolved to a Trustpilot parking page where it was offered for sale at USD 500.

#### 5. Parties' Contentions

##### A. Complainant

The Complainant has submitted a list of some hundreds of trademarks it has registered worldwide showing the dates of filing and registration, the registration numbers and applicable classes of goods or services.

The Complainant says the disputed domain name is confusingly similar to the Complainant's trademark MAGPUL except only that the additional letter "s" has been appended, in the nature of a plural. The entirety of the Complainant's trademark is clearly recognisable within the disputed domain name and the additional letter "s" does not detract from the confusing similarity of the disputed domain name to the Complainant's trademark. The accidental addition of a letter "s" is a common typographical mistake made on the Internet and the Respondent consequently is typo-squatting.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant says the Respondent is not commonly known as "Magpuls". There is no relationship between the Complainant and the Respondent, who has not been authorised by the Complainant to register the disputed domain name. The Respondent is not actively using the disputed domain name except to offer it for sale for USD 500 and therefore it is not in use for a *bona fide* offering of goods or services or for any legitimate non-commercial or fair purpose.

The Complainant says that having made out a *prima facie* case to the effect that the Respondent has no rights or legitimate interests in the disputed domain name, the onus is conventionally upon the Respondent to demonstrate that it does have any such rights or legitimate interests.

The Complainant further contends that the disputed domain name was registered and is being used in bad faith.

The Complainant says it had been using the trademark MAGPUL for over 23 years before the registration of the disputed domain name. The trademark is a coined term and the Respondent is likely to have known about it at the time of registration of the disputed domain name. The Complainant references paragraphs 4(b)(i) and 4(b)(iv) of the Policy as grounds for the Complaint and says that further evidence of bad faith is that the Respondent had actual or imputed knowledge of the Complainant's extensively used trademark; the Respondent has a history of the registration of domain names incorporating famous third-party trademarks; and there has been no legitimate commercial use of the disputed domain name.

The Complainant has cited a number of previous decisions under the Policy that it considers to be relevant.

The Complainant requests the transfer of the disputed domain name.

## **B. Respondent**

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

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy states that the Respondent is required to submit to a mandatory administrative proceeding in the event that the Complainant asserts to the applicable dispute resolution provider, in compliance with the Rules, that:

“(i) your domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and

(ii) you have no rights or legitimate interests in respect of the domain name; and

(iii) your domain name has been registered and is being used in bad faith.”

The Complainant has made the relevant assertions as required by the Policy. The dispute is properly within the scope of the Policy and the Panel has jurisdiction to decide the dispute.

### **A. Identical or Confusingly Similar**

The Complainant has provided a list of its trademarks registered world-wide running to some 43 pages, which are not contested by the Respondent. The Complainant did not however provide any evidence in the form of a copy of the registration document for at least one significant trademark.

Section 4.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)) summarises the consensus interpretation of paragraphs 10 and 12 of the Rules as meaning that the Panel may undertake limited factual research into matters of public record, including specifically trademark registration databases. In the interests of expediency (Rules, paragraph 10(c)), the Panel has verified the Complainant's ownership of the USPTO trademark number 4645326 listed above, which was registered on November 25, 2014.

The disputed domain name <magpuls.com> comprises the Complainant's trademark, suffixed with the letter “s”. The generic Top-Level Domain “.com” may be disregarded in the determination of confusing similarity. The entirety of the Complainant's trademark is reproduced in the disputed domain name. The Panel does not find the additional letter “s” to prevent a finding of confusing similarity as the Complainant's trademark is clearly recognizable in the disputed domain name. The Panel finds for the Complainant under paragraph 4(a)(i) of the Policy.

## **B. Rights or Legitimate Interests**

The Complainant has stated that it has not had any relationship with the Respondent. The Complainant has found no evidence that the Respondent has made any active use of the disputed domain name, which solely has been offered for sale for USD 500 on a Trustpilot parking page and has not been used for a *bona fide* offering of goods or services or for any other legitimate purpose within the meaning of the Policy. The Complainant has made out a *prima facie* case that the Respondent does not have rights or legitimate interests in the disputed domain name.

Paragraph 4(c) of the Policy provides for the Respondent to contest the Complainant's *prima facie* case under paragraph 4(a)(ii) of the Policy and to establish rights or legitimate interests in a disputed domain name by demonstrating, without limitation:

“(i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or

(ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or

(iii) you are 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 or service mark at issue.”

The Respondent has not made any submission under paragraph 4(c) of the Policy or sought to show that the disputed domain name is in *bona fide* use for an offering of goods or services, or for any fair or noncommercial purpose, or that the Respondent has been commonly known by the disputed domain name. The registration of a domain name with the sole objective of profitable sale is not necessarily illegitimate in itself. The Respondent has, however, registered the disputed domain name comprising an invented, non-dictionary and to that extent distinctive word, first trademarked by the Complainant 23 years ago and widely trademarked internationally, with the minor typographical variation of a suffixed letter “s”. The Respondent has not offered any explanation or suggested for instance that the disputed domain name was created randomly. The Respondent should in any case have conducted a reasonable search that may easily have revealed the existence of the Complainant's trademark.

The Panel finds that the Respondent does not have rights or legitimate interests in the disputed domain name and finds for the Complainant under paragraph 4(a)(ii) of the Policy.

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

The Complainant is required to prove under paragraph 4(a)(iii) of the Policy that the disputed domain name has been registered and is being used in bad faith. Paragraph 4(b) of the Policy lists four alternative circumstances that shall be evidence of the registration and use of a domain name in bad faith by a respondent, namely:

“(i) circumstances indicating that you have registered or you have 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 your documented out-of-pocket costs directly related to the domain name; or

(ii) you have 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 you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location."

The provisions of paragraph 4(b) of the Policy are without limitation and bad faith may be found alternatively by the Panel. The Complaint has been submitted with particular reference to paragraphs 4(b)(i) and 4(b)(iv) of the Policy and also under the general provisions of paragraph 4(b) of the Policy.

A screen capture shows that the website to which the disputed domain name has recently resolved is a Trustpilot page, that proclaims prominently "The domain name Magpuls.com is for sale!" followed by "Buy this domain" and "USD \$500". Checkout and payment facilities are provided. The website confirms the seller to be the Respondent by name, accompanied by his photograph. Thus the disputed domain name is offered for sale by the Respondent with a firm asking price.

There is no evidence the disputed domain name has been used for any other purpose since its relatively recent registration on January 17, 2023, than to be offered for sale, and the Respondent has offered no alternative explanation. Evidence has been produced by the Complainant in the form of a Reverse Whois Lookup that shows the Respondent to be the owner of 223 domain names in his own name, at least 12 of which incorporate the brands or trademarks of others. On the evidence and on the balance of probabilities the disputed domain name, in which the Respondent has been found to have no rights or legitimate interests, has been registered and used primarily with the intention of sale at a price likely in excess of registration costs, to the Complainant or to a competitor of the Complainant, which need not mean a recognised direct business competitor (see for example *Mission KwaSizabantu v. Benjamin Rost*, WIPO Case No. [D2000-0279](#)). The Panel cannot conceive of any potential use of the disputed domain name that would not conflict with the Complainant's rights in its trademark. The disputed domain name is found to have been registered and used in bad faith.

On the totality of the evidence and on the balance of probabilities the Panel finds the disputed domain name to have been registered and used in bad faith in the terms of 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, <magpuls.com>, be transferred to the Complainant.

*/Dr. Clive N.A. Trotman/*

**Dr. Clive N.A. Trotman**

Sole Panelist

Date: June 13, 2023