

## **ADMINISTRATIVE PANEL DECISION**

Death Row Records LLC v. Marcela Dafna  
Case No. D2024-2984

### **1. The Parties**

The Complainant is Death Row Records LLC, United States of America ("United States"), represented by Venable, LLP, United States.

The Respondent is Marcela Dafna, United States.

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

The disputed domain name <deathrowvapes.com> is registered with GoDaddy.com, LLC (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on July 23, 2024. On July 24, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 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 (Registrant Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 25, 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 July 25, 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 July 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 15, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 16, 2024.

The Center appointed William F. Hamilton as the sole panelist in this matter on August 21, 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, Death Row Records LLC, is a world-renowned record label founded in 1991 that has played a major role in shaping hip-hop music. The Complainant owns numerous trademark registrations for the DEATH ROW RECORDS word and design marks (collectively, the “Mark”) in multiple countries, including the United States, for use in connection with music and entertainment-related goods and services. The Complainant’s earliest trademark registrations for the Mark date back to at least as early as 1991.

The Complainant’s United States trademark registrations include, but are not limited to:

- United States Registration No. 3,884,831 for DEATH ROW RECORDS (word mark) dated December 7, 2010.
- United States Registration No. 5,908,416 for DEATH ROW RECORDS (word mark) registered November 12, 2019.
- United States Registration No. 6,540,550 for DEATH ROW RECORDS (design mark featuring an electric chair), registered October 26, 2021.

The Complainant principally utilizes the Mark for consumer services and products, including but not limited to multimedia goods and services related to music, films, and electronic materials.

The Complainant conducts business on the Internet and operates a website at “www.deathrowofficial.com”. The Complainant has a strong social media presence with hundreds of thousands of followers on platforms like Instagram (633,000 followers) and YouTube (113,000 subscribers). These social media sites feature the Mark.

The disputed domain name <deathrowvapes.com> was registered on November 8, 2022. The disputed domain name resolves to a website offering for sale unauthorized vaping products and tobacco wraps prominently displaying the Mark. The website claims to offer “smoking essentials directly from the Death Row Record House!” and claims the website to be “[u]nder Snoop Dogg’s ownership”. <sup>1</sup>

#### **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 contends that the disputed domain name is confusingly similar to its Mark. The Complainant argues that the disputed domain name incorporates the prominent “Death Row” words of the Mark with the mere addition of the descriptive term “vapes” and the generic Top-Level Domain (“gTLD”) “.com.”

The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant has not authorized or licensed the Respondent to use its Mark. There is no evidence that the Respondent has been commonly known by the disputed domain name. The Respondent

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<sup>1</sup>According to the information available on the Internet, Snoop Dogg acquired the Complainant in 2022.

is not making a legitimate noncommercial or fair use of the disputed domain name, but rather is using it to offer unauthorized products for commercial gain in a manner that misleadingly suggests affiliation with the Complainant.

Finally, the Complainant argues that the disputed domain name was registered and is being used in bad faith. The Complainant's Mark was well-known when the disputed domain name was registered. The Respondent is using the disputed domain name to intentionally attract Internet users to its website for commercial gain by creating a likelihood of confusion with the Complainant's marks as to the source, sponsorship, affiliation or endorsement of the Respondent's website and products.

## **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 confusingly similar to the Complainant's Mark.

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 the Mark for the purposes of the Policy by virtue of the Mark's registrations. [WIPO Overview 3.0](#), section 1.2.1.

The disputed domain name incorporates the prominent component, DEATH ROW, of the Complainant's Mark. The addition of the term "vapes" does not prevent a finding of confusing similarity under the first element. [WIPO Overview 3.0](#), section 1.8. The gTLD ".com" may be disregarded for purposes of assessing confusing similarity as it is a standard registration requirement.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

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

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.

The Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

The Complainant has made out a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The burden of production thus shifts to the Respondent to come forward with evidence demonstrating rights or legitimate interests. The Respondent has failed to do so, having not responded to the Complaint.

There is no evidence that the Respondent has been commonly known by the disputed domain name or that the Respondent has acquired any trademark rights in the term “death row vapes”. The Complainant has not authorized or licensed the Respondent to use its Mark.

The Respondent is using the disputed domain name to offer unauthorized vape products bearing the Complainant’s marks. Such use does not constitute a bona fide offering of goods or services or a legitimate noncommercial or fair use. The Respondent has failed to come forward with any evidence demonstrating rights or legitimate interests in the disputed domain name.

Furthermore, the Respondent’s use of the disputed domain name to sell unauthorized vaping products bearing the Complainant’s marks (which are of dubious origin) does not constitute a bona fide offering of goods or services or a legitimate noncommercial or fair use. The website claims to offer “smoking essentials directly from the Death Row Record House!” and claims the website to be “[u]nder Snoop Dogg’s ownership”. Such use misleadingly suggests affiliation with the Complainant and improperly trades on the goodwill associated with the Complainant’s marks.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

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

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

The evidence shows that the Complainant’s Mark were well-known when the disputed domain name was registered in 2022. Given the fame of the Complainant’s Mark and the Respondent’s use of the disputed domain name, the Panel finds that the Respondent was aware of the Complainant and its marks when registering the disputed domain name.

The Respondent is using the disputed domain name to intentionally attract, for commercial gain, Internet users to its website 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 products. The Respondent’s website also prominently displays the Complainant’s distinctive design trademark and falsely claims to offer products “directly from the Death Row Record House”. This constitutes bad faith.

Additionally, the Panel finds that the Respondent’s registration of a domain name incorporating the Complainant’s well-known Mark, without any rights or legitimate interests, is evidence of bad faith registration and use.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(iii) 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 <deathrowvapes.com> be transferred to the Complainant.

*/William F. Hamilton/*

**William F. Hamilton**

Sole Panelist

Date: August 30, 2024