

## **ADMINISTRATIVE PANEL DECISION**

### **Reeds Metals, LLC v. Name Redacted**

### **Case No. D2022-2771**

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

The Complainant is Reeds Metals, LLC, United States of America (“United States”), represented by Bracewell LLP, United States.

The Respondent is Name Redacted.<sup>1</sup>

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

The disputed domain name <reedsmetals.com> is registered with Wild West Domains, LLC (the “Registrar”).

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

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 27, 2022. On July 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 29, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 8, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 28, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 29, 2022.

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<sup>1</sup> The Respondent appears to have used the name of a third party when registering the disputed domain name. Considering the potential identity theft, the Panel has redacted the Respondent’s name from this decision. However, the Panel has attached as Annex 1 to this decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

The Center appointed William F. Hamilton as the sole panelist in this matter on September 12, 2022. 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 United States provider of metal roofing systems, metal roofing panels, and pre-engineered steel buildings.

The Complainant owns the domain name <reedsmetals.com> which resolves to the Complainant's principal website.

On May 24, 2016, the Complainant obtained Registration No. 4962518 with the United States Patent and Trademark Office for the trademark REED'S METALS, INC. The Complainant's trademark REED'S METALS, INC. will be referred to herein as the "Mark".

The disputed domain name was registered on July 12, 2022. The disputed domain does not resolve to an active website. Some customers of the Complainant have received emails utilizing the disputed domain name that fraudulently seek to misdirect and divert product payments from the Complainant's customers that should be sent to the Complainant.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant asserts that the disputed domain name is virtually identical to the Mark because the disputed domain name almost completely replicates the Complainant's Mark with the exception that the disputed domain name substitutes the letter "i" for the letter "I" in the Mark.

The Complainant asserts that the Complainant never authorized the Respondent to use the disputed domain name, that the Respondent is not generally known by the disputed domain name, and that the Respondent has never engaged in any *bona fide* commercial activity in connection with the disputed domain name.

The Complainant further asserts that the Respondent has registered and used the disputed domain name in bad faith as part of a scheme to steal money from the Complainant's customers. The Complainant asserts the Respondent has utilized the disputed domain name to send fraudulent emails to the Complainant's customers seeking to obtain payments that should properly be made to the Complainant.

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

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

#### **6. Discussion and Findings**

Under paragraph 4(a) of the Policy, to succeed the Complainant must satisfy the Panel that:

(i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;

(ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and

(iii) the disputed domain name was registered and is being used in bad faith.

### **A. Identical or Confusingly Similar**

The Panel finds that the disputed domain name is confusing similar to the Complainant's Mark.

The Complainant's Mark is recognizable in the disputed domain name, with the trivial exception of replacing the letter "l" in the Mark with an "i". This is a classic example of typosquatting. The letter "l" is diagonal located next to the letter "i" on standard keyboard. Moreover, the capital letter "l", viz. "l", closely resembles a lower-case letter "i". *Redbox Automated Retail, LLC d/b/a Redbox v. Milen Radumilo*, WIPO Case No. [D2019-1600](#); see generally WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.9 ("A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element"). The disputed domain name is also different from the Mark by omitting the space between the words "reed's" and "metals" in the Mark, dropping the apostrophe and comma present in the Mark, and omitting "inc." in the Mark. These minor differences between the Mark and the disputed domain name are trivial, immaterial, and utterly minor, and do not prevent a finding of confusing similarity.

The Complainant has met its burden under paragraph 4(a)(i) of the Policy.

### **B. Rights or Legitimate Interests**

The facts and circumstances presented to the Panel demonstrate that the Respondent does not have any rights or legitimate interests in the disputed domain name.

The Complainant has specifically disavowed providing the Respondent with permission to use the disputed domain name or the Mark. The Respondent is not affiliated with the Complainant in any way and does not have any business relationship with the Complainant. There is no evidence that the Respondent has conducted any *bona fide* business under the disputed domain name or is commonly known by the disputed domain name.

The Complainant has thus established a *prima facie* case in its favor, which shifts the burden of production on this point to the Respondent. The Respondent, however, has failed to come forth with any evidence showing any rights or legitimate interests in the disputed domain name. *Compagnie de Saint Gobain v. Com-Union Corp.*, WIPO Case No. [D2000-0020](#).

Moreover, in this case, the Complainant has provided evidence of intentional fraud and misuse of the disputed domain name. See Section 6.C below.

The Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

### **C. Registered and Used in Bad Faith**

The Panel finds the disputed domain name was registered and is being used in bad faith.

Under paragraph 4(b) of the Policy, bad faith may be established by any one of the following scenarios:

(i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or

(ii) the 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 the respondent has engaged in a pattern of such conduct; or

(iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on the respondent's website or location.

On the evidence presented, it is obvious that the disputed domain name was registered and is being used in bad faith as part of a scheme to steal money from the Complainant's customers by sending fraudulent emails to the Complainant's customers purportedly from the Complainant (Annex 3 to the Complaint). The utilization of a disputed domain name in such a scheme is paradigmatic bad faith registration and use. *Pfizer Inc. v. Sarthak Kapoor*, WIPO Case No. [D2019-0292](#); *Desko GmbH v. Mustafa Mashari*, WIPO Case No. [D2015-0817](#); *British American Tobacco (Brands) Limited v. Contact Privacy Inc., Customer 7151571251 / Antonio Da Silva, Bat Gps*, WIPO Case No. [D2022-2495](#). The Respondent's bad faith registration and use is also evidenced by the apparent third-party identity theft used by the registrant when registering the disputed domain name.

Even disregarding the foregoing analysis, it is difficult to conceive of any use that the Respondent might make of the disputed domain name without the Complainant's consent that would not involve bad faith. *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#); *Verner Panton Design v. Fontana di Luce Corp*, WIPO Case No. [D2012-1909](#) ("where the reputation of a complainant in a given mark is significant and the mark bears strong similarities to the disputed domain name, the likelihood of confusion is such that bad faith may be inferred"); *DPDgroup International Services GmbH & Co. KG v. Wise One, Wilson TECH*, WIPO Case No. [D2021-0109](#); *Monster Energy Company v. PrivacyDotLink Customer 116709 / Ferdinand Nikolaus Kronschnabl*, WIPO Case No. [D2016-1335](#).

The Complainant has met its burden under paragraph 4(a)(ii) 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 <reedsmetals.com> be transferred to the Complainant.

*/William F. Hamilton/*

**William F. Hamilton**

Sole Panelist

Date: September 18, 2022