

## **ADMINISTRATIVE PANEL DECISION**

Palmetto State Armory v. Maddison Bryan, CEO  
Case No. D2024-0829

### **1. The Parties**

The Complainant is Palmetto State Armory, United States of America (“United States”), represented by Burr & Forman LLP, United States of America.

The Respondent is Maddison Bryan, CEO, United States.

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

The disputed domain name <psadagger.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 February 23, 2024. On February 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 1, 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 March 5, 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 March 12, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 1, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 5, 2024.

The Center appointed William F. Hamilton as the sole panelist in this matter on April 10, 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 manufacturer and seller of a wide variety of firearms and firearms-related products. It operates ten retail locations in South Carolina, Georgia, and North Carolina, United States.

The Complainant sells handguns known as the “PSA Dagger,” which the Complainant first began marketing and selling in approximately January 2021.

The PSA Dagger firearm and parts are sold in the Complainant’s retail stores and on “www.palmettostatearmory.com”. The Complainant’s domain name <psa.com> resolves to “www.palmettostatearmory.com”.

The Complainant has filed trademark registration applications with the United States Patent and Trademark Office for the marks PSA DAGGER, PALMETTO DAGGER, MICRO DAGGER, DAGGER SWCH, DAGGER GUARDIAN, DAGGER DUTY, and DAGGER BLADE.

The Complainant obtained United States Patent and Trademark Office Registration No. 6,968,136 dated January 31, 2023 (with first use on December 31, 2020), for the trademark PALMETTO DAGGER (the “Mark”).

The disputed domain name was registered on December 18, 2023 and resolves to a website offering the Complainant’s products and using the copyrighted pictures and product description of the Complainant.

#### **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. The Complainant asserts the disputed domain name is confusingly similar to the Complainant’s because the disputed domain name is composed of the terms “psa” and “dagger,” which are elements of the Complainant’s registered and unregistered trademarks. 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, never operated a business under the disputed domain name, and never engaged in any bona fide commercial activity in connection with the disputed domain name. The Complainant asserts that the Respondent knew of the Complainant’s trademarks when registering the disputed domain name. The Complainant asserts that the Respondent is using the disputed domain name to attract, for commercial gain, Internet users to the Respondent’s website by creating a likelihood of confusion with the Complainant’s registered and unregistered marks to suggest that the Complainant sponsors or endorses the Respondent’s website.

##### **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**

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 disputed domain name consists of a distinctive element of the Complainant's registered trademark. The disputed domain name adopts the prominent term "dagger" in the Complainant's Mark. The Panel finds the Complainant's Mark is recognizable in the disputed domain name. The disputed domain name is confusingly similar to the Complainant's Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.<sup>1</sup>

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. Additionally, the Panel notes that the Respondent has used the disputed domain name to purportedly sell the Complainant's products without any disclaimer of lack of association with the Complainant.

The Panel finds the second element of the Policy has been established.

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

The Respondent has registered and used the disputed domain name in bad faith to divert Internet users to the Respondent's website for commercial profit. The confusingly similar disputed domain name creates a false impression of the Complainant's sponsorship, affiliation, or endorsement of the Respondent's website.

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<sup>1</sup>. The Panel notes that the Complainant asserts common law trademark rights in the mark PSA DAGGER. While the Panel does not doubt that the Complainant may hold such rights, the Complaint does not provide sufficient supporting information for the Panel to reach that conclusion. [WIPO Overview 3.0](#), section 1.2.

[WIPO Overview 3.0](#), section 3.1. The employment of the disputed domain name, which bears a confusing similarity to the Complainant's Mark, in association with a website that purports to sell the Complainant's firearms demonstrates the Respondent's bad faith registration and use of the disputed domain name. The Respondent's addition of the letters "PSA" to the term "dagger" in the disputed domain name is not gratuitous or accidental. The Complainant uses the letters "PSA" (an abbreviation for the Complainant's name "Palmetto State Armory") when marketing its "dagger" products.

The Respondent cannot disavow knowledge of the Complainant's marks because the Respondent purports to sell these very firearms manufactured by the Complainant. It strains credulity to believe that the Respondent has innocently and unknowingly registered and used the disputed domain name that combines the Complainant's abbreviation of the Complainant's name with the non-descriptive term "dagger" for a handgun.

Finally, even ignoring the above compelling evidence of bad faith use, 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).

The Panel finds the third element of the Policy has been established.

## **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 <psadagger.com> be transferred to the Complainant.

*/William F. Hamilton/*

**William F. Hamilton**

Sole Panelist

Date: April 24, 2024