

Decision for dispute CAC-UDRP-104833

Case number **CAC-UDRP-104833**

Time of filing **2022-09-09 09:57:51**

Domain names **worldsnomads.com, worldnmads.com, worldomads.com, worldnloads.com**

Case administrator

Organization **Iveta Špiclová (Czech Arbitration Court) (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 that are pending or decided and that relate to the Disputed Domain Names.

IDENTIFICATION OF RIGHTS

Complainant states, and provides evidence to support, that its affiliate WorldNomads.com Pty Limited is the owner of multiple trademark registrations for the mark WORLD NOMADS, including Australia Reg. No. 1,676,133 (registered February 20, 2015), New Zealand Reg. No. 979,240 (registered December 19, 2013), U.S. Reg. No. 5,169,103 (registered March 28, 2017), Canada Reg. No. TMA 1,053,045 (registered September 6, 2019), and WIPO Reg. No. 1,267,300 (registered March 30, 2015) (the “WORLD NOMADS Trademark”).

FACTUAL BACKGROUND

Complainant states that it is “Australia’s third largest travel insurance provider and global distributor of travel insurance”; that 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”; and that it operates a website using the domain name <www.worldnomads.com>.

Complainant further states that in 2015 it acquired 100 percent of WorldNomads Group, which was founded in 2002. Complainant does not explain the legal relationship between WorldNomads Group and WorldNomads.com Pty Limited.

The Disputed Domain Names were created on the following dates and are being used as described below, as shown in screenshots provided as annexes to the Complaint:

- <worldsnomads.com>: Created on June 21, 2022. Used in connection with a pay-per-click site with links labelled, inter alia, "World Nomads Travel Insurance". (Note: The Complaint refers to the domain name <wworldsnomads.com> at the outset, but the body of the Complaint refers instead to <worldsnomads.com>, and the Panel has observed that the domain name <wworldsnomads.com> does not exist. Therefore, the Panel proceeds on the assumption that the Complaint intended to refer throughout to <worldsnomads.com>, not to <wworldsnomads.com>.);
- <worldnmads.com> Created on June 8, 2022. Used in connection with a pay-per-click site with links labeled, inter alia, "Best Travel Insurance";
- <worldomads.com>: Created on June 8, 2022. Used in connection with a pay-per-click site with links labeled, inter alia, "Best Travel Insurance";
- <worldnloads.com>: Created on June 8, 2022. Used in connection with a pay-per-click site with links labeled, inter alia, "Best Travel Insurance".

In addition, the Disputed Domain Names are being offer for sale for \$7,999.00, as shown in a screenshot provided as an annex to the Complaint:

Complainant contends, in relevant part, as follows:

Paragraph 4(a)(i): Complainant states that each of the Disputed Domain Names is confusingly similar to the WORLD NOMADS Trademark because "the Disputed Domain Names differ from Complainant's trademark by just one letter" and "Respondent's domains must be considered a prototypical example of typosquatting – which intentionally takes advantage of internet users that inadvertently type an incorrect address – often a misspelling of the complainant's trademark – when seeking to access the trademark owner's website."

Paragraph 4(a)(ii): Complainant states that Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because, inter alia, "Respondent is not sponsored by or affiliated with Complainant in any way"; Complainant has not "given Respondent license, authorization or permission to use Complainant's trademark in any manner, including in domain names"; "Respondent is not commonly known by the Disputed Domain Names" given that "the pertinent Whois information identifies the Registrant as 'Zhi Chao Yang', which does not resemble the Disputed Domain Names in any manner"; "Respondent registered the Disputed Domain Names in June 2022, which was significantly after the registration of the WORLDNOMADS trademark"; "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"; and "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."

Paragraph 4(a)(iii): Complainant states that the Disputed Domain Name was registered and is being used in bad faith because, inter alia, "WORLD NOMADS is so closely linked and associated with Complainant that Respondent's use of this mark, or any minor variation of it, strongly implies bad faith – where a domain name is so obviously connected with such a well-known name and products, its very use by someone with no connection with the products suggests opportunistic bad faith" (internal citation and punctuation omitted); given the fame of the WORLD NOMADS Trademark, "Respondent knew, or at least should have known, of the existence of the Complainant's trademark"; "[t]yposquatting itself has also been taken as evidence of bad faith registration and use"; "Respondent has demonstrated a nefarious intent to capitalize on the fame and goodwill of the Complainant's trademark in order to increase traffic to the Disputed Domain Names' websites for Respondent's own pecuniary gain, as evidenced by the presence of multiple pay-per-click links posted to Respondent's websites, some of which directly reference Complainant and/or its competitors"; "[t]he four infringing domain names registered by Respondent further demonstrates that the Respondent is engaging in a pattern of cybersquatting"; "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"; and Respondent has lost previous decisions under the Policy.

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 UDRP).

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).

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).

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.

The Complaint was submitted in English. On September 9, 2022, CAC notified Complainant that the language of the registration agreement is in Chinese. On September 12, 2022, Complainant requested English as the language of the proceeding because translation would “unfairly disadvantage and burden the Complainant and delay the proceedings”; the words “WORLD NOMADS” do not “carry any specific meaning in the Chinese language”; and the websites associated with the Disputed Domain Names “include several terms and phrases in the English language.”

Paragraph 11(a) of the Rules states: “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.” As set forth in WIPO Overview 3.0, section 4.5, “panels have found that certain scenarios may warrant proceeding in a language other than that of the registration agreement,” including, inter alia, “the language/script of the domain name”, “any content on the webpage under the disputed domain name”, and “potential unfairness or unwarranted delay in ordering the complainant to translate the complaint.”

In light of the above, including the reasons set forth by Complainant (and in the absence of any argument to the contrary by Respondent), the Panel determines that the language of this proceeding shall be English. See, e.g., *Intesa Sanpaolo S.p.A. v. Lidia Galbiati*, CAC Case No. 102425.

PRINCIPAL REASONS FOR THE DECISION

Identical or Confusingly Similar: Paragraph 4(a)(i):

Based upon the trademark registrations cited by Complainant, it is apparent that WorldNomads.com Pty Limited has rights in and to the WORLD NOMADS Trademark. Although, as set forth above, Complainant states that it acquired 100 percent of WorldNomads Group in 2015, Complainant does not explain the legal relationship between WorldNomads Group and WorldNomads.com Pty Limited. Instead, Complainant simply states that WorldNomads.com Pty Limited is an affiliate of Complainant.

Despite this incomplete record, Respondent has not raised any questions about the relationships among Complainant, WorldNomads.com Pty Limited, and WorldNomads Group. Further, section 1.4 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“WIPO Overview 3.0”) says: “A trademark owner’s affiliate such as a subsidiary of a parent or of a holding company, or an exclusive trademark licensee, is considered to have rights in a trademark under the UDRP for purposes of standing to file a complaint.” While that is not exactly the situation presented here (instead, the parent company, not the affiliate, has filed this complaint), the Panel is prepared to find that this stated and unchallenged relationship means that Complainant has rights in the WORLD NOMADS Trademark for purposes of the Policy.

As to whether the Disputed Domain Names are identical or confusingly similar to the WORLD NOMADS Trademark, the relevant comparison to be made is with the second-level portion of the Disputed Domain Names only (i.e., “worldsnomads”, “worldnmads”, “worldomads”, and “worldnoads”) because “[t]he applicable Top Level Domain (‘TLD’) in a domain name (e.g., ‘.com’, ‘.club’, ‘.nyc’) is

viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.” WIPO Overview of WIPO Overview 3.0, section 1.11.1.

Here, each of the Disputed Domain Names contains the WORLD NOMADS Trademark in its entirety, simply adding or deleting a single letter. As set forth in section 1.9 of WIPO Overview 3.0: “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.”

Accordingly, the Panel finds that Complainant has proven the first element of the Policy.

Rights or Legitimate Interests: Paragraph 4(a)(ii)

Complainant states that Respondent has no rights or legitimate interests in respect of the Disputed Domain Names because, inter alia, “Respondent is not sponsored by or affiliated with Complainant in any way”; Complainant has not “given Respondent license, authorization or permission to use Complainant’s trademark in any manner, including in domain names”; “Respondent is not commonly known by the Disputed Domain Names” given that “the pertinent Whois information identifies the Registrant as ‘Zhi Chao Yang’, which does not resemble the Disputed Domain Names in any manner”; “Respondent registered the Disputed Domain Names in June 2022, which was significantly after the registration of the WORLD NOMADS trademark”; “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”; and “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.”

WIPO Overview 3.0, section 2.1, states: “While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of ‘proving a negative’, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.”

The Panel finds that Complainant has established its prima facie case and without any evidence from Respondent to the contrary, the Panel is satisfied that Complainant has satisfied the second element of the UDRP.

Registered and Used in Bad Faith: Paragraph 4(a)(iii)

Whether a domain name is registered and used in bad faith for purposes of the UDRP may be determined by evaluating four (non-exhaustive) factors set forth in paragraph 4(b) of the UDRP: (i) circumstances indicating that the registrant has registered or the registrant 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 the registrant’s documented out-of-pocket costs directly related to the domain name; or (ii) the registrant has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the registrant has engaged in a pattern of such conduct; or (iii) the registrant has registered the domain name primarily for the purpose of disrupting the business of a competitor; or (iv) by using the domain name, the registrant has intentionally attempted to attract, for commercial gain, Internet users to the registrant’s website or other online location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the registrant’s website or location or of a product or service on the registrant’s website or location.

WIPO Overview 3.0, section 3.1.4, states: “Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith.” Here, Complainant’s multiple registrations for and longstanding use of the WORLD NOMADS Trademark in connection with a sizable business makes clear that the WORLD NOMADS Trademark is widely known.

In addition, numerous panels under the UDRP have found the registration and use of a domain name that is confusingly similar to a complainant’s trademark to constitute bad faith pursuant to paragraph 4(b)(iv) of the UDRP where, as here, the domain name is associated with a monetized parking page that could be construed as associated with the complainant. See, e.g., Wal-Mart Stores, Inc.

v. Whois Privacy, Inc., WIPO Case No. D2005 0850; Columbia Pictures Industries, Inc. v. North West Enterprise, Inc., WIPO Case No. D2006-0951; and Dr. Martens International Trading GmbH, Dr. Maertens Marketing GmbH v. Private Whois Service, WIPO Case No. D2011-1753.

Further, section 3.1.11 of WIPO Overview 3.0 says that although “registering a domain name for subsequent resale (including for a profit) would not by itself support a claim that the respondent registered the domain name in bad faith,” domain names that are typographical variations of a famous mark and “[t]he use to which the domain name is put, particularly the absence of circumstances indicating that the respondent’s aim in registering the disputed domain name was to profit from or exploit the complainant’s trademark” are indicators of bad faith under paragraph 4(b)(i) of the Policy. Here, each of the Disputed Domain Names is, as stated above, a topographical variation of the WORLD NOMADS Trademark, and the pay-per-click pages associated with each of the Disputed Domain Names indicates that Respondent intended to exploit the WORLD NOMADS Trademark.

Finally, by registering the four Disputed Domain Names in this case, as well as by having lost previous decisions under the Policy, it is apparent that Respondent has engaged in a pattern of conduct under paragraph 4(b)(ii) of the Policy.

Therefore, collectively – if not individually – all of the above is overwhelmingly clear evidence of bad faith.

Accordingly, the Panel finds that Complainant has proven the third element of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. **worldsnomads.com**: Transferred
- 2. **worldnmads.com**: Transferred
- 3. **worldomads.com**: Transferred
- 4. **worldnoads.com**: Transferred

PANELLISTS

Name Douglas Isenberg

DATE OF PANEL DECISION 2022-10-24

Publish the Decision