

Decision for dispute CAC-UDRP-104832

Case number **CAC-UDRP-104832**

Time of filing **2022-09-09 10:02:40**

Domain names **wotldnomads.com, worldnimads.com, worldnoamds.com**

Case administrator

Organization **Denisa Bilík (CAC) (Case admin)**

Complainant

Organization **NIB Health Funds Limited**

Complainant representative

Organization **CSC Digital Brand Services Group AB**

Respondent

Name **Zhi Chao Yang**

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the Disputed Domain Names.

IDENTIFICATION OF RIGHTS

NIB Health Funds Limited ("NIB" or "Complainant") along with its affiliate WorldNomads.com Pty Limited are the owners of trademark registrations across various jurisdictions. The Complainant has spent a considerable amount of time and money protecting its intellectual property rights, the trademark registrations relevant to this instant matter are:

- WORLD NOMADS (AU Reg. No. 1676133) registered on Feb. 20, 2015 under Classes 35, 36;
- WORLD NOMADS (NZ Reg. No. 979240) registered on Dec. 19, 2013 under Classes 35, 36;
- WORLD NOMADS (US Reg. No. 5169103) registered on Mar. 28, 2017 under Class 36;
- WORLD NOMADS (CA Reg. No. TMA1053045) registered on Sep. 6, 2019 under Classes 35, 36, 39, 41, 43; and
- WORLD NOMADS (WO Reg. No. 1267300) registered on Mar. 30, 2015 under Classes 35, 36, 39.

NIB is an international health and medical insurance provider based in Australia. It provides health and medical insurance to over 1.4 million Australian and New Zealand residents, and also provide health insurance to more than 190,000 international students and workers in Australia.

On July 8, 2015, NIB has agreed to acquire 100% of World Nomads Group ("World Nomads") as it diversifies its exposure outside of the heavily regulated health insurance space. World Nomads has a strong Internet presence through its website located at <www.worldnomads.com>. According to Similarweb.com, <www.worldnomads.com> ranks 27,135 in the United States and 54,914 globally. Additionally, between May 2022 and July 2022, <www.worldnomads.com> received over 1 million visits.

FACTUAL BACKGROUND

Disputed Domain Names in this case include <wotldnomads.com>, <worldnimads.com> and <worldnoamds.com>. All Disputed Domain Names are registered by an individual or entity named "Zhi Chao Yang" (the "Respondent") via registrar Cloud Yuqu LLC.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the Disputed Domain Names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the Disputed Domain Names (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the Disputed Domain Names have been registered and are being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Complainant requests that the language of this administrative proceeding be English pursuant to UDRP Rule 11(a): Unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding. Complainant makes this request in light of the potential Chinese language Registration Agreement of the Disputed Domain Names involved at this Complaint.

Paragraph 10 of the UDRP Rules vests a Panel with authority to conduct the proceedings in a manner it considers appropriate while also ensuring both that the parties are treated with equality, and that each party is given a fair opportunity to present its case. UDRP panels have found that certain scenarios may warrant proceeding in a language other than that of the registration agreement. Such scenarios were summarized into WIPO Jurisprudential Overview 3.0, 4.5.1. In this particular instance, the Complainant tried to request change of languages of proceedings in light of Chinese language Registration Agreement by showing that 1) The translation of the Complaint would unfairly disadvantage and burden the Complainant and delay the proceedings and adjudication of this matter; 2) The term WORLD NOMADS, the dominant composition of the Disputed Domain Names, does not carry any specific meaning in the Chinese language; 3) The Disputed Domain Names redirect to website containing English word.

In light of the scenarios and equity, the Panel is of the view that conducting the proceeding in English is unlikely to heavily burden the Respondent, and it is likely that the Respondent can understand the English language based on a preponderance of evidence test. Without further objection from the Respondent on the issue, the Panel will proceed to issue the decision in English.

PRINCIPAL REASONS FOR THE DECISION

1. The Disputed Domain Names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

The Complainant contend that Disputed Domain Names <wotldnomads.com>, <worldnimads.com>, <worldnoamds.com> are confusingly similar to the Complaint's and its affiliate WorldNomads.com Pty Limited's trademarks across various jurisdictions. NIB Health Funds Limited ("NIB" or "Complainant") along with its affiliate WorldNomads.com Pty Limited are the owners of trademark

registrations across various jurisdictions. NIB is an international health and medical insurance provider based in Australia. It provides health and medical insurance to over 1.4 million Australian and New Zealand residents, and also provide health insurance to more than 190,000 international students and workers in Australia. In 2015 NIB agreed to acquire 100% of World Nomads Group ("World Nomads") as it diversifies its exposure outside of the heavily regulated health insurance space.

As the Complainant indicted, the Disputed Domain Names contain misspellings of Complainant's WORLD NOMADS trademark:

- <wotldnomads.com> – Respondent has removed the letter "r" from WORLD and replaced it with the letter "t";
- <worldnimads.com> – Respondent has removed the letter "o" from NOMADS and replaced it with the letter "i";
- <worldnoamds.com> – Respondent switches the position of the letters "n" and "a" in NOMADS.

As the Disputed Domain Names differ from Complainant's trademark by just one letter, Respondent's domains should be considered examples of typosquatting – which intentionally takes advantage of internet users that inadvertently type an incorrect address when seeking to access the trademark owner's website. The addition of the gTLD ".com" does not add any distinctiveness to the Disputed Domain Names.

The Panel therefore concludes that the Disputed Domain Names are confusingly similar to a trademark in which the Complainants have rights within the meaning of paragraph 4(a)(i) of the Policy.

2. The Respondent has no rights or legitimate interests in respect of the Disputed Domain Names.

Although the Respondent did not file an administratively compliant (or any) response, the Complainant is still required to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the Disputed Domain Names. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

The Complainant in the present case has not licensed or authorized the Respondent to register or use the trademark or the Disputed Domain Names. There is no evidence that the Respondent is known by the Disputed Domain Names or owns any corresponding registered trademarks including the terms "wotldnomads", "worldnimads" and/or "worldnoamds".

The organization of the Respondent, "Zhi Chao Yang", also has no connection with the Complainant's brand. The Respondent's address also shows no connection with the Complainant's brand. The Complainant did not grant any license or authorization to the Respondent to register or use the Disputed Domain Names, nor the use of the Complainants' trademark on pages of the disputed websites.

Furthermore, the Respondent is using the Disputed Domain Names to direct internet users to websites featuring links to third-party websites, some of which directly compete with Complainant's business. By directing to competitors' websites which presumably pays the registrant pay-per-click fees, the Respondent seems to be intentionally attempting to attract, for commercial gain, internet users to his websites, by creating a likelihood of confusion. Furthermore, the Disputed Domain Names are being offered for sale at Afternic for \$7,999.00 USD each, an amount that far exceeds the Respondent's out-of-pocket expenses in registering the domains, which serves as further evidence of Respondent's lack of rights and legitimate interests.

On the basis of preponderance of evidence, and in the absence of any evidence to the contrary or any administratively compliant response being put forward by the Respondent, the Panel finds that the Respondent does not have rights or legitimate interests in the Disputed Domain Names within the meaning of paragraph 4(a)(ii) of the Policy.

3. The Disputed Domain Names have been registered and are being used in bad faith.

By trying to establish the bad faith element of paragraph 4(a) of the Policy, the Complainant has primarily attempted to rely on paragraph 4(a)(iii) and 4(b) of the Policy.

Registration of the disputed domain name in bad faith – As far as registration goes, UDRP panels have consistently held that the mere registration of a domain name that is confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. Complainant's trademark registrations predate the registration of the Disputed Domain Names. The fact that the Complainant's trademark is a well-known and that the Respondent makes references to the Complainant's products and trademarks in the website implied that the Respondent had prior knowledge of the Complainant's trademark at the time of registration of the Disputed Domain Names. It is reasonable to infer that the registrant registered the Disputed Domain Names with the knowledge of the complainant's trademark and/or brand influence. See *Telstra Corp. Ltd. v. Nuclear Marshmallows*, D2000-0003 (WIPO Feb. 18, 2000). *MasterCard International Incorporated v. North Tustin Dental Associates*, D2007-1412 (WIPO Nov. 28, 2007).

Use of the Disputed Domain Names in Bad Faith – Currently, the Disputed Domain Names are currently used to host the website to impersonate the Complainant and attempt to mislead consumers into thinking that the goods purportedly offered for sale on the website originate from Complainant. The Respondent could have registered the Disputed Domain Names to divert internet users for illegitimate commercial gains, by creating a likelihood of confusion. According to paragraph 4(b)(iv) of the Policy, "by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location", if found by the Panel, shall be considered evidence of registration and use of the Disputed Domain Names in bad faith. Moreover, Respondent is currently offering to sell the Disputed Domain Names, which constitutes bad faith under the Policy 4(b)(i) because Respondent has demonstrated an intent to sell, rent, or otherwise transfer the Disputed Domain Names for valuable consideration in excess of his out-of-pocket expenses.

As the Complainant indicated, in addition to the Disputed Domain Names, the Respondent currently holds registrations for several other domain names that misappropriate the trademarks of well-known brands and businesses. This fact further demonstrates that the Respondent is engaging in a pattern of cybersquatting/typosquatting, which is evidence of bad faith registration and use of the Disputed Domain Names.

Therefore, in the absence of any evidence to the contrary (or any administratively compliant response) being put forward by the Respondent, the Panel determines that the Complainants have failed to provide that Disputed Domain Names were registered and are being used in bad faith within the meaning of paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

- 1. **wotldnomads.com**: Transferred
- 2. **worldnimads.com**: Transferred
- 3. **worldnoamds.com** : Transferred

PANELLISTS

Name	Carrie Shang
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DATE OF PANEL DECISION 2022-10-16

Publish the Decision