Decision for dispute CAC-UDRP-108075

Case number	CAC-UDRP-108075
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Domain names	neuropurepro.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Société des Produits Nestlé S.A.

Complainant representative

Organization	Thomsen Trampedach GmbH

Respondent

Name	Suvijag Jangwatkhet

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 name.

IDENTIFICATION OF RIGHTS

The Complainant is the registrant of the U.S. trademark registration No. 7790279, “NEUROPURE”, registered on May 13, 2025 , for goods and services in class 5.

The disputed domain name was registered by the Respondent on September 7, 2023.

FACTUAL BACKGROUND

The Complainant is a subsidiary of Nestlé S.A., the main operating company in the Nestlé Group founded by Henri Nestlé in 1866. The Complainant owns the majority of the trademarks held by the Nestlé Group. The Nestlé Group is active in the sale of food products and related services worldwide. The Nestlé Group markets its products in 190 countries, has about 275,000 employees worldwide, and has a physical presence in 80 countries. The Nestlé Group is the largest publicly traded food and nutritional products company in the world. The Complainant’s group offers a broad range of products, including dietary supplements under several brands. In 2017, the Complainant acquired Pure Encapsulations, a brand that focuses on high-quality, hypoallergenic supplements. In 2012, Pure Encapsulations launched the "Integrative Mental Health Series," a product line that includes the product NeuroPure. NeuroPure is formulated to support serotonin and dopamine production and has been marketed continuously in the United States since its introduction.

The Complainant points out that the Respondent is a natural person located in Thailand. The Complainant states that it does not know the Complainant. The Complainant notes that the disputed domain name is, at the time of filing, being used to direct internet users to a website selling supplements directly competing with the Complainant's products. The Complainant notes that the products promoted through the disputed domain name are the same that were sold in the context of a previous successful UDRP procedure concerning a domain name similar to the disputed domain name.

The Complainant submits that the disputed domain name is confusingly similar to its trademark "NEUROPURE", because it consists of the above-mentioned trademark with the addition of the generic term "pro". The Complainant considers that the addition of a generic term does not prevent a finding of confusing similarity.

The Complainant submits that the Respondent has no rights or legitimate interests in the disputed domain name for the following reasons:

- the Respondent is not commonly known by the disputed domain name;

- the domain is being used to promote a line of neurological supplements in competition with the Complainant's ones.
The Complainant points out that even if the disputed domain name was registered by the Respondent in September 2023, before the Complainant's U.S. federal trademark registration was issued, the Complainant had valid unregistered rights in the United States at the time of the disputed domain name registration. The Complainant underlines that the Complainant's NEUROPURE brand began to be marketed in 2012, with yearly sales demonstrating consistent growth between 2012 and 2023.
The Complainant argues that, on the balance of probabilities, it is highly unlikely that the Respondent was not aware of the Complainant's prior rights when he registered the disputed domain name, because the Respondent uses the disputed domain name to market neurological supplements, which is exactly the market sector in which the Complainant's prior rights were established.
The Complainant adds that, even if the Respondent was not aware of the Complainant's rights, the Complainant submits that a simple search by using Internet search engines would have alerted the Respondent to the existence of the Complainant's NEUROPURE product.
The Complainant considers that the disputed domain name has also been used in bad faith because it is being used to display a commercial website selling neurological supplement products in direct competition with those of the Complainant.

PARTIES CONTENTIONS

The Complainant, relying on the arguments summarised above, contends that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.
No administratively compliant Response has been filed.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is 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 name (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 name has been registered and is 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.

PRINCIPAL REASONS FOR THE DECISION

In accordance with paragraph 4(a) of the Policy, in order to obtain the transfer of the disputed domain name, the Complainant has to demonstrate that:

(i) The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and

(ii) The Respondent has no rights or legitimate interests in respect of the disputed domain name; and

(iii) The disputed domain name has been registered and is being used in bad faith.

IDENTICAL OR CONFUSINGLY SIMILAR

The first requirement that the Complainant must establish is that the disputed domain name is identical with, or confusingly similar to the Complainant's trademark or service mark rights.

There are two elements of this test: the Complainant must demonstrate that it has rights in a trademark or service mark and, if so, the disputed domain name must be shown to be identical or confusingly similar to the trademark or service mark.

The Complainant has proven ownership, among others, of the registered trademark "NEUROPURE", identified in section "Identification of rights" above.

Other panels have pointed out that a fundamental principle of trademark law is that rights in a trademark can be acquired through use, and such rights exist even though the trademark may not be registered (see, for example, WIPO case No. D2000-0575). The Panel considers that the same reasoning applies also to the present case and, given that the Complainant has provided evidence that it has been using the mark "NEUROPURE" in association with its business for a number of years prior to the disputed domain name being registered, the Panel is of the opinion that the Complainant has provided adequate grounds for a finding that he has been holding rights in the mark "NEUROPURE" for the purposes of the Policy including before its registration.

On the question of identity or confusing similarity, what is required is simply a comparison and assessment of the disputed domain name itself to the Complainant's trademark.

The disputed domain name differs from the Complainant's trademark "NEUROPURE" only by the addition of the word "PRO", and of the top-level domain ".COM".

It is a common view that where a trademark is the distinctive part of a domain name, the domain name is considered to be confusingly similar to the trademark (see, for example, WIPO case No. D2017-1266).

In the present case, the word "PRO" has no impact on the distinctive part "NEUROPURE". It is well established that where the relevant trademark is recognizable within the domain name, the addition of generic terms would not prevent a finding of confusing similarity (see, for example, CAC case No. 107581).

It is also well established that the top-level domain may generally be disregarded in the confusing similarity test (see, for example, WIPO case No. D2016-2547).

In the light of the above, the Panel considers that the disputed domain name is confusingly similar to the Complainant's trademark "NEUROPURE".

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

RIGHTS OR LEGITIMATE INTERESTS

The second requirement that the Complainant must prove is that the Respondent has no rights or legitimate interests in the disputed domain name.

Paragraph 4(c) of the Policy provides that the following circumstances can be situations in which the respondent has rights or legitimate interests in a domain name:

(i) before any notice to [the Respondent] of the dispute, [the Respondent's] use of, or demonstrable preparations to use, the [disputed] domain name or a name corresponding to the [disputed] domain name in connection with a bona fide offering of goods or services; or

(ii) [the Respondent] (as an individual, business, or other organization) [has] been commonly known by the [disputed] domain name, even if [the Respondent] [has] acquired no trademark or service mark rights; or

(iii) [the Respondent] [is] making a legitimate non-commercial or fair use of the [disputed] domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

This is a non-exhaustive list of circumstances in which a respondent can show rights or legitimate interests in a domain name.

The onus of proving this requirement falls on the Complainant. UDRP panels have recognized that proving that a respondent lacks rights or legitimate interests in a domain name may result in the often-impossible task of "proving a negative".

Accordingly, it is usually sufficient for a complainant to raise a prima facie case against the respondent and the burden of proof on this requirement shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in a domain name.

The Panel finds that the Complainant has made out a prima facie case that the Respondent does not have rights or legitimate interests in the disputed domain name.

In particular, the Complainant states that:

- the Respondent is not commonly known by the disputed domain name;

- the domain is being used to promote a line of neurological supplements in competition with the Complainant's ones.

In the absence of a Response, there is no indication in the present case that the Respondent is commonly known by the disputed domain name.

Furthermore, the Respondent has failed to demonstrate any of the other non-exclusive circumstances evidencing rights or legitimate interests under paragraph 4(c) of the Policy or other evidence of rights or legitimate interests in the disputed domain name.

The Respondent does not appear to make any legitimate non-commercial or fair use of the disputed domain name, nor any use in connection with a bona fide offering of goods or services. Indeed, the disputed domain name redirects users to a website selling products in competition with the Complainant's products.

Taking into account that the Respondent is not known as the disputed domain name, that the Complainant does not know the Respondent, that the disputed domain name redirects users to a website selling products in competition with the Complainant's products, the Panel cannot imagine any possible legitimate justification for this use, and the Respondent has not come forward with any explanation that demonstrates any rights or legitimate interests in the disputed domain name.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

BAD FAITH

Under the third requirement of the Policy, the Complainant must establish that the disputed domain name has been both registered and used in bad faith by the Respondent.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, including:

(i) circumstances indicating that [the Respondent] [has] registered or [has] acquired the [disputed] domain name primarily for the purpose of selling, renting, or otherwise transferring the [disputed] 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 Respondent's] documented out-of-pocket costs directly related to the [disputed] domain name; or

(ii) [the Respondent] [has] registered the [disputed] 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 Respondent] [has] engaged in a pattern of such conduct; or

(iii) [the Respondent] [has] registered the [disputed] domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the [disputed] domain name, [the Respondent] [has] intentionally attempted to attract, for commercial gain, Internet users to [the Respondent's] 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 [the Respondent's] web site or location or of a product or service on [the Respondent's] web site or location.

The Panel, on the basis of the evidence presented, agrees with the Complainant's contentions that the disputed domain name was registered in bad faith and that it has been used in bad faith.

The Panel observes that it is well established that the scenarios described in UDRP paragraph 4(b) are non-exclusive and merely illustrative. Therefore, even where a complainant is not able to demonstrate the literal application of one of the above-mentioned scenarios, evidence demonstrating that a respondent seeks to take unfair advantage of, abuse, or otherwise engage in behaviour detrimental to the complainant’s trademark would also satisfy the complainant’s burden.

The Panel observes that the Respondent registered the disputed domain name in 2023, while the Complainant registered its trademark in 2025. However, the Complainant has provided evidence of use of its "NEUROPURE" unregistered trademark since 2012.

The Respondent should have performed an internet search, aimed at excluding possible conflicts with third party rights. Therefore, the Respondent has failed to carry out such a search and has to be considered responsible for the resulting abusive registration under the concept of wilful blindness (see, for example, WIPO Case No. D2018-1182). Consequently, this circumstance is considered by the Panel as evidence of bad faith.

As regards the fact that the disputed domain name points to a commercial website selling neurological supplement products in direct competition with those of the Complainant, the Panel considers that this fact, on the balance of probabilities, constitutes evidence of bad faith.

The Panel observes that if the Respondent had legitimate purposes in registering and using the disputed domain name it would have filed a response in this proceeding.

The Panel, having taken into account the Respondent's knowledge of the "NEUROPURE" unregistered trademark at the time of the disputed domain name's registration, the fact that the disputed domain name points to a website that promotes a line of neurological supplements in competition with the Complainant's ones and that no response to the complaint has been filed considers that the disputed domain name was registered and is being used in bad faith.

Accordingly, the Panel finds that the disputed domain name was registered and is being used in bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **neuropurepro.com**: Transferred

PANELLISTS

Name	**Michele Antonini**

DATE OF PANEL DECISION 2025-12-14

Publish the Decision