

## ADMINISTRATIVE PANEL DECISION

100 Thieves, Inc. v. Aarnav Paul, Sima La, Resali li, Kent  
Case No. D2023-3449

### 1. The Parties

The Complainant is 100 Thieves, Inc., United States of America (“United States”), represented by Pillsbury Winthrop Shaw Pittman LLP, United States.

The Respondents are Aarnav Pau, India; Sima La, United States; and, Resali li, Kent, United States.

### 2. The Domain Names and Registrars

The disputed domain names <100thieus.shop> and <100thievesmerch.net> are registered with NameCheap, Inc (the “First Registrar”). The disputed domain name <100thievesmerch.shop> is registered with GoDaddy.com, LLC (the “Second Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 12, 2023. On August 14, 2023, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On August 14 and 15, 2023, the Registrars transmitted by email to the Center its verification response, disclosing registrants and contact information for the disputed domain names which differed from the named Respondents (*Redacted for Privacy*, Sima La, Registration Private, Domains By Proxy, LLC) and contact information in the Complaint.

The Center sent an email communication to the Complainant on August 16, 2023, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrars, requesting the Complainant to either file separate complaints for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity. The Complainant filed an amended Complaint on August 17, 2023.

On August 16, 2023, the Respondent Aarnav Paul sent an informal email communication to the Center.

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 Respondents of the Complaint, and the proceedings commenced on August 21, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 10, 2023. On September 7 and 8, 2023, the Respondent Aarnav Paul sent two more informal emails communication to the Center. On September 14, 2023, the Center informed the Parties that it would proceed to panel appointment.

The Center appointed John Swinson as the sole panelist in this matter on September 27, 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 a corporation headquartered in the United States.

According to the Complainant’s website located at the domain name <100thieves.com>, the Complainant sells apparel. The Complainant’s website states that “100 THIEVES IS THE PREMIUM LIFESTYLE BRAND FOR THE GAMING GENERATION.”

The Complainant owns numerous trademark registrations, including United States Registration No. 5,689,916 for 100 THIEVES with a filing date of July 6, 2018 and a registration date of March 5, 2019. The Complaint did not identify any trademark registrations owned by the Complainant in India.

According to Registrar records, the owner of disputed domain name <100thieus.shop> is Sima La of Oregon, United States. This disputed domain name was registered on April 6, 2023.

According to Registrar records, the owner of disputed domain name <100thievesmerch.net> is Aarnav Paul of India. This disputed domain name was registered on May 26, 2022.

According to Registrar records, the owner of disputed domain name <100thievesmerch.shop> is Resali li, from an organisation named “Kent”, of New York, United States. This disputed domain name was registered on April 8, 2022.

Beyond informal communications received from the Respondent Aarnav Paul, no formal response was filed.

The disputed domain name <100thieus.shop> resolves to a website titled “Sale” with the meta-words “Cheap Headwear, Outerwear Hot Sale, Bottoms Discount” and a meta-description “High quality 100 Thieves-inspired gifts and merchandise. T-shirts, posters, stickers, home decor, and more, designed and sold by independent artists around ...” The website is an online store that sells apparel including hoodies and jerseys titled “100 Thieves” and “LA Thieves”. The “contact us” section of the website has an address in Horseshoe Lane, Philadelphia, United States, and an email address at the domain name <zhenpinservice.com>. The “terms and conditions” page presents an error message.

At the present time, the disputed domain names <100thievesmerch.net> and <100thievesmerch.shop> do not resolve to an active website.

As set out in the Exhibits to the Complainant, on August 19, 2023, the disputed domain name <100thievesmerch.shop> resolved to a website titled “100 Thieves” that used the Complainant’s 100 Thieves logo. This website gave the impression that it was a website operated by the Complainant.

The Exhibits to the Complainant also included extracts from the Internet Archive (from an unknown date) and from Google's cache (from June 25, 2023) for a website at <100thievesmerch.net>. Although these extracts are unclear and are not explained in the Complainant, they appear to show that this website gave the false impression as being the Complainant's website.

On August 16, 2023, the Respondent Aarnav Paul sent an email indicating that only the disputed domain name <100thievesmerch.net> belonged to him. While the email signature indicated the sender's name as, "Paul Rock", the email address used was as confirmed by the Registrar for the Respondent for the disputed domain name <100thievesmerch.net>, namely, Aarnav Paul. On September 7, 2023, the Center received another email from "Paul Rock" at the email address associated with <100thievesmerch.net> stating "All content has been deleted from hosting and I'll never upload any content in this domain. Remember that (100thieus.shop, 100thievesmerch.shop) these are not my domain." A follow-up email was sent the next day stating "I already said this is not my domain. It (<100thievesmerch.net>/) was my domain. I already deleted it from the hosting."

## **5. Parties' Contentions**

### **A. Complainant**

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

Notably, the Complainant contends that the Respondent registered the disputed domain names with the purpose of selling knock-offs of the Complainant's goods. The Respondent is not an authorized retailer or wholesaler of the Complainant's goods. Additionally, the Respondent registered the disputed domain names including or consisting of the 100 THIEVES trademark, which suggests that a purpose of the registration was to prevent the Complainant from owning the disputed domain names.

### **B. Respondent**

Other than the informal emails referred to above, the Respondents did not reply to the Complainant's contentions.

## **6. Discussion and Findings**

To succeed, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied, namely:

- (i) the disputed domain names are 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 names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

The *onus* of proving these elements is on the Complainant.

### **6.1 Preliminary Issue: Consolidation: Multiple Respondents**

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are the same entity or mere alter egos of each other, or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The Respondent associated with disputed domain name <100thievesmerch.net> denied in three informal email communications that he owned or controlled the other two disputed domain names.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2.

As regards common control, the Panel notes that the disputed domain names were registered at different times over a one-year period. Beyond a common country (United States") shared between two Registrants, the Registrars' records do not include any address or contact details in common between the listed Registrants. The websites at the disputed domain names appear to have been created and taken down at different times. These websites do not appear to have design elements or text in common.

The Complainant asserts that each of the websites at the disputed domain names contain the stylized 100 THIEVES logo. The Complaint does not point out where this logo is located on each such website. The Panel has been unable to find the stylized 100 THIEVES logo on the website at the disputed domain name <100thieus.shop> (but noting that it can possibly be seen on clothing sold on this website) or on the website that was located at the disputed domain name <100thievesmerch.net>.

The Complainant asserts that each of the websites at the disputed domain names including listings for the Complainant's products. However, the items sold on each website appear to be different products, and the website at the disputed domain name <100thieus.shop> also sells products that do not appear to be the Complainant's products. In short, each of the websites appear to sell a range of different stock.

The Complainant asserts that each of the websites at the disputed domain names "provides information about Complainant, its history, and its products, demonstrating that Respondent has knowledge of and deep familiarity with Complainant's brand." This is not the case for the website located at the disputed domain name <100thieus.shop>.

The Complainant asserts that the disputed domain name <100thieus.shop> was registered at the time that the Complainant wrote to the Registrants of the other two disputed domain names, but the Complainant provided no evidence of this or such correspondence.

There are commonalities, as noted by the Complainant, such as all the websites are in English, two of the disputed domain names are registered with NameCheap, two of the disputed domain names include the term "merch", two of the disputed domain names are registered in the ".shop" gTLD, and all make use of a privacy service and (allegedly) provide false address details in the Registrar's records. However, in the Panel's view, considering all the evidence, this is not sufficient to show common control when the websites themselves appear to be very different, with different content, styles, and layout, and when one Respondent has explicitly confirmed ownership of one disputed domain name and not of the remaining two disputed domain names.

Based on the record before the Panel, the Panel does not consider that the Complainant has demonstrated that the disputed domain names are under common control.

Accordingly, the Panel decides not to consolidate the disputes in a single proceeding. The proceedings are dismissed in respect of <100thievesmerch.net> and <100thieus.shop> without prejudice to the filing of new complaints regarding these domain names.

The remainder of this decision proceeds in respect of <100thievesmerch.shop> ("the disputed domain name"). Accordingly, hereinafter, references to the Respondent will be to the disclosed-registrant, Resali li.

## 6.2 Substantive Issues

### A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical or confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other terms, here, "merch", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, the Panel finds the first element of the Policy has been established.

### B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often-impossible task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Panels have held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

In this regard, the nature of the disputed domain name in the present case carries a risk of implied affiliation and the use of the disputed domain name to impersonate the Complainant cannot support a finding of rights or legitimate interests.

Based on the available record, the Panel finds the second element of the Policy has been established.

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

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the Respondent used the disputed domain name to impersonate the Complainant. The Complainant asserts that the Respondent uses the disputed domain name “to sell knockoffs” of the Complainant’s goods. The website at the disputed domain name also includes the Complainant’s logo and a history of the Complainant.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have held that the use of a domain name for illegal activity (*e.g.*, the sale of counterfeit goods or impersonation/passing off, or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. The website at the disputed domain name tries to impersonate the Complainant. This is bad faith use of the disputed domain name.

The fact that the disputed domain name does not currently resolve to an active website does not prevent a finding of bad faith.

Having reviewed the record, the Panel finds the Respondent’s registration and use of the disputed domain name constitutes bad faith under the Policy.

Based on the available record, the Panel finds the third element of the Policy has been established.

### **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 <100thievesmerch.shop> be transferred to the Complainant.

The proceedings are dismissed in respect of <100thievesmerch.net> and <100thieus.shop> without prejudice to the filing of new complaints regarding these domain names.

*/John Swinson/*

**John Swinson**

Sole Panelist

Date: October 11, 2023