

## ADMINISTRATIVE PANEL DECISION

Gaijin Games Kft. v. Name Redacted  
Case No. D2025-0824

### 1. The Parties

The Complainant is Gaijin Games Kft., Hungary, internally represented.

The Respondent is Name Redacted<sup>1</sup>.

### 2. The Domain Name and Registrar

The disputed domain name <wartunder.org> (the “Disputed Domain Name”) is registered with Internet Domain Service BS Corp (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 27, 2025. On February 27, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On March 13, 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 (Not Disclosed/ Domain Manager (Whois protection), Redacted for Privacy, Whois Privacy Corp.) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 14, 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 March 20, 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”).

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<sup>1</sup> The Respondent appears to have used the name of an unrelated person when registering the Disputed Domain Name. In light of the potential identity theft, the Panel has redacted the Respondent's name from this Decision. However, the Panel has attached as Annex 1 to this Decision an instruction to the Registrar regarding transfer of the Disputed Domain Name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceedings, and has indicated Annex 1 to this Decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on March 26, 2025. In accordance with the Rules, paragraph 5, the due date for Response was April 15, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 16, 2025.

The Center appointed Pham Nghiem Xuan Bac as the sole panelist in this matter on April 25, 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. Further Procedural Considerations**

Under paragraph 10 of the Rules, the Panel is required to ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case, and also that the administrative proceeding takes place with due expedition.

Since the Respondent's mailing address is stated to be in Ukraine, which is subject to an international conflict at the date of this Decision that may impact case notification, it is appropriate for the Panel to consider, in accordance with its discretion under paragraph 10 of the Rules, whether the proceeding should continue.

Having considered all the circumstances of the case, the Panel is of the view that it should because of the following reasons:

- The Complaint together with the amended Complaint were delivered to the Respondent's email address provided by the Registrar and there is no evidence that the case notifications email to this email address was not successfully delivered.
- The Written Notice of the present administrative proceeding was also successfully delivered to the Respondent's postal address as provided by the Registrar. Although this postal address then was found to belong to an unrelated person who may have been the victim of a possible identity theft (kindly refer to the below section 7. Discussion and Findings), the Panel is of the opinion that, as the Center employed reasonably available means calculated to achieve actual notice to the Respondent, its responsibility for communication has been discharged according to paragraph 2 of the Rules.
- For the reasons which are set out later in this Decision, the Panel has no doubt whatsoever that the Respondent registered and has used the Disputed Domain Name in bad faith and with the intention of unfairly targeting the Complainant's goodwill in its trademark and misleading consumers.

On this basis, the Panel concludes that the Parties have been given a fair opportunity to present their cases, and proceeds to issue the present decision on the substance of the dispute.

#### **5. Factual Background**

The Complainant develops and offers a free-to-play, cross-platform MMO<sup>2</sup> military game named "War Thunder" which is dedicated to aviation, armored vehicles, and naval vessels.

The Complainant owns several WAR THUNDER trademark registrations, including but not limited to International Trademark Registration No. 1164387, registered on March 18, 2013, designating the European Union, Japan, Republic of Korea, China, and Russian Federation.

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<sup>2</sup> This abbreviation stands for "massively multiplayer online" game - a video game that can be played by many people simultaneously.

The Complainant is also the owner of the domain name <warthunder.com>, registered on December 2, 2011.

The Disputed Domain Name was registered on July 26, 2022.

The Disputed Domain Name is currently resolving to an inactive website. However, at the time of filing of the Complaint, the Disputed Domain Name directed to a Russian language website offering in-game items for the War Thunder game of the Complainant.

## **6. 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, as follows:

(i) The Disputed Domain Name is identical or confusingly similar to a trademark or service mark, in which the Complainant has rights.

The Complainant contends that its "War Thunder" video game has been widely known and played around the world for more than 11 years, won several awards and the number of players of this game has been continuously rising. The Complainant also asserts that it owns and holds the rights for the WAR THUNDER trademark.

The Complainant submits that the Disputed Domain Name includes the entire WAR THUNDER trademark, except for the missing letter "h" in the word "thunder" which does not affect consumers' perception. Additionally, as the element "war" is the dominant part of the "War Thunder" phrase, the Disputed Domain Name, with the minor misspelling "tunder", is visually and phonetically highly similar to the Complainant's WAR THUNDER trademark. Further, the Complainant argues that the WAR THUNDER trademark is intentionally misspelled in the Disputed Domain Name to copycat the domain name <warthunder.com> which resolves to the original website of the War Thunder video game and the minor changes in spelling does not change the appearance, pronunciation, or connotation of the WAR THUNDER trademark. Therefore, the Complainant submits that the Disputed Domain Name is confusingly similar to the WAR THUNDER trademark.

(ii) The Respondent has no rights or legitimate interests in respect of the Disputed Domain Name.

First, the Complainant asserts that the Respondent does not own any registered rights in any trademarks that comprise part or the entirety of the Disputed Domain Name and is not commonly known under the name that is used for the Disputed Domain Name. The Complainant has not licensed the Respondent to use the WAR THUNDER trademark as part of the Disputed Domain Name.

Second, the Complainant submits that, at the time of filing this Complaint, the Disputed Domain Name website was fraudulently offering in-game items for sale and features for "War Thunder" video game which are offered to consumers exclusively by the Complainant (or other Gaijin group companies) at the official website "www.store.gaijin.net" or official platform stores (such as PlayStation, Xbox, Steam). Accordingly, the Complainant argues that the Disputed Domain Name was not used in connection with a bona fide offering of goods or services, and the Respondent is not making a legitimate noncommercial or fair use of the Disputed Domain Name.

In particular, the Complainant contends that the Respondent does not offer any goods or services in bona fide as (a) the website at the Disputed Domain Name is not authorized to sell in-game items related to "War Thunder" video game, specifically, the Respondent has never been authorized to use the Complainant's WAR THUNDER trademark, sell any in-game items and codes, or perform any other activity related to "War

Thunder” video game or other Complainant’s services; and (b) users of the associated website are not offered any goods or services after enabling payments, especially, the activation codes offered for sale on the associated website mimic the official “War Thunder” in-game store “Gaijin.Net Store” (“www.store.gaijin.net”), attempting to pass themselves off as the genuine products offered by the Complainant on its webstore and constituting fraudulent activities, as a result, the buyers of the in-game items at the associated website did not receive any effective codes after enabling the payment.

In addition, the Complainant asserts that, due to the illegal use of the Disputed Domain Name without the Complainant’s authorization, the Respondent is not making a legitimate noncommercial or fair use of the Disputed Domain Name.

(iii) The Disputed Domain Name was registered and is being used in bad faith.

First, the Complainant submits that the mere registration of a domain name that is identical or confusingly similar to a widely known trademark by an unaffiliated entity can by itself create a presumption of bad faith.

Second, the Complainant argues that the Respondent should have been aware of the Complainant and its well-known “War Thunder” game as well as the WAR THUNDER trademark at the time of registration of the Disputed Domain Name. The Complainant’s WAR THUNDER trademark preceded the registration of the Disputed Domain Name for years.

In addition, the Complainant asserts that the Respondent intentionally and wrongfully registered the Disputed Domain Name identical to Complainant’s trademark solely to trade upon Complainant’s notoriety and goodwill. The Respondent intended that its actions would deceive, mislead, and divert a large number of consumers seeking the Complainant’s goods and services.

The Complainant also contends that “opportunistic bad faith” where a domain name is so obviously connected to a particular product or service and the registrant is found to have no connection to that product or service takes place in the present administrative proceedings. In particular, by associating the Respondent’s products and services with the Complainant’s WAR THUNDER video game and trademark, the Disputed Domain Name’s website misleads users which may cause them to mistrust the Complainant and avoid its video games and poses a threat to the good reputation of the Complainant and the well-established community of users across the world.

Finally, the Complainant submits that the Respondent’s action of hiding its identity by using a proxy service is additional evidence of the Respondent’s bad faith.

## **B. Respondent**

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

## **7. Discussion and Findings**

### **The Respondent’s Identity**

The Panel notes that at the time the Complaint was filed on February 27, 2025, the Respondent was identified as “Redacted for Privacy, Whois Privacy Corp.”. On March 13, 2025, the Registrar revealed the Respondent information with name and address in detail. Based on the Center’s email communication dated March 14, 2025, with the registrant and contact information disclosed by the Registrar, on March 20, 2025, the Complainant filed an amended Complaint with the underlying registrant and contact information disclosed by the Registrar.

The Complaint together with the amended Complaint then were delivered to the Respondent’s email address and postal address as provided by the Registrar.

On May 2, 2025, the Center received an email from a third-party with the same name as the Respondent. In the email, the third party mentioned that he had received a letter on May 02, 2025, informing him of an administrative case against him. He then confirmed that he had never registered any domain name on the Internet and that someone had used his personal data without authorization.

In this regard, the Panel found that the subject line of the third party's email referenced Case No. [D2025-0824](#), which is the Center's reference number for the present administrative proceeding. In addition, based on the tracking information for the postal package containing the Written Notice of the present administrative proceeding sent to the Respondent, the Panel noted that the delivery date was May 2, 2025, which is consistent with the third party's statement regarding the date he received the letter. Accordingly, this appears to be an identity theft issue.

Considering the foregoing, the Panel is satisfied that the individual with name and address as disclosed by the Registrar was never the registrant or beneficial holder of the Disputed Domain Name and is not the proper Respondent in this proceeding, the true identity of which remains unknown. Accordingly, the Panel has redacted the Respondent's name from this Decision.

Nonetheless, the Panel shall proceed with the reasoning and ruling on this case, even though the proper Respondent has not been identified.

#### **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 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 Panel finds that the Complainant has evidenced that it has rights in and to the WAR THUNDER trademark, which was registered in several countries before the registration of the Disputed Domain Name.

The Panel finds the mark is recognizable 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.

The Disputed Domain Name consists of the term "wartunder" which differs from the WAR THUNDER trademark only in the missing of the letter "h". The Panel considers this to be an obvious misspelling of the trademark and finds that the Disputed Domain Name is confusingly similar to the mark for purposes of the first element. [WIPO Overview 3.0](#), section 1.9

In addition, the Panel finds, similarly to other UDRP panels, that the addition of the generic Top-Level Domain ("gTLD") ".org" to the Disputed Domain Name may be disregarded under the first element confusing similarity test because it is viewed as a standard registration requirement. [WIPO Overview 3.0](#), section 1.11.1.

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.

Paragraph 4(c) of the Policy lists circumstances, in particular but without limitation, which, if found by the Panel to be proved, demonstrate the Respondent’s rights or legitimate interests in the Disputed Domain Name for the purposes of paragraph 4(a)(ii) of the Policy, including:

- “(i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or
- (ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or
- (iii) you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.”

Regarding paragraph 4(c)(i) of the Policy, the Panel finds, in light of the Complainant’s asserted facts, that no license, permission or authorization of any kind to use the Complainant’s WAR THUNDER trademark has been granted to the Respondent. There is no evidence available that the Respondent holds any registered or unregistered trademark rights in any jurisdiction related to “War Thunder”. Thus, the Panel finds that the Respondent has no rights in the WAR THUNDER trademark.

A reseller or distributor may be making a bona fide offering of goods and services and thus have rights or legitimate interests in a domain name if its use meets certain requirements, which are described in the decision *Oki Data Americas, Inc. v. ASD, Inc.*, (“Oki Data”), WIPO Case No. [D2001-0903](#) including:

- the respondent must actually be offering the goods or services at issue;
- the respondent must use the site to sell only the trademarked goods or services (otherwise, there is the possibility that the respondent is using the trademark in a domain name to bait consumers and then switch them to other goods or services);
- the site itself must accurately and prominently disclose the respondent’s relationship with the trademark owner; and
- the respondent must not try to “corner the market” in domain names that reflect the trademark, thus depriving the trademark owner of the ability to reflect its own mark in a domain name.

In this particular case, the Panel conducted an independent search on “www.web.archive.org” and found that the Disputed Domain Name, at least on January 21, 2025, resolved to a website that offers in-game items for sale and features for “War Thunder” video game. On such website, the Panel found that the Respondent

had the statement of “Not part of or partner of Gaijin Network Ltd” at the end of the page. On this matter, the Panel notes that, as per a statement on the website “www.store.gaijin.net” which is the official game store of the Complainant, Gaijin Network Ltd is the company that operates the website. Thus, it is understood that Gaijin Network Ltd is also part of the Gaijin group, together with the Complainant.

However, the Respondent’s statement regarding its lack of relationship with the Complainant is presented only at the bottom of the page in a very small font size, which cannot be considered as “accurately and prominently disclosing the Respondent’s relationship with the trademark owner,” and is insufficient to eliminate the possibility of misleading Internet users into believing that a connection or association exists between the Respondent and the Complainant, where such connection or association does not exist in reality.

With such a view, the Panel finds that the use of the Disputed Domain Name does not meet the Oki Data criteria and thus, does not constitute a bona fide use within paragraph 4(c)(i) of the Policy.

Regarding paragraphs 4(c)(ii) and 4(c)(iii) of the Policy, the Panel finds no evidence indicating that the Respondent, whether as an individual, business, or entity, is commonly known by the Disputed Domain Name, nor is the Respondent making a legitimate noncommercial or fair use of it. In fact, the Disputed Domain Name appears as an obvious and intentional misspelling of the Complainant’s WAR THUNDER trademark, and the adoption of such misspelling may be regarded as a sign of an intention to confuse and attract Internet users seeking for the Complainant, which cannot constitute fair use.

In addition, considering the high similarity between the Disputed Domain Name and the WAR THUNDER trademark, the identical in-game items and features offered on the website associated with the Disputed Domain Name compared to those in the Complainant’s “War Thunder” video game, as well as the content on the website, including but not limited to, the introduction and purchase instructions which all refer to the “War Thunder” video game, it is likely that consumers may mistakenly believe the items and features offered by the website are affiliated with or endorsed by the Complainant. Therefore, the Panel confirms the findings that the Respondent is not making a bona fide offering of goods and services nor a legitimate noncommercial or fair use of the Disputed Domain Name.

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, including:

“(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location.”

In the present case, the Panel finds that the Complainant has put forth evidence that the Respondent has registered and used the Disputed Domain Name in bad faith. The Respondent did not formally reply to the Complainant's contentions and, therefore, did not refute the Complainant's contentions.

The Panel has considered the Complainant's assertions and evidence relating to the Respondent's registration and use of the Disputed Domain Name. In this regard, the Panel finds that the Complainant's WAR THUNDER trademark has been registered and put in use in several countries worldwide. The trademark registration and the appearance of "War Thunder" video game well predate the registration of the Disputed Domain Name.

In consideration of the use of the Disputed Domain Name and the Respondent's statement on the website which mentions "Gaijin Network Ltd" which is a company in the Gaijin group of the Complainant, the Panel is of the view that the Respondent obviously knew of the Complainant and its WAR THUNDER trademark and "War Thunder" video game when it registered the Disputed Domain Name. The Panel considers the registration of the Disputed Domain Name as an attempt by the Respondent to take unfair advantage of the Complainant's goodwill and the reputation of the WAR THUNDER trademark and "War Thunder" video game.

The Disputed Domain Name currently resolves to an inactive website. However, it is well proven and evidenced by the Complainant and the Panel that the website under the Disputed Domain Name used to offer for sale in-game items of "War Thunder" video game. The Panel takes the view that any Internet users seeking to purchase the in-game items, codes and other features of the Complainant's "War Thunder" video game would likely mistakenly believe that the Respondent is either connected to or associated with the Complainant, while no such connection exists in fact. The Panel therefore finds that by using the Disputed Domain Name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation, or endorsement of its website on its website, which is indicative of bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

In addition, the Panel considers the Respondent's action of providing false contact details (i.e., those of another individual) when registering the Disputed Domain Name to be an intentional effort to block disclosure of the identity of the actual underlying registrant, which is also an indication of bad faith.

In conclusion, the Panel finds that the Complainant has established the third element of the Policy.

## **8. 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 <wartunder.org> be transferred to the Complainant.

*/Pham Nghiem Xuan Bac/*

**Pham Nghiem Xuan Bac**

Sole Panelist

Date: May 9, 2025