

## **ADMINISTRATIVE PANEL DECISION**

Calamity Worldwide LLC v. Nash Eddie  
Case No. D2024-3458

### **1. The Parties**

The Complainant is Calamity Worldwide LLC, United States of America (U.S.), represented by Sadek Law PLC, U.S.

The Respondent is Nash Eddie, U.S.

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

The disputed domain name <calamityware.shop> (the “Disputed Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 23, 2024. On August 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On August 26, 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, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 27, 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 August 28, 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 August 29, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 18, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 24, 2024.

The Center appointed Douglas M. Isenberg as the sole panelist in this matter on September 27, 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 states that it operates a website using the domain name <calamityware.com>, through which it offers for sale goods and services associated with its registrations for the trademark CALAMITYWARE, which is protected by the following registrations:

- U.S. Reg. No. 5,199,665 for CALAMITYWARE (registered May 9, 2017) for use in connection with “Dishes; Mugs; Plates”
- U.S. Reg. No. 6,6717,55 for CALAMITYWARE (registered March 15, 2022) for use in connection with “Art prints; Printed picture books; Sketchbooks; Printed greeting cards; Printed note cards”
- U.S. Reg. No. 6,671,781 for CALAMITYWARE (registered March 15, 2022) for use in connection with “Duffel bags; Tote bags; All-purpose carrying bags; Overnight bags; Reusable textile produce bags to carry produce from grocery stores and farmer's markets; Textile shopping bags; Traveling bags”
- U.S. Reg. No. 6,671,905 for CALAMITYWARE (registered March 15, 2022) for use in connection with “Bowls; Cookie jars; Creamer pitchers; Oven mitts; Plates; Plates for hors d'oeuvre; Potholders; Serving platters; Sugar bowls; Tea pots; Tea sets; Coffee cups, tea cups and mugs; Decorative plates; Dishes and plates; Flatware, namely, plates and saucers; Pet drinking bowls; Salad bowls; Serving bowls (hachi); Shallow bowls; Soup bowls; Table plates”

The above registrations are referred to herein as the “CALAMITYWARE Trademark.”

Complainant further states that its “website gets over 30,000 organic visitors per month, and over 13,000 other sites linking to the page”; that it “has 60,000 followers on Facebook, 56,000 followers on Instagram, and 560,000 followers on TikTok”; and that it “has launched over 71 successful [K]ickstarter campaigns, all of which have garnered millions of dollars in support for newly launched products.”

The Disputed Domain Name was created on April 23, 2024. According to the Complaint, and as supported by documentation provided by Complainant, the Disputed Domain Name is used in connection with a website that purports to offer for sale a variety of goods, including apparel, bags, kitchen textiles, notecards and mugs.

Complainant states, but does not provide any documentation to support, the following: “If a consumer was accidentally to have arrived at the Disputed Domain Name or the associated domain (allegedly selling Complainant’s products), one would add an item to the cart, attempt to check out, and instead of getting the product would have dangerous software installed that could harm the device, gather personal information, or operate without consent. Bitdefender Total Security’s® detection of an Infected Web Page notification blocks any check out [sic].”

#### **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 as follows:

- The Disputed Domain Name is identical to the CALAMITYWARE Trademark because the Disputed Domain Name “incorporates the entirety of” the CALAMITYWARE Trademark; and “the content of the website associated with the domain name (as well as other websites associated with the Respondent) seeks to target the trademark.”

- Respondent has no rights or legitimate interests in the Disputed Domain Name because, inter alia, “Complainant has neither found any listed entity or business in the United States or elsewhere under the trade name or doing business as ‘Calamityware,’ nor any registered trademarks corresponding to the Disputed Domain Name registered by Respondent”; “Respondent registered the domain name on April 23, 2024, nearly 10 years after the Complainant first started using the Mark and domain in commerce and nearly 7 years after” Complainant’s first registration for the CALAMITYWARE Trademark; “Complainant can find no indication that Respondent has conducted any prior legitimate business under any name, let alone under ‘Calamityware,’ or any similar name in connection with any bona fide offering of goods or services”; “Complainant can find no connection between Respondent and ‘Calamityware,’ neither as a nickname, shorthand, assumed name, or any other association, nor is Respondent in any way related to or identified with any other use of ‘Calamityware’ than the uses described in th[e] Complaint”; and “Respondent appears to be using the Disputed Domain Name (and Complainant products) to direct internet consumers to a website that will likely cause the consumer’s device harm or put the consumer’s identifying information in jeopardy.”

- The Disputed Domain Name was registered and is being used in bad faith because, inter alia, “[t]he considerable value and goodwill of the mark CALAMITYWARE cannot have been unknown to the Respondent, and that this knowledge is what made the Respondent register the Disputed Domain Name”; “Respondent has registered, without authorization, a domain name that fully incorporates the Complainant’s famous trademark CALAMITYWARE in itself is evidence of bad faith”; and “the fact that the Disputed Domain Name resolves to a website that downloads malicious software in connection with the well-known trademark CALAMITYWARE severely tarnishes the Complainant’s trademark and disrupts consumer expectations of the brand and the product, thus disrupting Complainant’s business for its own commercial gain or nefarious purposes.”

## **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 (that is, the CALAMITYWARE Trademark) for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the CALAMITYWARE Trademark, with nothing more, is reproduced within the Disputed Domain Name. “[I]n cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing.” [WIPO Overview 3.0](#), section 1.7. Further, where, as here, a disputed domain name contains a complainant’s trademark, and only such trademark, “it is apparent without the need for elaboration, that the Disputed Domain Name is identical or

confusingly similar to” the trademark, *Société Air France v. Indra Armansyah*, WIPO Case No. [D2016-2027](#), because in such case “[t]he disputed domain name is obviously identical to the Complainant’s mark.” *Icebug AB v. Domain Administrator*, WIPO Case No. [D2013-1823](#).

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 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 appears to offer for sale on its website goods similar to those associated with the CALAMITYWARE Trademark, which is protected by at least four federal registrations in the U.S, the oldest of which was registered seven years prior to creation of the Disputed Domain Name.

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. One of these circumstances, set forth in paragraph 4(b)(iv) of the Policy, refers to using a domain name to “intentionally attempt[] to attract, for commercial gain, Internet users to [respondent’s] web site... by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of [respondent’s] web site.” That clearly seems to be the case here, given that Respondent appears to offer for sale on its website goods similar to those associated with the CALAMITYWARE Trademark.

Having reviewed the record, the Panel finds the Respondent’s registration and use of the Disputed Domain Name constitutes bad faith under the Policy.

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 <calamityware.shop> be transferred to the Complainant.

*/Douglas M. Isenberg/*

**Douglas M. Isenberg**

Sole Panelist

Date: October 2, 2024