

Decision for dispute CAC-UDRP-104835

Case number	CAC-UDRP-104835
Time of filing	2022-09-09 09:57:19
Domain names	worldnomasd.com, wirlldnomads.com, woorldnomads.com, worldmomads.com, worldnomadd.com, worldnommads.com, worldnadmads.com, worrldnomads.com, wprldnomads.com, wrldnomads.com

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)
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Complainant

Organization	NIB Health Funds Limited
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Complainant representative

Organization	CSC Digital Brand Services Group AB
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Respondent

Name	Zhi Chao Yang
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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

The Complainant's affiliate, WorldNomads.com, is the owner of numerous trademarks worldwide, including but not limited to the following:

- Australia Trademark Registration No. 1676133 for WORLD NOMADS, registered on February 20, 2015;
- New Zealand Registration No. 979240 for WORLD NOMADS, registered on December 19, 2013;
- United States Trademark Registration No. 5169103 for WORLD NOMADS, registered on March 28, 2017;
- Canada Trademark Registration No. TMA1053045 for WORLD NOMADS, registered on September 6, 2019; and
- International Trademark Registration No. 1267300 for WORLD NOMADS, registered on March 30, 2015.

FACTUAL BACKGROUND

The Complainant, NIB Health Funds Limited, is an international health and medical insurance provider based in Australia. The Complainant provides health and medical insurance to over 1.4 million Australian and New Zealand residents, and to more than 190,000 international students and workers in Australia.

On July 8, 2015, the Complainant fully acquired the World Nomads Group ("World Nomads"). World Nomads was founded in 2002 and is headquartered in Sydney. It specializes in the marketing, sale and distribution of travel insurance policies globally, and provides ancillary insurance services such as claims management and emergency assistance for policies written in Australia and New Zealand. As a result of the acquisition, the Complainant became one of Australia's largest travel insurance provider and global distributor of travel insurance through its nib travel service which provides financial protection and assurance to travellers worldwide. The Complainant's World Nomads brand has received travel awards in recent years and has a strong Internet presence through its website <www.worldnomads.com> which was registered on January 3, 2000. The Complainant also states that its World Nomads brand is well recognized and respected worldwide and, in the industry, and that it has made significant investment to advertise and promote its trademark worldwide in the media and Internet.

The disputed domain names were registered by the Respondent on July 11, 2022, which resolved to active websites displaying Pay-Per-Click ("PPC") links related to the Complainant's business.

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 Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

Preliminary Issue: Language of Proceedings

Paragraph 11 of the Rules provides that:

"(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."

The language of the Registration Agreements for the disputed domain names is Chinese.

The Complainant requested that the language of the proceeding be English for the following reasons:

(i) the term WORLD NOMADS is the dominant composition of the disputed domain names which does not carry any specific meaning in the Chinese language;

(ii) the disputed domain names' websites include several terms and phrases in the English language, such as "Best Travel Insurance", "Trip Insurance" and "Travel Medical Insurance"; and

(iii) additional expense and delay would be incurred if the Complaint is translated into Chinese.

The Respondents did not comment on the language of the proceeding.

The Panel cites the following with approval: "Thus, the general rule is that the parties may agree on the language of the administrative proceeding. In the absence of this agreement, the language of the Registration Agreement shall dictate the language of the proceeding. However, the Panel has the discretion to decide otherwise having regard to the circumstances of the case. The Panel's discretion must be exercised judicially in the spirit of fairness and justice to both parties taking into consideration matters such as command of the language, time and costs. It is important that the language finally decided by the Panel for the proceeding is not prejudicial to either one of the parties in his or her abilities to articulate the arguments for the case." (See *Groupe Auchan v. mxzl*, WIPO Case No. DCC2006 0004).

Having considered the above factors, the Panel determines that English be the language of the proceeding. The Panel agrees that the Respondent appear to be familiar with the English language, taking into account the Respondent's selection of the English-language trademark and the domain names in dispute. In the absence of an objection by the Respondent, the Panel does not find it procedurally efficient to have the Complainant translate the Complaint and evidence into Chinese.

PRINCIPAL REASONS FOR THE DECISION

1. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires a complainant to show that a domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. The Complainant has provided evidence that it owns the WORLD NOMADS mark.

The differences between the disputed domain names and the Complainant's WORLD NOMADS trademark are the purposeful misspellings of the Complainant's WORLD NOMADS trademark by just one letter which are adjacent keyboard letters, and the addition of the gTLD ".com", which in the Panel's view does not avoid confusing similarity with the Complainant's trademark.

It is established that a domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element. (See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), section 1.9). It is further established that gTLD is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. (See WIPO Overview 3.0, section 1.11). The addition of a gTLD to a disputed domain name does not avoid confusing similarity as the use of a TLD is technically required to operate a domain name (see *Accor v. Noldc Inc.* WIPO Case No. D2005-0016; *F. Hoffmann-La Roche AG v. Macalve e-dominios S.A.*, WIPO Case No. D2006-0451; *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. D2000-0003; *L'Oréal v Tina Smith*, WIPO Case No. 2013-0820; *Titoni AG v Runxin Wang*, WIPO Case No. D2008-0820; and *Alstom v. Itete Peru S.A.*, WIPO Case No. D2009-0877).

Therefore, the Panel finds that the disputed domain names are confusingly similar to the WORLD NOMADS mark and the element under paragraph 4(a)(i) of the Policy is satisfied.

1. Rights or Legitimate Interests

Paragraph 4(a)(ii) of the Policy requires the complainant to show that the respondent has no rights or interests in respect of the domain name. Once the complainant establishes a prima facie case that the respondent lacks rights or legitimate interests in the domain name, the burden of production shifts to the respondent to show that it has rights or legitimate interests in respect to the domain name (see WIPO Overview 3.0, section 2.1).

In the present case, the Complainant has demonstrated prima facie that the Respondent lacks rights or legitimate interests in respect of the disputed domain names and the Respondent has failed to assert any such rights or legitimate interests.

The Complainant submitted evidence that it did not authorize or license the Respondent to use the WORLD NOMADS mark (see *OSRAM GmbH. v. Mohammed Rafi/Domain Admin, Privacy Protection Service INC d/b/a PrivacyProtect.org*, WIPO Case No. D2015-1149; *Sanofi-Aventis v. Abigail Wallace*, WIPO Case No. D2009-0735). The Complainant also submitted evidence that its registrations and use of the trademarks predate the registration of the disputed domain names by several years.

In addition, the evidence submitted by the Complainant shows that the Respondent is not commonly known by the disputed domain names.

In the present case, the Complainant submitted evidence that 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 the Complainant's business. The websites feature third-party links for "Best Travel Insurance", "Trip Insurance" and "Travel Medical Insurance" which are related to the Complainant's industry. The Respondent also presumably receives PPC fees from the third-party links. It is well-established that the use of a domain name to host a parked page comprising PPC links does not represent a bona fide offering where such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users (see WIPO Overview 3.0, section 2.9).

The Respondent did not submit a response in the present case and did not provide any explanation or evidence to show rights or legitimate interests in the disputed domain names which is sufficient to rebut the Complainant's prima facie case.

The Panel is therefore of the view that the Respondent has no rights or legitimate interests in respect of the disputed domain names and accordingly, paragraph 4(a)(ii) of the Policy is satisfied.

1. Registered and Used in Bad Faith

The complainant must also show that the respondent registered and is using the disputed domain name in bad faith (see Policy, paragraph 4(a)(iii)). Paragraph 4(b) of the Policy provides circumstances that may evidence bad faith under paragraph 4(a)(iii) of the Policy.

The Complainant has submitted evidence showing that the disputed domain names redirect to active websites providing PPC links related to the Complainant's industry. It is well-established that the use of a domain name for such purposes to attempt to attract Internet users for commercial gain constitutes bad faith conduct under paragraph 4(a)(iii) of the Policy. Similarly, the Panel finds that the use of the disputed domain names in the present case constitutes evidence of bad faith registration and use of the disputed domain names.

Further, the disputed domain names are confusingly similar to the Complainant's WORLD NOMADS mark which the Panel finds is an attempt by the Respondent to confuse and/or mislead Internet users seeking or expecting the Complainant. Previous UDRP panels ruled that in such circumstances "a likelihood of confusion is presumed, and such confusion will inevitably result in the diversion of Internet traffic from the Complainant's site to the Respondent's site" (see *Edmunds.com, Inc v. Triple E Holdings Limited*, WIPO Case No. D2006-1095). To this end, prior UDRP panels have established that attracting Internet traffic by using a domain name that is identical or confusingly similar to a registered trademark may be evidence of bad faith under paragraph 4(b)(iv) of the UDRP. The Panel also notes that the misspellings in the disputed domain names are clear typosquatting attempts which do not avoid confusing similarity with the Complainant's mark and indicates that the Respondent had knowledge of and was aware of the Complainant at the time of registration. This is another indication of bad faith behavior on the part of the Respondent as it indicates that the Respondent specifically targeted the Complainant.

The Complainant also submitted evidence that each of the disputed domain names are being listed for sale for USD7,999, an amount which is clearly in excess of out-of-pocket costs incurred in relation to the domain names. These circumstances indicate that the Respondent has likely registered or acquired the disputed domain names primarily for the purpose of selling, renting or otherwise transferring the domain names to the Complainant who is the owner of the trademark or service mark or to a competitor of the Complainant, for valuable consideration in excess of the Respondent's documented out-of-pocket costs directly related to the domain name. In addition, the Complainant submitted evidence that the Respondent is a serial cybersquatter who has been engaging in typosquatting behaviour by registering numerous other third-party domain names. The Panel draws a further adverse inference from the conduct of the Respondent.

The Respondent also did not submit a Response in this proceeding. This may be a further indication of the Respondent's bad faith, which was considered by the Panel.

Based on the evidence presented to the Panel, including the registration of the disputed domain names after the registration of the Complainant's trademark, the confusing similarity between the disputed domain names and the Complainant's trademark, the Respondent's use of the disputed domain names, and the failure of the Respondent to submit a response, the Panel draws the inference that the disputed domain names were registered and are being used in bad faith.

Accordingly, having regard to the circumstances of this particular case, the Panel finds that the Complainant has met its burden under 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. **worldnomasd.com**: Transferred
2. **wirldnomads.com**: Transferred
3. **woorldnomads.com**: Transferred

4. worldmomads.com: Transferred
 5. worldnomadd.com: Transferred
 6. worldnommads.com: Transferred
 7. worldnpmads.com: Transferred
 8. worrldnomads.com: Transferred
 9. wprldnomads.com: Transferred
 10. wrldnomads.com: Transferred
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PANELLISTS

Name	Jonathan Agmon
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DATE OF PANEL DECISION	2022-10-20
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Publish the Decision
