

## **ADMINISTRATIVE PANEL DECISION**

### **MARINE SHIPP FAST LTD v. Divine Berinyuy**

### **Case No. D2024-4537**

#### **1. The Parties**

The Complainant is MARINE SHIPP FAST LTD, Israel, represented by CMS Cameron McKenna Nabarro Olswang LLP, United Kingdom.

The Respondent is Divine Berinyuy, Cameroon.

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

The disputed domain name <ship-4wd.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

#### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 5, 2024. On November 5, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 7, 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 (Doe complaint, Domain Admin, Privacy Protect, LLC (PrivacyProtect.org)) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 8, 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 November 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 the Respondent of the Complaint, and the proceedings commenced on November 13, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 3, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 4, 2024.

The Center appointed Willem J. H. Leppink as the sole panelist in this matter on December 9, 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, an Israeli company, provides shipping services worldwide since 2021. For its activities it mainly uses the brand SHIP4WD.

The Complainant is the owner of several trademarks for SHIP4WD, including, but not limited to the following trademark registrations, such as:

- The International trademark registration SHIP4WD (word) with registration number 1643439 designating inter alia European Union, the United States of America and the United Kingdom, and with a registration date of September 5, 2021, for goods and services in classes 9, 35, 36, 39 and 42;
- The International trademark registration SHIP4WD (word / device) with registration number 1657893 designating inter alia European Union, the United States of America and the United Kingdom, and with a registration date of February 21, 2022, for goods and services in classes 9, 35, 36, 39 and 42;
- The Israeli trademark registration SHIP4WD (word / device) with registration number 342800 and with a registration date of June 2, 2022, for goods and services in classes 35, 36, 39, 42 and 9.

The abovementioned trademark registrations will hereinafter in singular also be referred to as the “SHIP4WD mark”.

The Complainant operates its business through the domain name <ship4wd.com> which resolves to its official website (the “official website”).

The use and registration of the SHIP4WD mark predates the registration of the disputed domain name, which was registered on July 4, 2024. At the time of rendering this Decision the disputed domain name resolves to an inactive page. Before, the disputed domain name resolved to an active website which included the exact representation of the Complainant’s combined word and device mark and referencing shipping services. The website under the disputed domain name copied the notice from the Complainant’s website identifying the origin of the services and referring to the Complainant. According to the unrebutted evidence submitted by the Complainant, the disputed domain name was used to purportedly offer shipping services in connection with a fraudulent transaction.

#### **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 the following.

The Complainant has continuously used the SHIP4WD mark since at least 2021.

The disputed domain name is identical to the SHIP4WD mark. The disputed domain name is virtually identical and incorporates the SHIP4WD mark in its entirety with the mere addition of a hyphen between “ship” and “4wd”. Given the identity or high degree of similarity between the disputed domain name and the SHIP4WD mark, consumers will inevitably conclude that the disputed domain name is owned by or associated with the Complainant.

The Respondent has no rights or legitimate interest in the disputed domain name. Notably, there is no evidence the Respondent is commonly known by the disputed domain name. Also, the Respondent has not been authorized to by the Complainant to register or use the disputed domain name. Further, the Respondent’s action in connection with the disputed domain name cannot be considered a bona fide offering of goods or services nor a legitimate noncommercial or fair use.

The Respondent purports to offer shipping services under the SHIP4WD mark, in relation to which the SHIP4WD mark is used and registered. The Respondent is using the SHIP4WD mark to mislead and divert the Internet’s users as to the origin of the services or to otherwise mislead the Internet’s users for the purpose of fraud. The website to which the disputed domain name resolved also displayed a notice identifying the origin of the services and referring to the Complainant.

The Respondent has engaged in bad faith. The Respondent acquired with knowledge of the SHIP4WD mark the identical disputed domain name to intentionally attract, for commercial gain, consumers and Internet’s users to the website to which the disputed domain name resolved, by creating a likelihood of confusion with the SHIP4WD mark as to the source, sponsorship, affiliation or endorsement of the website to which the disputed domain name resolved and the supposed shipping services offered by the Respondent.

Finally, the Complainant received evidence of the fraudulent activity of the Respondent as it was contacted by a victim of fraud committed through the website to which the disputed domain name resolved. The website to which the disputed domain name resolved was used to purportedly offer shipping services in connection with the fraudulent transaction.

## **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 disputed domain name. Only a hyphen was added. 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 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.

Panels have held that the use of a domain name for illegal activity here, claimed impersonation and fraud 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.

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.

The disputed domain name was used to host a page which would aid fraud. The Panel finds that the Respondent’s registration and use of the disputed domain name in such a manner demonstrates registration and use in bad faith, because the Respondent has intentionally attempted to impersonate the Complainant to purport fraudulent activities.

In the present case, the Panel notes that the Complainant and its activities are clearly known to the Respondent and the Respondent has sought to benefit himself with the Complainant’s success. The Panel finds that, certainly lacking any reply, any bona fide use of the disputed domain name is implausible under the circumstances of this proceeding.

Panels have held that the use of a domain name for illegal activity here, claimed impersonation, fraud and phishing, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. 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 <ship-4wd.com> be transferred to the Complainant.

*/Willem J. H. Leppink/*

**Willem J. H. Leppink**

Sole Panelist

Date: December 23, 2024