

ADMINISTRATIVE PANEL DECISION

Nammo Lapua Oy v. Mason Silver, CEO

Case No. D2025-1314

1. The Parties

The Complainant is Nammo Lapua Oy, Finland, represented by Heinonen & Co, Attorneys-at-Law, Ltd., Finland.

The Respondent is Mason Silver, CEO, United States of America ("United States").

2. The Domain Name and Registrar

The disputed domain name <lapuabrass-shop.com> (the "Domain Name") is registered with Dynadot Inc (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 1, 2025. On April 1, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On April 2, 2025, the Registrar transmitted by email to the Center its verification response, disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Private Registrant(s) / Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 2, 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 April 3, 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 April 8, 2025. In accordance with the Rules, paragraph 5, the due date for Response was April 28, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 29, 2025.

The Center appointed Nicholas Smith as the sole panelist in this matter on May 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

The Complainant is a Finnish company, founded in 1923, that manufactures and distributes premium small caliber ammunition, under the trademark LAPUA (the “LAPUA Mark”) and other marks containing the word “LAPUA”.

The Complainant has registered the LAPUA Mark as a trademark in various jurisdictions, including in the United States for ammunition and ammunition components in class 13 (e.g., Registration Number 2043495 registered March 11, 1997).

The Domain Name was registered on January 30, 2023. The Domain Name resolves to a website (“the Respondent’s Website”) that purports to offer the Complainant’s ammunition under the Complainant’s LAPUA Mark. The Respondent’s Website contains no disclaimers that the Respondent is not authorized by the Complainant and contains copyrighted images and product descriptions copied from an authorised retailer of the Complainant’s products.

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 Domain Name.

Notably, the Complainant contends that:

- a) the Complainant is the owner of the LAPUA Mark, having registered the LAPUA Mark in the United States and various other jurisdictions. The Domain Name is confusingly similar to the LAPUA Mark as it reproduces the LAPUA Mark and adds the descriptive terms “brass-” and “shop” and a Top-Level Domain (“TLD”) which do not distinguish the Domain Name from the LAPUA Mark.
- b) there are no rights or legitimate interests held by the Respondent in respect of the Domain Name. The Respondent has only chosen the disputed domain name because of the earlier LAPUA trademarks of the Complainant and has no authorization from the Complainant to register the Domain Name. The Respondent is not making a legitimate noncommercial or fair use of the Domain Name. Rather the Respondent is using the Domain Name to create a website that sells unauthorised versions of the Complainant’s products. The Respondent’s Website also includes copyrighted photos and product descriptions of the Complainant’s ammunition products taken from an official retailer of the Complainant.
- c) The Domain Name was registered and is being used in bad faith. By using the Domain Name for a website that reproduces copyrighted descriptions of the Complainant’s products, and falsely purports to represent the Complainant, the Respondent is clearly aware of the LAPUA Mark and is using it to deceive consumers as to its affiliation with the Complainant for its commercial gain. Such conduct amounts to registration and use of the Domain Name in bad faith.

B. Respondent

The Respondent did not reply to the 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 the Complainant's trademark and the 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 entirety of the mark is reproduced within the Domain Name. Accordingly, the 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, "brass-" and "shop", 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 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 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 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 Domain Name such as those enumerated in the Policy or otherwise.

The Panel considers that the record of this case reflects that:

- before any notice to the Respondent of the dispute, the Respondent did not use, nor has it made 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. Paragraph 4(c)(i) of the Policy, and [WIPO Overview 3.0](#), section 2.2.
- the Respondent (as an individual, business, or other organization) has not been commonly known by the Domain Name. Paragraph 4(c)(ii) of the Policy, and [WIPO Overview 3.0](#), section 2.3.
- the Respondent is not 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. Paragraph 4(c)(iii) of the Policy, and [WIPO Overview 3.0](#), section 2.4.
- the record contains no other factors demonstrating rights or legitimate interests of the Respondent in the Domain Name.

The Respondent has used the Domain Name to operate a website to sell ammunition and related products that purport to be legitimate LAPUA products. It is unclear whether the products sold are counterfeit or genuine products produced by the Complainant. If the ammunition sold on the Respondent's Website is not the genuine product produced by the Complainant, the Respondent's use of the Domain Name does not grant it rights or legitimate interests since it is using the Complainant's LAPUA Mark for a site selling counterfeit products.

Even if the Respondent is offering genuine LAPUA products from the Respondent's Website, such use does not automatically grant it rights or legitimate interests. The principles that govern whether a reseller of genuine goods has rights or legitimate interests have been set out in a variety of UDRP decisions, starting with the case of *Ok! Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#) ("Ok! Data test").

The [WIPO Overview 3.0](#), section 2.8 summarizes the consensus views of UDRP panels in assessing claims of nominative (fair) use by resellers or distributors in the following manner:

"... Panels have recognized that resellers, distributors, or service providers using a domain name containing the complainant's trademark to undertake sales or repairs related to the complainant's goods or services may be making a bona fide offering of goods and services and thus have a legitimate interest in such domain name. Outlined in the 'Ok! Data test', the following cumulative requirements will be applied in the specific conditions of a UDRP case:

- (i) the respondent must actually be offering the goods or services at issue;
- (ii) the respondent must use the site to sell only the trademarked goods or services;
- (iii) the site must accurately and prominently disclose the registrant's relationship with the trademark holder; and
- (iv) the respondent must not try to "corner the market" in domain names that reflect the trademark.

The "Ok! Data test" does not apply where any prior agreement, express or otherwise, between the parties expressly prohibits (or allows) the registration or use of domain names incorporating the complainant's trademark."

In this case, the Respondent's Website does not accurately or prominently disclose the Respondent's relationship with the Complainant, in particular that it is not an authorized dealer or has any particular connection with the Complainant. Rather, its reproduction of copyrighted product images and product descriptions taken from an authorized reseller and the absence of a disclaimer or any explanation as to the identity of the operator of the Respondent's Website results in the impression that the Respondent's Website is an official website of the Complainant or an authorized reseller. Under the circumstances of this case, even in the event that the Respondent is reselling genuine LAPUA products, its use of the Domain Name for the Respondent's Website does not grant it rights or legitimate interests in the 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.

The Panel finds that the Respondent was aware of the Complainant and its trademark when registering the Domain Name as the Respondent's Website makes frequent references to the Complainant and includes images and product descriptions for the Complainant's products. The registration of the Domain Name in awareness of the LAPUA Mark and in the absence of rights or legitimate interests amounts under these circumstances to registration in bad faith.

The Panel considers that the record of this case reflects that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with the Complainant's LAPUA Mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's Website or location or of a product or service on the Respondent's Website. Paragraph 4(b)(iv) of the Policy, and [WIPO Overview 3.0](#), section 3.1.4. The Respondent registered the Domain Name for the purposes of operating a website specifically to sell either the Complainant's products or counterfeit versions of the Complainant's products. The Respondent is using a Domain Name that is confusingly similar to the LAPUA Mark to sell products, be they genuine or otherwise, in competition with the Complainant and without the Complainant's approval and without meeting the Oki Data test.

The Panel finds that the 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 Domain Name <lapuabrass-shop.com> be transferred to the Complainant.

/Nicholas Smith/

Nicholas Smith

Sole Panelist

Date: May 14, 2025