IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 21-cv-02163-KLM
DARKOWL, LLC,

Plaintiff,

v.
ARKOWL LLC and
ARKOWL CORPORATION,

Defendants.

STIPULATED FACTS

Plaintiff DarkOwl, LLC ("DarkOwl") and Defendants ArkOwl LLC and ArkOwl Corporation ("ArkOwl") have stipulated to the following facts:

1. ArkOwl LLC was formed in 2012 as a Minnesota limited liability company.
2. DarkOwl, LLC is a Colorado limited liability company formed in 2015.
3. ArkOwl does not maintain a physical office presence.
4. Individuals list "ArkOwl" as a software tool when identifying their skills on LinkedIn.com.
5. ArkOwl obtained a federal registration for its word mark ArkOwl on April 21, 2020 (Reg. No. 6036746), claiming first use in commerce as early as October 11, 2012.
6. DarkOwl's customers are sophisticated.
7. DarkOwl, LLC is a Colorado limited liability company formed in 2015.
8. Mark Turnage is the Chief Executive Officer and co-founder of DarkOwl.
9. Russell Cohen is the President and Chief Financial Officer and co-founder of DarkOwl.
10. In 2017, DarkOwl adopted the DARKOWL trademark and changed its company name to DarkOwl.

11. On March 24, 2017, DarkOwl filed U.S. Trademark Application Serial No. 87384235 with the U.S. Patent and Trademark Office ("USPTO") for the DARKOWL CYBERSECURITY mark.

12. The USPTO reviewed the application and did not find a likelihood of confusion with any prior third-party filings.

13. No third parties opposed Application Serial No. 87384235 and the application was registered under Reg. No. 5525738 on July 24, 2018 for the following services: "Providing a database featuring information about internet security and computer security from the deep web and the darknet; computer security consultancy regarding data and information collected and obtained from the deep web and the darknet; software as a service (SaaS) services featuring software for retrieving from, adding to, and editing a database featuring information and data obtained from the deep web and the darknet; computer software consulting services in the field of cybersecurity utilizing deepweb and darknet information; electronic monitoring of information and data obtained from the deep web and the darknet for the purpose of internet and computer security by detecting compromised data; computer information security consulting services in the field of maintaining the security and integrity of computer information and data using information and data obtained from the deep web and the darknet; providing computer and internet security analysis of information obtained from the deep web and the darknet; providing cybersecurity threat analysis for protecting data using information obtained from the deep web and the darknet; cybersecurity services, namely, monitoring of computer systems for data security purposes utilizing deep web and darknet information" ("DarkOwl's Registered Services") in Class 42.

14. DarkOwl filed U.S. Trademark Application Serial No. 88216005 with the USPTO on December 4, 2018 for the DARKOWL mark.

15. The USPTO reviewed the application and did not find a likelihood of confusion with any prior third-party filings.

16. No third parties opposed Application Serial No. 88216005 and the application was registered under Reg. No. 5793807 on July 2, 2019 for DarkOwl's Registered Services.

17. DarkOwl also markets its services through its publicly available website, www.darkowl.com.

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