

## **ADMINISTRATIVE PANEL DECISION**

Embark Studios AB v. Logan RIVIERE

Case No. D2025-4682

### **1. The Parties**

The Complainant is Embark Studios AB, Sweden, represented by Westerberg & Partners Advokatbyrå AB, Sweden.

The Respondent is Logan RIVIERE, France

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

The disputed domain name <arcraidersmerch.com> is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 12, 2025. On November 12, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 12, 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 (Unknown / Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 13, 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 amendment to the Complaint on November 14, 2025.

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 November 17, 2025. In accordance with the Rules, paragraph 5, the due date for Response was December 7, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 8, 2025.

The Center appointed Olga Zalomiy as the sole panelist in this matter on December 12, 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 Swedish video gaming studio based in Stockholm. The Complainant owns registrations for the ARC RAIDERS trademarks all over the world, such as:

- United States of America registration No. 7198301 for the ARC RAIDERS (word and design) trademark, registered on October 24, 2023; and
- International Registration No. 1621411 for the ARC RAIDERS (word mark), registered on April 30, 2021.

The disputed domain name was registered on October 23, 2025. The disputed domain name currently does not resolve to any active website. In the past, the disputed domain name directed Internet users to an online store, which offered purported ARC RAIDERS goods. The Complainant has not begun manufacturing its own merchandise under the ARC Raiders mark. The website under the disputed domain name used to display the Complainant's device trademark, a statement "Official ARC Raiders Merchandise" and in-game assets from the Complainant's game.

#### **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 contends that the disputed domain name is confusingly similar to its ARC RAIDERS trademark because the disputed domain name reproduces the Complainant's mark in its entirety. The Complainant argues that the inclusion of the descriptive term "merch" does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark

The Complainant submits that the Respondent has no rights or legitimate interests in the disputed domain name because: (i) there is no evidence that the Respondent owns any trademark right in the ARC RAIDERS mark; (ii) the Respondent is neither affiliated nor has been authorized by the Complainant to use its ARC RAIDERS trademark in the disputed domain name or in any other form; (iii) the disputed domain name is used to resolve to a website that offers for sale merchandise under the Complainant's trademark and that displays the Complainant's in-game assets. The Complainant contends that the website under the disputed domain name prominently displays the Complainant's trademark and the statements "official ARC Raiders merchandise" and "exclusive game apparel, merchandise, and collectibles inspired by the post-collapse world of Embark Studios' sci-fi shooter".

The Complainant asserts that the Respondent registered the disputed domain name in bad faith, because the Respondent registered it with the Complainant's trademark in mind. The Complainant argues that its trademark was registered prior to the disputed domain name registration. The fact that website associated with the disputed domain name offers "official ARC Raiders merchandise" supports this assertion. The Complaint contends that the Respondent intentionally attempted to attract for commercial gain Internet users to his website, by creating likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation or endorsement of his website because the Respondent attempts to sell competing products on its website.

## **B. Respondent**

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

## **6. Discussion and Findings**

Pursuant to paragraph 4(a) of the Policy, to succeed in these proceedings, the Complainant must prove each of the following elements with respect to the disputed domain name:

- (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 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 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 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 inclusion of the generic Top-Level Domain ".com" is typically disregarded in the context of the confusing similarity assessment, being a technical requirement of registration. [WIPO Overview 3.0](#), section 1.11.1.

Although the addition of other terms here, "merch", 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 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.

The evidence on record shows that the Respondent is not commonly known by the disputed domain name. The Respondent is not making legitimate noncommercial or fair use of the disputed domain name or use for bona fide offering of goods or services, because at the time of this Decision, the disputed domain name does not direct to an active website. The Respondent has not been authorized by the Complainant to use the Complainant's trademark in a domain name.

Nor does the Respondent's prior use of the disputed domain name establish any rights or legitimate interests of the Respondent. Previous UDRP panels have recognized that resellers or distributors using domain names containing the complainant's trademark to undertake sales of the complainant's goods may be making a bona fide offering of goods and thus have rights or legitimate interests in such domain names in some situations.

Outlined in the *Oki Data* case,<sup>1</sup> the following cumulative requirements must be satisfied for the respondent to make a bona fide offering of goods or services:

- “(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.”

Here, the disputed domain name was used to resolve to the website which offered for sale the merchandise under the Complainant's trademark. The website prominently displayed the statements “official ARC Raiders merchandise” and “apparel, merchandise, and collectibles inspired by the post collapse world of Embark Studios” without any notice about its lack of affiliation with the Complainant. Therefore, the Respondent failed to satisfy the *Oki Data* test.

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.

In the present case, the Panel notes that the Respondent registered the disputed domain name incorporating the Complainant's trademark and the descriptive term “merch” several years after the Complainant's first trademark registration. The Respondent's lack of rights or legitimate interests in the disputed domain name, the absence of a credible explanation for choosing the disputed domain name, the composition of the disputed domain name, and the Respondent's past use of the disputed domain name to direct to a website offering for sale the Complainant's goods, and the statement on the website associated with the disputed domain name that it is the “official store” and “official ARC Raiders merchandise”, indicate that the disputed domain name was registered in bad faith.

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<sup>1</sup> See [WIPO Overview 3.0](#), section 2.8.1; and *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#).

The UDRP establishes that, for purposes of paragraph 4(a)(iii), “bad faith” registration and use of a domain name can be established by a showing of circumstances indicating that the respondent is using the domain name to intentionally attempt to attract, for commercial gain, Internet users to the respondent’s website or other online location, by creating a likelihood of confusion with the complainant’s mark as to source, sponsorship, affiliation or endorsement of the respondent’s website or location, or of a product or service on the respondent’s website or location. See Policy, paragraph 4(b)(iv).

Prior UDRP panels have found “the following types of evidence to support a finding that a respondent has registered a domain name to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the complainant’s mark: (i) actual confusion; (ii) seeking to cause confusion (including by technical means beyond the domain name itself) for the respondent’s commercial benefit, even if unsuccessful; (iii) the lack of a respondent’s own rights to or legitimate interests in a domain name; [...]” [WIPO Overview 3.0](#), section 3.1.4.

Here, the Respondent, who has no rights to or legitimate interests in the disputed domain name, registered the disputed domain name that incorporates the Complainant’s trademark and used it to operate an online store selling goods under the Complainant’s trademark. The website prominently displayed the Complainant’s trademark and included statements such as “official ARC Raiders merchandise” and “apparel, merchandise, and collectibles inspired by the post collapse world of Embark Studios”. Therefore, the Panel concludes that the Respondent registered and is using the disputed domain name to intentionally attempt to attract, for commercial gain, Internet users to the Respondent’s 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 the Respondent’s website or location, or of a product or service on the Respondent’s website or location.

Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the composition of the disputed domain name, the Respondent’s prior use of the disputed domain name and finds that in the circumstances of this case the current passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

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 disputed domain name <arcraidersmerch.com> be transferred to the Complainant.

*/Olga Zalomiy/*

**Olga Zalomiy**

Sole Panelist

Date: December 19, 2025