

## **ADMINISTRATIVE PANEL DECISION**

P.W. Arms, Inc. v. CEO, Mason Gold  
Case No. D2024-0207

### **1. The Parties**

The Complainant is P.W. Arms, Inc., United States of America, represented by Foster Garvey PC, United States of America.

The Respondent is CEO, Mason Gold, United States of America.

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

The disputed domain name <panzerarmstoreusa.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 January 18, 2024. On January 18, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 18, 2024, 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 (Redacted for Privacy, PrivacyGuardian.org LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 19, 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 amended Complaint on January 24, 2024.

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 January 24, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 13, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 15, 2024. On February 28, 2024, the Center sent an email communication regarding the Notification of Complaint to the Parties in order to address the removal of the disputed domain name <panzerarms-usa.com> from the proceedings and invited

the Respondent to comment by March 4, 2024. The Respondent did not comment. The Center notified the Parties of the termination of the proceedings regarding the disputed domain name <panzerarms-usa.com> and proceeded to Panel Appointment regarding the remaining disputed domain name on March 5, 2024.

The Center appointed W. Scott Blackmer as the sole panelist in this matter on March 7, 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 corporation established under the laws of the State of Washington, United States, with a principal place of business in Redmond, Washington. The Complainant states that it has been selling firearms in the United States continuously since June 2017 under the PANZER ARMS mark. The Complainant manufactures firearms in Turkey and imports them for sale in the United States through a network of authorized distributors, to assure compliance and quality control. The Complainant applied for United States trademark registration in November 2019 claiming first use in commerce as early as June 16, 2017. The Complainant holds United States Trademark Registration Number 6145688 for the word mark PANZER ARMS for firearms in International Class 13 registered on September 8, 2020.

The Complainant operates an informational website at the domain name <panzerarmsusa.com> (the Complainant's website), with links to its Instagram and YouTube social media accounts.

The Registrar reports that the disputed domain name was created on November 28, 2022, and was registered in the name of the Respondent "CEO, Mason Gold", not listing an organization but showing a postal address in the State of California, United States and a Gmail contact email address. The postal address is incomplete, as it does not include the unit number in a multi-unit building. The Center's attempts to correspond with the Respondent by email and courier have all resulted in "undeliverable" messages.

The disputed domain name resolves to a website (the "Respondent's website") headed "Panzer Arms USA" beside the same eagle logo displayed on the Complainant's website. The Respondent's website solicits orders through the website, with payment by credit card via "Zelle App". The Respondent's website mimics many of the headings and much of the color scheme, text, and layout of the Complainant's website. It copies many of the product photos and descriptions from the Complainant's website catalogue. As the Complainant deals only with authorized, vetted distributors, the Complainant claims that the Respondent is offering "counterfeit versions of the Complainant's firearm products for sale". The disputed domain name currently redirects to the disputed domain name <panzerarmstore-usa.com>.

The record includes copies of the Complainant's correspondence with customers who were confused as to ownership of the Respondent's website, including those who purchased firearms through the website and never received delivery of the goods they paid for. The Complainant submitted a takedown request to the registrar that initially hosted the Respondent's website, but the Respondent moved the website to another hosting service, which has not responded to the Complainant's request. This proceeding followed.

#### **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 confusingly similar to its registered PANZER ARMS trademark, including the words of the mark in the same order. The Complainant argues that the use of the disputed domain name for a website emulating the Complainant's website and selling counterfeit goods is not a bona fide or legitimate fair use, and this is also evidence of bad faith in the registration and use 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 provides that a complainant must demonstrate each of the following:

- (i) the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (ii) and the respondent has no rights or legitimate interests in respect of the domain name;
- (iii) and the domain name has been registered and is being used in bad faith.

Under paragraph 15(a) of the Rules, "[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

### **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 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. The addition of the word "store" and the geographical abbreviation "USA" does not prevent a finding of confusing similarity. [WIPO Overview 3.0](#), section 1.8.

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 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 Respondent has not, for example, demonstrated that it is making nominative fair use of the disputed domain name as a reseller of the Complainant's trademarked products, as outlined in the "Oki Data test" cited in many WIPO panel decisions (see [WIPO Overview 3.0](#), section 2.8.1). The Complainant claims that the Respondent is offering counterfeit goods, not those that are genuinely branded with the Complainant's mark, and the Respondent's website does not "accurately and prominently disclose" the Respondent's relationship with the Complainant, as required by the Oki Data test.

Moreover, panels have held that the use of a domain name for illegal activity (evident here in connection with counterfeit goods, impersonation/passing off, and fraudulent sales) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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 was clearly aware of the Complainant and its mark, as the Respondent took unfair advantage of the Complainant's trademark by registering a confusingly similar domain name and mimicked the Complainant's website and copied much of its content. . The Respondent's conduct accords with the example of bad faith in paragraph 4(b)(iv) of the Policy, revealing an intention to attract Internet users to the Respondent's website for commercial gain by creating a likelihood of confusion with the Complainant's mark. In this case, the record includes correspondences with customers showing that the Respondent succeeded in this effort.

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 also 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 (evident here in connection with counterfeit goods, impersonation / passing off, and fraudulent sales) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Bad faith may also be inferred from the Respondent's listing of inaccurate registration details, the obfuscation of the Respondent's identity on its website, the Respondent's domain flight when the Complaint sought takedown remedies, and the Respondent's failure to respond to the Complaint in this proceeding. In light of all these circumstances, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

Finally, the current redirection of the disputed domain name does not alter the Panel's finding.

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 disputed domain name <panzerarmstoreusa.com> be transferred to the Complainant.

*/W. Scott Blackmer/*

**W. Scott Blackmer**

Sole Panelist

Date: March 21, 2024