

ADMINISTRATIVE PANEL DECISION

Defense Technology, LLC v. Jessie Courtney
Case No. D2024-5329

1. The Parties

The Complainant is Defense Technology, LLC, United States of America ("United States"), represented by Kane Kessler, PC, United States.

The Respondent is Jessie Courtney, Portugal.

2. The Domain Name and Registrar

The disputed domain name <monadnockgear.com> (the "Disputed Domain Name") is registered with Cosmotown, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on December 27, 2024. On December 30, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On January 1, 2025, 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) and contact information in the Complaint.

The Center sent an email communication to the Complainant on January 4, 2025, 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 January 8, 2025.

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 January 13, 2025. In accordance with the Rules, paragraph 5, the due date for Response was February 2, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on February 4, 2025.

The Center appointed Nicholas Weston as the sole panelist in this matter on February 7, 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

The Complainant is a company incorporated in the United States that operates a defense technology business founded in 1972 selling products such as batons, riot shields, ballistic helmets and body armor worldwide. The Complainant cites its United States registrations for the trademark MONADNOCK including United States trademark No. 6,259,269 for the device mark MONADNOCK registered on February 2, 2021; United States trademark No. 5,695,614 for the word mark MONADNOCK registered on March 12, 2019; and United States trademark No. 2,389,238 for the word mark MONADNOCK registered on September 26, 2000.

The Complainant owns the domain name <defense-technology.com>, which hosts its main website selling, amongst other things, its MONADNOCK branded products.

The Disputed Domain Name was registered on April 29, 2024 and is used to host a website that pretends to be the Complainant's website, offers for sale products available on the Complainant's legitimate website, and displays the Complainant's registered device mark.

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 cites its trademark registrations in the United States for the device mark MONADNOCK, as prima facie evidence of ownership.

The Complainant submits that its rights in the mark MONADNOCK predate the Respondent's registration of the Disputed Domain Name. It submits that the Disputed Domain Name is confusingly similar to its trademark, because the Disputed Domain Name is comprised of the MONADNOCK trademark, only adding the descriptive term "gear".

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because the Respondent is intentionally and misleadingly diverting consumers to their fraudulent website and tarnishing the Trademark at issue, and infers that none of the circumstances set out in paragraph 4(c) of the Policy apply.

Finally, the Complainant alleges that the registration and use of the Disputed Domain Name was, and currently is, in bad faith, contrary to the Policy and the Rules having regard to evidence that points to knowledge of the Complainant and its trademarks, and, it submits that "[t]he [Disputed D]omain [N]ame was registered by the Respondents primarily for the purpose of disrupting the business of the Complainant. By using the [Disputed D]omain [N]ame, the Respondents intentionally attempted to attract for commercial gain Internet users to the Respondents' website by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondents' website and of a product or service on the Respondents' website or location."

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant has the burden of proving the following:

- (i) that the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and
- (iii) that the Disputed Domain Name has been 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 Panel finds that the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. The requirements of the first element for purposes of the Policy may be satisfied by a trademark registered in any country. [WIPO Overview 3.0](#), section 1.2.1. The Complainant has produced sufficient evidence to demonstrate that it has registered trademark rights in the mark MONADNOCK.

Turning to whether the Disputed Domain Name is identical or confusingly similar to the MONADNOCK trademark, the Panel observes that the Disputed Domain Name is comprised of: (a) an exact reproduction of the Complainant's trademark MONADNOCK; (b) followed by the word "gear"; (c) followed by the generic Top-Level Domain ("gTLD") ".com".

It is well established that the gTLD used as part of a domain name is generally disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1. The relevant comparison to be made is with the second-level portion of the Disputed Domain Name, specifically: "monadnockgear".

Although the addition of other terms here, the descriptive word "gear" may bear on assessment of the second and third elements, the Panel finds the addition of such term 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 mark is recognizable within the Disputed Domain Name. Accordingly, the Panel finds that 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 Disputed 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.

The Panel notes that the Complainant has not licensed or otherwise authorized the Respondent to use its trademarks and that there is no relationship between the Complainant and the Respondent, let alone any accurate or prominent disclosure of that relationship, or absence of such, on its website. The use of the Complainant's device trademark on the Respondent's website suggests that the Respondent is actually aware of the Complainant's trademark. The Panel finds that the Respondent's activities do not represent a bona fide offering of goods or services, or a legitimate noncommercial or fair use, given the substantial reputation and goodwill of the Complainant's mark or capacity to otherwise mislead Internet users.

Panels have held that the use of a domain name for illegal activity such as impersonation, passing off, or other types of 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.

In the present case, the Panel finds that the evidence in the case shows the Respondent registered and has used the Disputed Domain Name in bad faith.

On the issue of registration, taking into account the composition of the Disputed Domain Name and the Complainant's distinctive trademark, the Panel is satisfied that the Respondent deliberately targeted the Complainant's trademark MONADNOCK when it registered the Disputed Domain Name.

This Panel finds that there is no reason for the Respondent to have registered the Disputed Domain Name other than to trade off the reputation and goodwill of the Complainant's trademark. [WIPO Overview 3.0](#), section 3.1.4.

On the issue of use, the Complainant's evidence is that the Disputed Domain Name was used to host a website that pretends to be the Complainant's website, offers for sale products available on the Complainant's legitimate website, and displays the Complainant's actual device trademark.

Panels have held that the use of a domain name for unlawful activity here, alleged impersonation or passing off, 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.

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 <monadnockgear.com> be transferred to the Complainant.

/Nicholas Weston/

Nicholas Weston

Sole Panelist

Date: February 20, 2025