

## **ADMINISTRATIVE PANEL DECISION**

Archer and Olive, LLC v. Sam Nelson  
Case No. D2025-0586

### **1. The Parties**

Complainant is Archer and Olive, LLC, United States of America ("United States"), represented by Melissa H. Gray PLLC, d/b/a The Law Spot, United States.

Respondent is Sam Nelson, United States.

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

The disputed domain name <archerandolives.shop> is registered with Web Commerce Communications Limited dba WebNic.cc (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on February 14, 2025. On February 18, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 25, 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 (Archerandolives.shop Registrant/Sam Nelson) and contact information in the Complaint.

The Center sent an email communication to Complainant on March 27, 2025, 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 March 31, 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 Respondent of the Complaint, and the proceedings commenced on April 1, 2025. In accordance with the Rules, paragraph 5, the due date for Response was April 21, 2025. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on April 22, 2025.

The Center appointed Lorelei Ritchie as the sole panelist in this matter on April 29, 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 company based in the United States that offers various stationary goods under the mark ARCHER & OLIVE. Complainant owns a registration for its ARCHER & OLIVE mark, United States Registration No. 6042350 (registered April 28, 2020). The trademark application was filed on September 30, 2019, and claims a first use date of March 5, 2015. Complainant also owns the registration for the domain name <archerandolive.com> (registered August 21, 2012), which Complainant uses to communicate with prospective customers online.

The disputed domain name was registered on October 23, 2024. The disputed domain name resolves to a website that purports to offers products that are related to, or which compete with the various stationary products offered by Complainant under its ARCHER & OLIVE mark.

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

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

Complainant contends that (i) the disputed domain name is confusingly similar to Complainant's trademarks; (ii) Respondent has no rights or legitimate interests in the disputed domain name; and (iii) Respondent registered and is using the disputed domain name in bad faith.

Specifically, Complainant contends that it owns rights to the ARCHER & OLIVE mark — also displayed as ARCHER AND OLIVE, for which Complainant has “acquired significant good will.” Complainant contends that Respondent has incorporated in full Complainant's ARCHER AND OLIVE mark into the disputed domain name, with only the addition of the letter “s.” Complainant further contends that Respondent lacks rights or legitimate interests in the disputed domain name and rather has registered and is using it in bad faith, having likely acquired the disputed domain name for Respondent's own commercial gain by purportedly offering of identical goods and use of Complainant's copyright protected images on the website at the disputed domain name.

##### **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, ARCHER & OLIVE mark, for the purposes of the Policy, and such mark is recognizable in the disputed domain name despite the replacement of “&” in the mark by “and” in the disputed domain name. [WIPO Overview 3.0](#), sections 1.2.1 and 1.7. Although the addition of other terms (here, the letter “s”) 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 Complainant's mark for purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel therefore finds that the disputed domain name is confusingly similar to a trademark in which Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

## **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 Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Complainant has provided evidence that the disputed domain name is being used to offer competing products. Respondent has no affiliation with Complainant, nor any license to use Complainant's marks in any manner. 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 therefore finds that Complainant has provided sufficient evidence of Respondent's lack of “rights or legitimate interests” in accordance with paragraph 4(a)(ii) of the Policy which Respondent has not rebutted.

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

There are several ways that a complainant can demonstrate that a domain name was registered and used in bad faith. As noted in Section 4 of this Panel's Decision, the record includes evidence that the disputed domain name is being used to purportedly offer products that are related to or compete with those offered by Complainant under its ARCHER & OLIVE mark. Based on the nature of Complainant's ARCHER & OLIVE product offerings, the composition of the disputed domain name which is not only confusing similar to Complainant's mark but also almost identical to the Second-Level Domain of Complainant's domain name <archerandolive.com>, and on the competing merchandise offered via the website at the disputed domain name, the Panel determines that Respondent is trading on the goodwill of Complainant's trademarks to attract Internet users, presumably for Respondent's own commercial gain. Such registration and use of the disputed domain name falls squarely into bad faith as specified in paragraph 4(b)(iv) of the Policy.

The Panel finds sufficient evidence that Respondent registered and is using the disputed domain name in bad faith for purposes of 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 <archerandolives.shop> be transferred to Complainant.

*/Lorelei Ritchie/*

**Lorelei Ritchie**

Sole Panelist

Date: May 13, 2025