

ADMINISTRATIVE PANEL DECISION

P.W. Arms, Inc. v. Mason Wood and Lucas Harper
Case No. D2024-0966

1. The Parties

Complainant is P.W. Arms, Inc., United States of America (“United States”), represented by Foster Garvey PC, United States.

Respondent is Mason Wood and Lucas Harper, United States.

2. The Domain Names and Registrar

The disputed domain names <panzerarms-usa.com> and <panzerfirearms.com> (the “Domain Names”) are registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 5, 2024. On March 5, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain names. On March 5, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Names which differed from the named Respondent (Redacted for Privacy / PrivacyGuardian.org LLC) and contact information in the Complaint. The Center sent an email to Complainant on March 6, 2024 with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting that Complainant either file a separate complaint for the Domain Name associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all Domain Names are under common control. Complainant filed an amended Complaint on March 12, 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 Respondent of the Complaint, and the proceedings commenced on March 13, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 2, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on April 5, 2024.

The Center appointed Robert A. Badgley as the sole panelist in this matter on April 11, 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

Complainant is a firearms manufacturer.

Complainant holds a trademark registration with the United States Patent and Trademark Office (“USPTO”) for the mark PANZER ARMS, USPTO Reg. No. 6,145,688, registered on September 8, 2020 in connection with “firearms in the nature of hand guns, rifles, revolvers and shotguns,” with a June 16, 2017 date of first use in commerce.

Complainant owns the domain name <panzerarmsusa.com>, and uses that domain name to host a commercial website advertising its firearms for sale and listing the authorized distributors who sell the PANZER ARMS products (Complainant does not sell its goods directly from the website).

The Domain Name <panzerarms-usa.com> was registered on November 5, 2023, and the Domain Name resolves to a website where, Complainant alleges, “counterfeit versions” of Complainant’s products are offered for sale. The Domain Name <panzerfirearms.com> was registered on January 19, 2024, and it is redirected to the <panzerarms-usa.com> website. Respondent’s website makes liberal use of Complainant’s trademarks, contains a “History of Panzer Arms” section which lifts content from Complainant’s site, and lifts photo images from Complainant’s own website. Respondent’s website also adopts a favicon very similar to the favicon used by Complainant.

Although the registrant name in the Whois database differs for the two Domain Names, both registrations indicate a similar, though incomplete, physical address, and both list the same phone number. As noted above, both Domain Names resolve to the same website. Neither of the purportedly different Respondents has come forward to dispute Complainant’s allegation that they are in fact the same person, and/or that the Domain Names are controlled by the same person.

5. Parties’ Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for the transfer of each of the Domain Names.

B. Respondent

Respondent did not reply to Complainant’s contentions.

6. Discussion and Findings

6.1 Consolidation and Multiple Purported Respondents

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 Complainant’s request to consolidate in a single UDRP proceeding two domain names purportedly registered by different persons or entities, 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 noted above, both Domain Names resolve to the same website, and the phone number listed for each registrant is identical. Further, neither of the purportedly different Respondents has come forward to dispute the allegations in the Complaint, including the allegation that they are one and the same person and/or that the Domain Names are under common control.

In these circumstances, the Panel finds it more likely than not that the two named Respondents are one and the same person, and henceforth the Panel will refer to them in the singular as "Respondent."

6.2 Merits

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to each of the Domain Names:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been 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 Complainant's trademark and the Domain Names. [WIPO Overview 3.0](#), section 1.7.

The Panel concludes that Complainant has rights in the trademark PANZER ARMS through registration and use demonstrated in the record. The Panel also concludes that the Domain Names are confusingly similar to that mark. The Domain Names entirely incorporate the PANZER ARMS mark and adds the words "usa" or "fire" (the latter word being inserted between PANZER and ARMS). The Panel concludes that the mark remains clearly recognizable within the Domain Names despite these additional words.

Complainant has established Policy paragraph 4(a)(i).

B. Rights or Legitimate Interests

For each of the Domain Names, pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

- (i) before any notice to you [Respondent] 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 [Respondent] (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 [Respondent] 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.

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 often primarily within the knowledge or control of the respondent. Thus, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production 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.

The Panel concludes that Respondent lacks rights or legitimate interests in connection with the Domain Names. Respondent has not come forward in this proceeding to refute any of the plausible allegations made by Complainant, or challenge any of the evidence put forth by Complainant. It is clear from this undisputed record that Respondent targeted Complainant’s mark. Respondent has lifted content directly from Complainant’s website, and, according to the undisputed record, Respondent is selling “counterfeit versions” of Complainant’s products. Such conduct obviously does not invest Respondent with rights or legitimate interests vis-à-vis the Domain Names.

Complainant has established Policy paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

For each of the Domain Names, paragraph 4(b) of the Policy provides that the following circumstances, “in particular but without limitation,” are evidence of the registration and use of the Domain Name in “bad faith”:

- (i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or
- (ii) that Respondent has 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 Respondent has engaged in a pattern of such conduct; or
- (iii) that Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or
- (iv) that by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent’s website or other online location, by creating a likelihood of confusion with Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of Respondent’s website or location or of a product or service on Respondent’s website or location.

The Panel concludes that Respondent registered and used the Domain Names in bad faith under the Policy. The Panel incorporates its discussion above in the “Rights or Legitimate Interests” section. On this record, the Panel finds it clear that Respondent targeted Complainant’s mark when registering the Domain Names, and has used the Domain Names for illegitimate commercial gain by seeking to divert Internet traffic for commercial gain by free-riding on Complainant’s well-known mark and, according to the undisputed record, selling counterfeit goods. This constitutes bad faith registration and use within the meaning of the above-quoted Policy paragraph 4(b)(iv).

Complainant has established Policy paragraph 4(a)(iii).

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 Names <panzerarms-usa.com> and <panzerfirearms.com> be transferred to Complainant.

/Robert A. Badgley/

Robert A. Badgley

Sole Panelist

Date: April 19, 2024