

ADMINISTRATIVE PANEL DECISION

Nammo Lapua Oy v. CEO, RESTRO ENGOH

Case No. D2023-4662

1. The Parties

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

The Respondent is CEO, RESTRO ENGOH, United States of America (the “USA”).

2. The Domain Name and Registrar

The disputed domain name <usalapuabrsstore.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 November 9, 2023. On November 10, 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 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 November 13, 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 November 17, 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 November 20, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 10, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 11, 2023.

The Center appointed Marilena Comanescu as the sole panelist in this matter on December 13, 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, established in Finland in 1923, is a leading manufacturer of premium small caliber ammunition and is part of the Nammo Group, one of the world's largest suppliers of ammunition and rocket motors. The Complainant is a member of the Association of European Manufacturers of Sporting Ammunition and holds numerous certifications and recognitions in its field of activity.

The Complainant is the owner of trademark registrations across various jurisdictions for the mark LAPUA, such as the following:

- the USA trademark registration number 2043495 for the word LAPUA, filed on April 8, 1996, registered on March 11, 1997, covering goods in International class 13;
- the USA trademark registration number 3841569 for the figurative mark L LAPUA, filed on July 2, 2009, registered on August 31, 2010, covering goods in International class 13; and
- the European Union trademark registration number 8400582 for the word LAPUA, filed on July 2, 2009, registered on March 22, 2010, covering goods International class 13.

The Complainant owns the domain name <lapua.com> and carries its activity worldwide directly or through a chain of authorized distributors.

The disputed domain name <usalapuabrsstore.com> was registered on November 23, 2022, and, at the time of filing the Complaint, it was used to redirect users to a website resolving to an online store that purports to offer ammunition goods, while prominently displaying the Complainant's trademark and logo at the header of the website. Furthermore, on the website under the disputed domain name there was featured copyright protected material such as images and product description of the Complainant's products, taken from the Complainant's official website or of its retailers, without the authorization or approval of the Complainant.

The Respondent has been named as a responded in at least another two UDRP proceedings, both related to third parties' trademarks, manufacturers of firearms and related items, including ammunition and the related disputed domain names were used in relation to online shops promoting identical and similar goods. See cases *CZG - Česká zbrojovka Group SE, Colt's Manufacturing Co. LLC, Colt's Manufacturing IP Holding Company LLC v. Domain Administrator, See PrivacyGuardian.org / RESTRO ENGOH*, WIPO Case No. [D2021-3208](#); and *Seekins Precision, Inc. v. Domain Administrator, See PrivacyGuardian.org / CEO, RESTRO ENGOH*, WIPO Case No. [D2022-3562](#).

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 name.

Notably, the Complainant contends that the disputed domain name is identical or at least confusingly similar to its well-known trademark LAPUA together with the descriptive terms “USA”, “brass” and “store”, non-distinctive terms related to the Complainant’s goods and services; that the Respondent has no rights or legitimate interests in the disputed domain name; and that the Respondent registered and is using the disputed domain name in bad faith for a website purporting to be providing identical goods, using the Complainant’s trademark, logo and copyrighted images without any authorization or approval.

Furthermore, the Respondent employed a privacy service in order to conceal its identity; provided incomplete contact information in the Whois; and the Respondent has engaged in a trademark-abusive domain name registrations. See cases *CZG - Česká zbrojovka Group SE, Colt’s Manufacturing Co. LLC, Colt’s Manufacturing IP Holding Company LLC v. Domain Administrator*, See [PrivacyGuardian.org](https://www.privacyguardian.org/) / *RESTRO ENGOH*; and *Seekins Precision, Inc. v. Domain Administrator*, See [PrivacyGuardian.org](https://www.privacyguardian.org/) / CEO, *RESTRO ENGOH*, *supra*.

B. Respondent

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

6. Discussion and Findings

Under the Policy, the Complainant is required to prove on the balance of probabilities that:

- (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 the disputed domain name; and
- (iii) the disputed domain name has registered and is being used in bad faith.

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 of WIPO Panel Views on Selected UDRP Questions, Third Edition, (“[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 mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is 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, “USA”, “brass” and “store”, may bear on assessment of the second and third elements, the Panel finds the addition of such terms 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.

The Panel notes that the composition of the disputed domain name itself carries a risk of implied affiliation. According to the evidence provided in the Complaint, the Respondent has used the disputed domain name in connection with a website advertising goods and services identical to those provided by the Complainant, displaying the Complainant’s logo, trademark and product images without any consent or approval, or statement clarifying such (lack of) relationship. Panels have held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods, 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.

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 disputed domain name was registered in bad faith, with knowledge of the Complainant and its trademark particularly because it incorporates the Complainant’s distinctive trademark registered since at least 1996 and put in use since at least 1957, together with non-distinctive or descriptive terms. Furthermore, the use of the disputed domain name in relation to promoting similar goods and prominently displaying the Complainant’s trademark without any authorization corroborates this judgement.

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.

Paragraph 4(b)(iv) of the Policy provides that the use of a domain name to intentionally attempt “to attract, for commercial gain, Internet users to [the respondent’s] 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 [the respondent’s] website or location or of a product or service on [the respondent’s] website or location” is evidence of registration and use in bad faith.

Given that the disputed domain name incorporates the Complainant’s trademark with additional non-distinctive or descriptive terms, related to the Complainant’s business, and the website operated under the disputed domain name displays the Complainant’s trademark, logo, copyrighted images, and has no disclaimer, indeed in this Panel’s view, the Respondent intended to attract Internet users accessing the website corresponding to the disputed domain name who may be confused and believe that the website is held, controlled by, or somehow affiliated or related to the Complainant, for its commercial gain. This activity may also disrupt the Complainant’s business and tarnish its trademark.

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.

Furthermore, the Respondent did not participate in the present procedure, employed a privacy service, provided inaccurate or incomplete Whois contact details and appears to be involved in a pattern of a cybersquatting behaviour. The Panel finds that, being involved in more than two separate domain name disputes, constitutes a pattern of abusive conduct and registration of the disputed domain name in bad faith. [WIPO Overview 3.0](#), section 3.1.2.

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 <usalapuabrsstore.com> be transferred to the Complainant.

/Marilena Comanescu/

Marilena Comanescu

Sole Panelist

Date: December 21, 2023