

## **ADMINISTRATIVE PANEL DECISION**

Permian Triassic Ltd. v. Michael Nava, Domain Nerdz LLC  
Case No. D2024-0044

### **1. The Parties**

The Complainant is Permian Triassic Ltd., United Kingdom, represented by Scarinci Hollenbeck, United States of America (the “United States”).

The Respondent is Michael Nava, Domain Nerdz LLC, United States.

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

The disputed domain name <captainpaulwatson.com> (the “Domain Name”) is registered with Sav.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 5, 2024. On January 8, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On January 8, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Unknown at this time) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 11, 2024, 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 amendment to the Complaint on January 22, 2024.

The Center verified that the Complaint together with the amendment to 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 January 23, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 12, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 13, 2024.

The Center appointed Nicholas Smith as the sole panelist in this matter on February 19, 2024. 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 private company organized under the laws of England and Wales which represents and enforces the intellectual property rights of Captain Paul Watson, an environmentalist and marine conservationist who is a co-founder of the Sea Shepherd Conservation Society and an established author of a number of books on conservation, dating from 1993.

The Complainant holds a trademark registration for the name "CAPTAIN PAUL WATSON" (the "CAPTAIN PAUL WATSON Mark") in the United Kingdom (No. UK00003832449, registered on January 27, 2023 for goods and services in classes 9, 14, 16, 18, 21, 25, 35, 36, 41, 42 and 45).

The Domain Name was registered on December 9, 2023. The Domain Name resolves to a website operated by a third party that offers the Domain Name for sale for a sum that prima facie is larger than any likely out-of-pocket costs directly related to the Respondent's registration of the Domain Name.

#### **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 Domain Name.

Notably, the Complainant contends that:

- a) It is the owner of the CAPTAIN PAUL WATSON Mark, having registered the CAPTAIN PAUL WATSON Mark in the United Kingdom. The Domain Name is identical to the CAPTAIN PAUL WATSON Mark as it reproduces the CAPTAIN PAUL WATSON Mark in its entirety and with the addition of the generic Top-Level Domain ("gTLD") ".com".
- b) There are no rights or legitimate interests held by the Respondent in respect of the Domain Name. The Complainant has not granted any license or authorization for the Respondent to use the CAPTAIN PAUL WATSON Mark. The Respondent is not commonly known by the CAPTAIN PAUL WATSON Mark, nor does it use the Domain Name for a bona fide purpose or legitimate noncommercial purpose. Rather, the Respondent is merely offering using the Domain Name for sale. Such use is not a legitimate use of the Domain Name.
- c) The Domain Name was registered and is being used in bad faith. Based on the Respondent's offer to sell the Domain Name on a third party website, the only possible motive held by the Respondent in registering the Domain Name was for the purpose of selling, renting, or otherwise transferring the Domain Name registration to the Complainant or to a competitor of that the Complainant, for valuable consideration in excess of the Respondent's documented out-of-pocket costs directly related to the Domain Name.

##### **B. Respondent**

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

## 6. Discussion and Findings

### 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.

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 entirety of the mark is reproduced within the Domain Name. Accordingly, the Domain Name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). 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 available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the 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 Domain Name such as those enumerated in the Policy or otherwise.

The Panel considers that the record of this case reflects that:

- before any notice to the Respondent of the dispute, the Respondent did not use, nor has it made 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. Paragraph 4(c)(i) of the Policy, and [WIPO Overview 3.0](#), section 2.2.
- the Respondent (as an individual, business, or other organization) has not been commonly known by the Domain Name. Paragraph 4(c)(ii) of the Policy, and [WIPO Overview 3.0](#), section 2.3.
- the Respondent is not 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. Paragraph 4(c)(iii) of the Policy, and [WIPO Overview 3.0](#), section 2.4.
- the record contains no other factors demonstrating rights or legitimate interests of the Respondent in the Domain Name.

There is no evidence that the Respondent has used or made demonstrable preparations to use the Domain Name in connection with a legitimate noncommercial fair use or a bona fide offering of goods or services. Simply holding the Domain Name and offering to sell the Domain Name a sum greater than out-of-pocket costs does not, in the absence of other evidence, amount to use for a bona fide offering of goods or services.

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 finds that the Respondent registered the Domain Name for the purpose of selling it for an amount in excess of its out-of-pocket costs relating to the registration of the Domain Name. The Respondent has registered a Domain Name identical to the CAPTAIN PAUL WATSON Mark and has not used the Domain Name other than to offer it for sale. The Respondent has not provided any explanation for the registration. In the absence of any explanation or any obvious reason why an entity would register a domain name identical to the CAPTAIN PAUL WATSON Mark and direct it to a third party website offering the Domain Name for sale the Panel concludes that the registration was motivated by an awareness of the CAPTAIN PAUL WATSON Mark and with the purpose of selling it for a sum greater than any out-of-pocket costs related to the Domain Name. Pursuant to 4(b)(i) of the Policy the Respondent has registered and used the Domain Name in bad faith.

The Panel finds that the Complainant has established 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 Domain Name <captainpaulwatson.com> be transferred to the Complainant.

*/Nicholas Smith/*

**Nicholas Smith**

Sole Panelist

Date: February 21, 2024