

## **ADMINISTRATIVE PANEL DECISION**

Nammo Lapua Oy v. Lucas Harper  
Case No. D2022-4369

### **1. The Parties**

The Complainant is Nammo Lapua Oy, Finland, represented by Eversheds Attorneys Ltd., Finland.

The Respondent is Lucas Harper, United States of America (“United States”).

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

The disputed domain names <lapuabrass-store.com> and <lapuabrassusa.com> are registered with NameSilo, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 16, 2022. On November 17, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On the same day, the Registrar transmitted by email to the Center its verification response, disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Domain Administrator, See PrivacyGuardian.org) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 23, 2022, 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 November 28, 2022.

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 December 1, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 21, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 24, 2022.

The Center appointed Martin Michaus Romero as the sole panelist in this matter on January 4, 2023. 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:

- a) Was founded in 1923 and is a leading manufacturer of premium small caliber ammunition.
- b) Its part of the Nammo Group, one of the world's largest suppliers of ammunition and rocket motors.
- c) It's a member of the association of European Manufacturers of Sporting Ammunition and holds numerous certifications that demonstrate its manufacturing processes.
- d) Exacting standards and commitment to quality have earn the company its sterling reputation among its customers worldwide over the last nearly 100 years.
- e) Hunters, sportsmen, and law enforcement around the globe rely upon it because its products deliver consistent an outstanding performance.
- f) At a result, the LAPUA trademarks have become well-known and reputed globally in relation to ammunition related goods.
- g) Is the owner of multiple LAPUA trademarks which are protected, *inter alia*, by United States Trademark registration 2043495 for "LAPUA" (word), registered on March 11, 1997, and 3841569 for "L LAPUA (design)", registered on August 31, 2010, among other registered and common law trademarks in the United States and around the world.
- h) This marks have been in use in commerce in the Unites States since at least 1957.
- i) The Complainant is also de owner of LAPUA trademarks which are protected, *inter alia*, by Canadian trademark registration Nos. TMA 772024 for "LAPUA (word)" and TMA 772205 for "L LAPUA (design)", which have been in use in Canada in commerce since at least 1995 as well as EU Trademark Registration No. 008400582 "LAPUA (word)" and Nos. 002295715 and 018586476 for "L LAPUA (design)".
- j) The trademarks cover goods in class 13, which include *inter alia*, ammunition and related components such as projectiles and cartridges.
- k) The dates of the registration of the domain names in dispute are respectively May 26, 2022 for <lapuabrass-store.com> and September 12, 2022 for <lapuabrassusa.com>, and they both resolve to websites that allegedly sells goods of the Complainant.

#### 5. Parties' Contentions

##### A. Complainant

The Complainant states in its Complaint that the Respondent:

- 1) Registered the disputed domain names which are identical or confusingly similar to the Complainant's well-known trademark LAPUA without the Complainant's knowledge or authorization.

- 2) Registered the disputed domain names to create confusion amongst Internet users that the disputed domain names are affiliated with the Complainant.
- 3) Has no rights or legitimate interests in the disputed domain names.
- 4) The mere registration of domain names does not establish any rights or legitimate interest in the disputed domain names.
- 5) Likely intended to confuse the Complainant's customers or potential customers, considering the complete reproduction of the LAPUA trademark in the disputed domain names.

Accordingly, the disputed domain names were selected, registered, and used by the Respondent in bad faith and not for a *bona fide* offering of goods or services, nor any fair use, but rather to mislead Internet users, disrupt the Complainant's business, and affect the reputation or notoriety of the LAPUA trademark.

## **B. Respondent**

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

## **6. Discussion and Findings**

Paragraph 15(a) of the Rules instructs the Panel as to the principles the Panel is to use in determining the dispute: "A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable."

Considering that the Respondent did not reply to the Complainant's contentions, in order to determine whether the Complainant has met its burden as stated in paragraph 4(a) of the Policy, the Panel bases its Decision on the statements and documents submitted and in accordance with the Policy and the Rules.

Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following: (i) that the disputed domain names are identical or confusingly similar to the trademark or service mark in which the Complainant has rights; (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain names; and (iii) that the disputed domain names have been registered and are being used in bad faith.

### **A. Identical or Confusingly Similar**

The Complainant has submitted evidence of its rights in the LAPUA trademark.

The disputed domain names are confusingly similar to the Complainant's trademark. The disputed domain names <lapuabrass-store.com> and <lapuabrassusa.com> reproduce the Complainant's trademark in its entirety with the addition of non-distinctive and geographic terms, as part of the disputed domain names that are confusingly similar to the Complainant's trademark.

In the disputed domain name <lapuabrass-store.com>, the addition of the non-distinctive, English words "brass" and "store" separated by a hyphen does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark.

The second disputed domain name, <lapuabrassusa.com>, also includes the non-distinctive, English word "brass" and the geographical term "usa", which does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark.

The Top-Level Domain ("TLD") suffix, ".com", should be disregarded for the purposes of the confusing similarity test. According to section 1.11.1 of the WIPO Overview of WIPO Panel views on selected UDRP

questions, third edition (the "[WIPO Overview 3.0](#)"), the TLD, ".com" does not prevent a finding of confusing similarity between the disputed domain names and the LAPUA trademark.

Accordingly, the Panel finds that the Complainant satisfies paragraph 4(a)(i) of the Policy.

## **B. Rights or Legitimate Interests**

The Respondent has not received permission or authorization to use the Complainant's trademark. The Respondent did not reply to the Complainant's contentions, and therefore has not provided any evidence to demonstrate the contrary. It should be pointed out that nothing in the available record indicates that the Respondent is an individual, business, or corporation known by the name "LAPUA".

Furthermore, the Respondent is not using the disputed domain names for a *bona fide* offering of good or services, nor for a legitimate noncommercial or fair use that might give rise to rights or legitimate interests in the disputed domain names.

There is no evidence that the Respondent is commonly known by the disputed domain names, has made demonstrable preparation to use it for a *bona fide* offering of good or services, owned a trademark or is making a legitimate noncommercial or fair use of the disputed domain names.

The Respondent is using the Complainant's trademark and reputation to fraudulently induce consumers into purchasing goods from the website, accept payments and then fail to provide the purchased products. Therefore, the Respondent cannot have legitimate interests in using the LAPUA trademark to defraud consumers for the purpose of scamming them out of money and personal information.

Likewise, the Respondent has been engaged in a pattern of trademark-abusive domain name registration, based on the UDRP cases *Ammunition Operations LLC v. Lucas Harper, aretesterooids*, WIPO Case No. [D2022-2171](#), [Annex 27] and *FN HERSTAL v. Lucas Harper, aretesterooids / Charls Carl, palais de lux / AMAH ENGOH, CEO / Nkemzi Nobatel / Lucas Harper, CEO / Poliano Agbor, 420 weed / Nathan Manton*, WIPO Case No. [D2022-3471](#) [Annex 28], where the UDRP panelists have ordered the disputed domain names to be transferred to the complainants.

In connection with the disputed domain name <lapuabrass-store.com>, the Respondent did not answer to the cease and desist letter dated of October 3, 2022 sent by the Complainant, asking him to cease to use the Complainant's trademarks, nor did the Respondent reply to the Complainant's contentions. As such, the Respondent has failed to invoke any of the circumstances that could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights or legitimate interests in the disputed domain names.

Moreover, the Panel finds that the disputed domain names carry a risk of implied affiliation. See section 2.5.1 of the [WIPO Overview 3.0](#).

The Panel finds that the Complainant has put forward a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain names, which the Respondent has not rebutted. Accordingly, the Panel finds that the Complainant satisfies paragraph 4(a)(ii) of the Policy.

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

According to the evidence submitted by the Complainant, it is clear to the Panel that the registration and the use of the disputed domain names have been in bad faith, by including the LAPUA trademark, to intentionally attract Internet users for commercial gain to websites impersonating the Complainant's official website.

In the first disputed domain name <lapuabrass-store.com>, the inclusion of the non-distinctive English terms, such as "brass" and "store" and in the second disputed domain name <lapuabrassusa.com>, the inclusion of the non-distinctive English term "brass" and the geographic term, "usa", only increase the misconception that

the disputed domain names belong to the Complainant, in an attempt to deceive or lead Internet users to believe that the disputed domain names are operated by the Complainant, taking advantage of the reputation of the well-known LAPUA trademark.

The Panel finds that the disputed domain names were registered and are being used in bad faith due to the following:

1) According to the Who is details, the disputed domain names were registered on May 26, 2022 <lapuabrass-store.com> and on September 12, 2022 <lapuabrass-usa.com>.

The Complainant's trademarks were registered way before that date. The disputed domain names were registered in 2022, which is twenty-six years after the Complainant's United States trademark registration No. 2043495 was filed and sixty-five years after the LAPUA" trademark started to be used in commerce in the United States.

The disputed domain names were registered without authorization as the Complainant did not grant the Respondent any authorization to use its trademark in a domain name.

2) The previous and current use of the disputed domain names were deliberately conducted to take advantage of the reputation of the business activities of the Complainant and goodwill of its trademark. The Panel is of the opinion that at the time the disputed domain names were registered, the Respondent must have been aware of the existence of the Complainant's LAPUA trademark.

3) The Respondent has demonstrated, by registering the disputed domain names, which reproduce the Complainant's trademark, an intent to capitalize on the goodwill of the Complainant's trademark.

Furthermore, the Respondent pattern of trademark-abusive domain name registrations, and that he had intentionally attempted to attract for commercial gain, Internet users to the Respondent's websites or other online location by creating a likelihood of confusion with the Complainant's LAPUA trademark. As it was shown, the disputed domain names resolve to active websites impersonating the Complainant's official website. They are targeting the Complainant's trademark and logo as well as official pictures of products, probably obtained from the Complainant's website without its permission.

The above, reveals the intent of the Respondent to take unfair advantage of the Complainant's well-known trademarks and of the goodwill of the Complainant's business.

4) The above-mentioned activities, as well as the Respondent's default constitute, in view of the Panel, clear evidence of registration and use of the disputed domain names in bad faith.

In view of the above, the Panel finds that the disputed domain names were registered and are being used in bad faith.

The Panel finds that the Complainant satisfies 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 names, <lapuabrass-store.com> and <lapuabrassusa.com>, be transferred to the Complainant.

*/Martin Michaus Romero/*

**Martin Michaus Romero**

Sole Panelist

Date: January 12, 2023