

ADMINISTRATIVE PANEL DECISION

Wastequip, LLC v. Beck Markson

Case No. D2024-5297

1. The Parties

Complainant is Wastequip, LLC, United States of America (“United States”), represented by Nelson Mullins Riley & Scarborough LLP, United States.

Respondent is Beck Markson, United States.

2. The Domain Name and Registrar

The disputed domain name <amrepproductsllc.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 23, 2024. On December 24, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 24, 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 Complainant on December 27, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on December 30, 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 January 7, 2025. In accordance with the Rules, paragraph 5, the due date for Response was January 27, 2025. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on January 29, 2025.

The Center appointed Timothy D. Casey as the sole panelist in this matter on February 6, 2025. 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 North American manufacturer of waste handling equipment, including carts, containers, trucks, parts, service and related technology in the collection, transport and disposal of waste and recyclables. AMREP is a brand of Complainant's, used since 1968, under which front load, side load and rear load refuse trucks and cable hoists and roll-off trailers for the solid waste market are manufactured.

Complainant holds a trademark registration for AMREP (the "AMREP Mark") as follows:

Mark	Jurisdiction	Class(es)	Registration No.	Registration Date
AMREP	United States	7, 12	5,989,349	February 18, 2020

The disputed domain name was registered December 19, 2024. Complainant provided evidence indicating that the disputed domain name was utilized the next day in phishing emails impersonating Complainant and attempting to change payment instructions for one of Complainant's suppliers.

5. Parties' Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, Complainant contends that the above-noted registration confirms Complainant's rights in the AMREP Mark and that the disputed domain name is wholly incorporated into the AMREP Mark and is recognizable therein. Complainant contends that the addition of the descriptive terms "products" and "llc" do not prevent a finding of confusing similarity and actually enhance the likelihood of confusion between the AMREP Mark and the disputed domain name.

Complainant contends that it has made a *prima facie* showing that Respondent has no rights or legitimate interests in the disputed domain name, based on: Respondent not being commonly known by the disputed domain name; Respondent not be authorized or licensed to use the AMREP Mark; Respondent having made no bona fide use of or preparation to use the disputed domain name; the disputed domain name being confusingly similar to the AMREP Mark, and the fact that Respondent's use of the AMREP Mark in phishing attacks cannot confer rights or legitimate interests that benefit Respondent.

Complainant contends that Respondent registered the confusingly similar disputed domain name and promptly used the disputed domain name in attempts to defraud one of Complainant's suppliers by impersonating Complainant, which constitutes use in bad faith. Under the circumstances, Complainant contends, there can be no doubt Respondent knew of and intentionally chose to register the disputed domain name in bad faith.

B. Respondent

Respondent did not reply to 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 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.

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. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, "products" and "llc", may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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 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 Complainant has established a *prima facie* case that Respondent lacks rights or legitimate interests in the disputed domain name. Respondent has not rebutted 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 illegitimate activity, here, claimed phishing and impersonation/passing off 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.

In the present case, the Panel notes that Respondent clearly knew of Complainant's mark and the nature of Complainant's business because Respondent used the dispute domain name the next day after registration as part of a phishing scheme focused on one of Complainant's vendors.

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.

Panels have held that the use of a domain name for illegitimate activity, here, claimed phishing and impersonation/passing off, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

The Panel finds that 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 <amrepproductsllc.com> be transferred to Complainant.

*/Timothy D. Casey/
Timothy D. Casey
Sole Panelist
Date: February 20, 2025*