

Decision for dispute CAC-UDRP-104834

Case number	CAC-UDRP-104834
Time of filing	2022-09-09 10:02:22
Domain names	worlldnomads.com, w0rldnomads.com, wolrldnomads.com, wordlnomads.com, woridnomads.com, worlddnomads.com, worldn0mads.com, worldnmoads.com, worldnnomads.com, worldnomaads.com, worldnomada.com, worldnomadds.com, worldnomadss.com, worldnomdas.com, worldnoomads.com, worldonmads.com, worlndomads.com, wworldnomads.com

Case administrator

Organization	Denisa Bilík (CAC) (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 unaware of any other pending or decided legal proceedings in respect of the domain names <worlldnomads.com>; <w0rldnomads.com>; <wolrldnomads.com>; <wordlnomads.com>; <woridnomads.com>; <worlddnomads.com>; <worldn0mads.com>; <worldnmoads.com>; <worldnnomads.com>; <worldnomaads.com>; <worldnomada.com>; <worldnomadds.com>; <worldnomadss.com>; <worldnomdas.com>; <worldnoomads.com>; <worldonmads.com>; <worlndomads.com>; and <wworldnomads.com> ("the disputed domain names").

IDENTIFICATION OF RIGHTS

The Complainant relies upon the following registered trade marks:

- Australian trade mark registration no. 1676133, registered on 20 February 2015, for the word mark WORLD NOMADS, in classes 35 and 36 of the Nice Classification;
- New Zealand trade mark registration no. 979240, registered on 19 December 2013, for the word mark WORLD NOMADS, in classes 35, 36 and 39 of the Nice Classification;
- United States trade mark registration no. 5169103, registered on 28 March 2017, for the word mark WORLD NOMADS, in class 36 of the Nice Classification;

- Canadian trade mark registration no. TMA1053045, registered on 6 September 2019, for the word mark WORLD NOMADS, in classes 35, 36, 39, 41 and 43 of the Nice Classification; and
- International trade mark registration no.1267300, registered on 30 March 2015, for the word mark WORLD NOMADS, in classes 35, 36 and 39 of the Nice Classification.

(hereinafter, collectively or individually, “the Complainant’s trade mark”; “the Complainant’s trade mark WORLD NOMADS”; or “the trade mark WORLD NOMADS” interchangeably).

At the time of writing, the disputed domain names resolve to parked pages comprising pay-per-click (“PPC”) links (“the Respondent’s websites”).

FACTUAL BACKGROUND

The Complainant’s contentions can be summarised as follows:

A. Background History

The Complainant is an international health and medical insurance provider based in Australia, which offers services to over 1.4 million Australian and New Zealand residents as well as more than 190,000 international students and workers in Australia.

World Nomads Group was founded in 2002 and is headquartered in Sydney. On 8 July 2015, the Complainant acquired the World Nomads Group, which specialises in the marketing, sale and distribution of travel insurance policies globally, in addition to ancillary insurance services, namely claims management and emergency assistance for policies written in Australia and New Zealand.

The Complainant states that, at present, it is Australia’s third largest travel insurance provider and global distributor of travel insurance.

In addition to the trade marks mentioned in the above section “Identification of Rights”, the Complainant informs that it also has a strong Internet presence through its domain name <worldnomads.com>, which was registered on 3 January 2000.

The Complainant seeks to obtain the ownership of disputed domain names on the grounds set out in section B below.

B. Legal Grounds

I. The disputed domain names are identical or confusingly similar to a trade mark in which the Complainant has rights

The Complainant submits that the disputed domain names are purposeful misspellings of the Complainant’s WORLD NOMADS trade mark, and must therefore be considered confusingly similar to the Complainant’s trade mark. The Complainant states that the Respondent has either added, removed, replaced, or switched the order of, a certain letter (or letters) belonging to the words “world” and “nomads” in the strings of the dispute domain names.

The Complainant therefore claims that the disputed domain names are obvious misspellings of the Complainant’s trade mark WORLD NOMADS, these UDRP proceedings being a clear example of typosquatting (WIPO Panel Views on Selected UDRP Questions, Third Edition, paragraph 1.9 (“WIPO Jurisprudential Overview 3.0”)).

II. The Respondent has no rights or legitimate interests in respect of the disputed domain names

The Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain names. The Respondent is not sponsored by, or affiliated with, the Complainant, nor does the Respondent carry out any activity for, or has any business with, the Complainant. Neither licence nor authorisation has been given to the Respondent to make any use of the Complainant’s trade mark WORLD NOMADS or the disputed domain names. Moreover, the Respondent is not known by the disputed domain names as individual, business, or other organisation. The Respondent’s name does not resemble the disputed domain names in any manner.

The Complainant further asserts that the disputed domain names were registered on 11 July 2022, many years after the Complainant’s first trade mark registration for WORLD NOMADS and the Complainant’s domain name <worldnomads.com>, and that they resolve to websites featuring third party websites, some of which directly compete with the Complainant’s business. The Complainant avers that prior UDRP decisions have consistently held that respondents that monetise domain names using PPC links have not made a bona fide offering of goods and services that would give rise to rights or legitimate interests in a disputed domain name (paragraph 2.9 of the WIPO Jurisprudential Overview 3.0).

In addition, the Complainant avers that the disputed domain names are presently being offered for sale on the Afternic’s domain parking platform for USD 7,999 each, which further evidences the Respondent’s lack of rights and legitimate interests.

In view of the above, the Complainant concludes that the Respondent has no rights or legitimate interests in the dispute domain names.

III. The Respondent registered and is using the disputed domain names in bad faith

The Complainant argues that, by registering domain names that incorporate typographical variations of the Complainant's trade mark WORLD NOMADS, the Respondent knew, or should have known, of the existence of the Complainant's trade mark WORLD NOMADS.

The Complainant contends that typosquatting in and of itself is further evidence of bad faith registration and use of the disputed domain names (paragraph 3.1.4 of the WIPO Jurisprudential Overview 3.0).

The Complainant avers that the Respondent has intentionally used the disputed domain names to attract, for commercial gain, Internet users to the Respondent's websites by creating a likelihood of confusion with the Complainant as to the source, sponsorship, affiliation, or endorsement of those websites (paragraph 4(b)(iv) of the UDRP Policy).

Furthermore, the Complainant claims that the Respondent's aim with the registration of the disputed domain names might be to resell it to the Complainant, which is evidence of registration and use of the disputed domain names in bad faith (paragraph 4(b)(i) of the UDRP Policy).

As additional indicia giving rise to a presumption of bad faith, the Complainant informs that the Respondent has previously been involved in a handful of domain name disputes in the last couple of years, and that the Respondent currently holds registrations for several domain names bearing other well-known trade marks.

The Complainant therefore concludes that the Respondent has registered and is using the disputed domain names in bad faith.

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 trade mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the UDRP 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 UDRP 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 UDRP Policy).

PROCEDURAL FACTORS

Preliminary matter – Language of Proceeding

A. The Complainant's language request

On the matter of the language of the proceedings, the Panel notes as follows:

- The Complainant submitted its Complaint in English;
- The registrar's verification response provided that the language of the registration agreement for the disputed domain names is Chinese, following which the Complainant submitted a request for English to be the language of the proceedings ("the Complainant's language request"); and
- The grounds of the Complainant's language request can be summarised as follows: (i) the translation of the Complaint would unfairly disadvantage and cause additional expense, as well as delay the UDRP proceedings and the resulting outcome; (ii) the term "world nomads", which is the dominant composition of the disputed domain names, does not carry any specific meaning in the Chinese language; (iii) the Respondent's websites contain several terms and phrases in the English language, such as "Best Travel

Insurance”, “Trip Insurance”, and “Travel Medical Insurance”.

B. The Panel’s determination

The Panel is given discretion under Rule 11 of the UDRP Rules to determine the appropriate language of the proceedings. The Panel notes Rule 10 of the UDRP Rules, which vests the Panel with authority to conduct the proceedings in a manner it deems 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.

On this particular matter, the Panel takes the liberty to adopt the language of proceeding test applied in CAC Case no. 104144, *Writera Limited v. alexander ershov*, which helpfully sets out the following six guiding factors:

- (i) the language of the disputed domain name string: the Panel accepts that English is the only identifiable language in the strings of the disputed domain names;
- (ii) the content of the Respondent’s websites: the Respondent’s websites contain PCC links in the English language;
- (iii) the language(s) of the Parties: the Complainant is originally from Australia and the Respondent appears to reside in China. Neither English nor Chinese would be considered a common language between the Parties. Consequently, this factor is immaterial to the Panel’s determination on this occasion;
- (iv) the Respondent’s behaviour in course of the UDRP proceedings: the Panel notes that the Respondent has shown no inclination to participate in the proceedings; the Respondent has not filed a Response within the time prescribed under the UDRP Rules or at all;
- (v) the Panel’s overall concern with due process: the Panel has discharged its duty under Rule 10 (c) of the UDRP Rules; and
- (vi) the balance of convenience: while determining the language of proceedings, the Panel has a duty to consider who would suffer the greatest inconvenience as a result of the Panel’s determination. On the one hand, the determination of English as the language of proceedings – a widely spoken language – is unlikely to cause the Respondent any inconvenience, not least given the Respondent’s default and overall disinterest throughout the UDRP proceedings. The determination of Chinese as the language of proceedings, on the other hand, is very likely to cause the Complainant inconvenience, and to interfere with the overall due expedition of the proceedings under the UDRP Rules.

In view of the above factors, the Panel has decided to accept the Complainant’s language request, such that the decision in the present matter will be rendered in English.

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.

PRINCIPAL REASONS FOR THE DECISION

The UDRP threshold

Pursuant to Rule 15 of the UDRP Rules, the Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the UDRP Policy, the UDRP Rules, and any rules and principles of law that the Panel deems applicable.

Paragraph 4(a) of the UDRP Policy provides the following threshold for the Complainant to meet in order to obtain ownership of the disputed domain names:

1. The disputed domain names are identical or confusingly similar to a trade mark or service mark in which the Complainant has rights;
2. The Respondent has no rights or legitimate interests in respect of the disputed domain names; and
3. The disputed domain names have been registered and are being used in bad faith.

It is therefore incumbent on the Complainant the onus of meeting the above threshold. The evidentiary standard under the UDRP proceedings is the balance of probabilities, which lays down the foundations for panels to determine each of the three UDRP Policy elements.

I. Identical or Confusingly Similar

The Panel is satisfied that the Complainant owns trade mark rights in “WORLD NOMADS” since at least 2013.

The disputed domain names are as follows:

<worldnomads.com>; <w0rldnomads.com>; <w0rldnomads.com>; <wordlnomads.com>; <worldnomads.com>; <worldnomads.com>; <worldn0mads.com>; <worldn0mads.com>; <worldnmoads.com>; <worldnnomads.com>; <worldnomaads.com>; <worldnomada.com>; <worldnomadds.com>; <worldnomadss.com>; <worldnomdas.com>; <worldnoomads.com>; <worldonmads.com>; <worlndomads.com>; and <wworldnomads.com>.

The disputed domain names either contain additional keyboard letters or numbers contiguous with the words “world” and/or “nomads” or, instead, are composed of an inversion of certain letters of the words “world” and/or “nomads” in their strings. These differences are, however, rather immaterial to the Panel’s assessment of the UDRP Policy ground.

The Panel therefore has no difficulty in finding that the disputed domain names are nearly identical, and confusingly similar, to the Complainant’s trade mark WORLD NOMADS, in accordance with paragraph 4(a)(i) of the UDRP Policy.

II. Rights or Legitimate Interests

The Respondent has defaulted in these UDRP proceedings. Nevertheless, the Panel is empowered to draw adverse inferences from the Respondent’s silence (UDRP Rule 14 (b)).

The Panel notes that the Complainant firmly denies any affiliation and/or association with, or authorisation for, the Respondent of any nature. Moreover, the Complainant argues that the Respondent is not known by the disputed domain names; that the Respondent does not hold any rights in the term “WORLD NOMADS”; and that the Respondent is not making a legitimate non-commercial or fair use of the disputed domain names.

Moreover, the Panel takes the view that the choice of a domain name which incorporates a complainant’s trade mark wholly (as in this case) or virtually wholly, and is unaccompanied or unsupported by any credible explanation as to the reason for this coincidence, could further evidence a lack of rights or legitimate interests.

The Panel has also taken stock of paragraph 2.9 of WIPO Jurisprudential Overview 3.0, according to which UDRP panels have found that the use of a domain name to host a parked page containing PPC links does not represent a bona fide offering where such links compete with, or capitalise on, the reputation and goodwill of the complainant’s trade mark or otherwise mislead Internet users.

The Respondent has submitted no evidence to refute any of the Complainant’s assertions.

On balance, the Panel considers the available evidence to lend credence to the Complainant’s contentions.

The Panel therefore finds that the Complainant has succeeded under paragraph 4(a)(ii) of the UDRP Policy.

Registration

The following elements are compelling indicia to this Panel that the disputed domain name was registered in bad faith:

- The Complainant has used the trade mark WORLD NOMADS since at least 2013, and has been operating its activities much earlier, through the domain name <worldnomads.com>, registered in 2000, whereas the disputed domain names were all registered in July 2022;
- UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names incorporating the mark plus a descriptive term) to a famous or widely-known trade mark can by itself create a presumption of bad faith (paragraph 3.1.4 of the WIPO Jurisprudential Overview 3.0), and the Panel accepts that the Complainant’s trade mark is widely known in its segment of business; and
- The Respondent’s lack of participation in the course of this UDRP proceedings.

Use

The Complainant refers to the Respondent as being engaged in the conducts described in paragraphs 4(b)(i) and 4(b)(iv) of the UDRP Policy, which provides as follows:

“(i) circumstances indicating that the respondent has registered or has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name”; and

“(iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website 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 the respondent’s website or location or of a product or service on the respondent’s website or location.”

At the time of writing, the Panel notes that (i) disputed domain names resolve to parked pages comprising PPC links to travel insurance companies, who may arguably be competitors of the Complainant; and (ii) the disputed domain names are listed for sale on the Afternic’s domain parking platform, for an amount in excess of the out-of-pocket costs directly related to the disputed domain names (USD 7,999 each).

The Panel also notes that the Respondent has engaged in a pattern of opportunistic behaviour, as follows (i) the Respondent registered domain names targeting third parties’ registered trade marks in the past; (ii) the Respondent used those domain names as ‘parked’ pages; and (iii) the Respondent did not present a defence in any of these prior cases (see TEVA Pharmaceuticals International GmbH v (Zhi Chao Yang), WIPO Case No. D2022 2364; Blackbaud, Inc. v (Yang Zhi Chao aka Zhi Chao Yang), WIPO Case No. D2022-0641; Artemis Marketing Corp. v. (Zhichao Yang), WIPO Case No. D2021-3026; Skyscanner Limited v (Yang Zhi Chao), WIPO Case No. D2021-3675; and Utilities Employees Credit Union v (Yang Zhi Chao), WIPO Case No. D2021-3096).

The Panel has further consulted the WIPO Jurisprudential Overview 3.0, in particular paragraph 3.3 and paragraph 3.5, to determine whether or not there has been bad faith use of the disputed domain names.

Of particular note, UDRP panels have found that a respondent cannot disclaim responsibility for content appearing on the website to which the domain name resolves nor would such PPC links per se vest the respondent with rights or legitimate interest (paragraph 3.5 of the WIPO Jurisprudential Overview 3.0).

In the present matter, the Panel considers the most conducive factors to a finding in favour of the Complainant under this Policy ground to be (i) the degree of distinctiveness or reputation of the Complainant's trade mark; (ii) the Respondent's overall disinterest in defending the Complainant's claim (Respondent's default position in the course of the UDRP proceedings); and (iii) the implausibility of any good faith use to which the disputed domain names may be put.

The Panel therefore finds that the Complainant has succeeded under paragraph 4(a)(iii) of the UDRP Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **worldnomads.com**: Transferred
2. **w0rldnomads.com**: Transferred
3. **wolrdnomads.com**: Transferred
4. **wordlnomads.com**: Transferred
5. **woridnomads.com**: Transferred
6. **worldddnomads.com**: Transferred
7. **worldn0mads.com**: Transferred
8. **worldnmoads.com**: Transferred
9. **worldnnomads.com**: Transferred
10. **worldnomaads.com**: Transferred
11. **worldnomada.com**: Transferred
12. **worldnomadds.com**: Transferred
13. **worldnomadss.com**: Transferred
14. **worldnomdas.com**: Transferred
15. **worldnoomads.com**: Transferred
16. **worldonmads.com**: Transferred
17. **worldnomads.com**: Transferred
18. **wworldnomads.com**: Transferred

PANELLISTS

Name	Yana Zhou
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DATE OF PANEL DECISION	2022-10-21
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Publish the Decision
