Decision for dispute CAC-UDRP-108157

Case number	CAC-UDRP-108157
Time of filing	2025-11-19 11:11:13
Domain names	nestlevital.com

Case administrator

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

Complainant

Organization	Société des Produits Nestlé S.A.

Complainant representative

Organization	Thomsen Trampedach GmbH

Respondent

Name	Registration Private

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 owner of numerous trademark registrations for the mark NESTLÉ in jurisdictions throughout the world. The marks are registered in multiple jurisdictions in respect of various goods and services in multiple classes of the Nice Classification, including the following:

- International trademark NESTLÉ No. 793804, registered on 10 December 2002, in classes 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43 & 44;

- Swiss trademark NESTLÉ VITAL No. 820374, registered on 19 September 2024, in classes 5, 29, 30 & 32;
- International trademark NESTLE VITAL No. 1831710, registered on 6 November 2024, in classes 5, 29, 30 & 32.

FACTUAL BACKGROUND

The Complainant, Société des Produits Nestlé S.A., is a wholly owned subsidiary of Nestlé S.A., the principal operating company of the Nestlé Group, which was founded in 1866. The Nestlé Group is a large multinational company in the food and nutrition sector, publicly traded since 2014, and ranked 106th in Fortune magazine's 2024 Global 500 list. The Complainant owns the majority of the Group's trademarks, including the NESTLÉ mark.

In September 2024, the Complainant initiated the worldwide filing of the NESTLÉ VITAL trademark, including a Swiss registration followed by an international registration under the Madrid Protocol designating more than twenty jurisdictions.

The disputed domain name <nestlevital.com> was registered on 20 November 2024, shortly after the international registration of the NESTLÉ VITAL mark, without the Complainant's authorization. The domain name is identical to the Complainant's trademark and incorporates the well-known NESTLÉ mark.

The disputed domain name has been offered for sale at a price of USD 38,889. The Respondent's identity was initially protected by a privacy service, and attempts by the Complainant to contact the Respondent were unsuccessful. The Complainant subsequently filed the present Complaint seeking the transfer of the disputed domain name.

According to information provided by the Registrar, the Respondent appears to be based in the United States.

PARTIES CONTENTIONS

The Complainant 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.

The Complainant claims that a mutually agreed settlement has been reached but no signed settlement form has been provided.

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).

The Complainant claims to hold rights in the NESTLÉ, NESTLÉ VITAL and NESTLE VITAL (hereinafter NESTLE) marks through its numerous trademark registrations worldwide. By virtue of these registrations, the Complainant satisfies the requirements of paragraph 4(a) of the Policy. See Avast Software s. r. o. v Milen Radumilo, 102384, (CAC 2019-03-12). The Panel finds that the Complainant has rights in the NESTLE mark under paragraph 4(a)(i) of the Policy.

The Complainant asserts that the disputed domain name is confusingly similar to the Complainant's NESTLE trademarks. The disputed domain name combines the Complainant's well-known mark NESTLE with the generic term "vital." UDRP panels have consistently held that the addition of descriptive or generic terms to a complainant's trademark within a domain name does not prevent a finding of confusing similarity.

The disputed domain name is also identical to the recently registered NESTLÉ VITAL trademarks, reproducing the mark in its entirety with the mere addition of the ".com" top-level domain. It is well established that the ".com" element, as a technical requirement, does not affect the analysis of identity or confusing similarity.

Upon comparison, the Panel finds that the main portion of the disputed domain name is identical to the Complainant's NESTLÉ VITAL trademarks. The ".com" generic top-level domain is not relevant in assessing whether a domain name is identical or confusingly similar under paragraph 4(a)(i) of the Policy. See Alibaba Innovation Private Limited v Colin Gao, 108159 (CAC 2025-12-18) ("The entirety of the Complainants' registered trade mark WANX is incorporated into the disputed domain name. Panels have consistently held that top-level domains ("TLDs"), such as ".run", are typically disregarded when assessing identity or confusing similarity under the first element of the Policy. Therefore, the analysis focuses on the second-level portion of the disputed Domain Name, which incorporates the Complainant's trademark in a manner that creates a likelihood of confusion.").

For the foregoing reasons, the Panel finds the Complainant has satisfied 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). More specifically, the Complainant must first make a prima facie case that the Respondent lacks rights and legitimate interests in the disputed domain name, and the burden of prove then shifts to the Respondent to show it does have rights or legitimate interests. See PepsiCo, Inc. v Smith power production, 102378, (CAC 2019-03-08) ("The Panel finds that the Complainant has made out a prima facie case that arises from the considerations above. All of these matters go to make out the prima facie case against the Respondent. As the Respondent has not filed a Response or attempted by any other means to rebut the prima facie case against it, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.").

The Complainant claims that the Respondent has not used the disputed domain name for a bona fide offering of goods or services. The domain has been offered for sale at USD 38,889, demonstrating registration for illegitimate commercial gain. The Respondent is

not commonly known by the domain name, holds no trademark rights in NESTLE, and was not authorized to use the Complainant's mark. The disputed domain name is not used for legitimate non-commercial or fair purposes, and the sole intent appears to be to obtain an unfair commercial advantage.

The Panel finds that the Complainant has established a prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name. As a result, the burden of proof shifts to the Respondent to demonstrate such rights or interests. However, the Respondent has failed to submit any response within the required timeframe to rebut these assertions.

For the foregoing reasons, the Panel finds the Complainant has satisfied 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).

The Complainant reiterates that the NESTLE mark is well-known worldwide and serves as the principal identifier of the Complainant's global business. Pat previous UDRP panels have consistently held that the registration of a domain name identical or confusingly similar to a famous trademark by an unrelated party can create a presumption of bad faith, as such domain names are likely to be perceived as connected to the trademark and exploited for commercial gain. Domain names combining "NESTLÉ" with a generic term, such as "VITAL," are likely to be perceived as associated with the Complainant.

The Complainant also states that the disputed domain name was registered on 20 November 2024, shortly after the Complainant's international registration of NESTLÉ VITAL on 6 November 2024. At the time of registration, the Complainant's rights were well-established and publicly apparent. On the balance of probabilities, the timing and circumstances indicate that the Respondent was aware of the Complainant's rights and purposefully targeted the well-known NESTLÉ mark.

The Complainant further asserts that the Respondent has used the disputed domain name solely to offer it for sale at USD 38,889, far exceeding the reasonable costs of registration and maintenance. Such conduct constitutes registration and use primarily for commercial gain, which under the UDRP is evidence of bad faith. Any future use of the domain would also be in bad faith, as the domain consists entirely of the Complainant's NESTLÉ VITAL mark and would likely create confusion among Internet users, suggesting an affiliation with the Complainant. The Respondent's passive holding of the domain further supports a finding of bad faith, as no bona fide use has been demonstrated and any legitimate use appears implausible.

Having considered the circumstances and noting the Respondent's failure to submit a response, the Panel finds that the Respondent has no plausible justification for registering the disputed domain name without knowledge of the Complainant and its NESTLE trademarks. The Panel also finds that offering the domain name for sale at a price far exceeding out-of-pocket costs supports a finding of bad faith and that passive holding of a domain name does not preclude such a finding, see Novartis AG v Zhi Hong Huang, 102551 (CAC 2019-11-02). See also paragraph 3.1.1 and 3.2.2 of the WIPO Overview 3.0.

For the foregoing reasons, the Panel finds the Complainant has satisfied 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: POTENTIAL SETTLEMENT

The Complainant asserts that the Parties have agreed to settle this proceeding through the transfer of the disputed domain name to the Complainant. However, no evidence of such an agreement has been submitted to the Panel.

In the absence of substantiation, the Panel will proceed to consider the Complaint on the merits and to assess the three elements under the Policy. See paragraph 3.10 of the WIPO Overview.

PRINCIPAL REASONS FOR THE DECISION

Having established all three elements required under the UDRP Policy, the Panel concludes that the disputed domain name should be transferred to the Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **nestlevital.com**: Transferred

PANELLISTS

Name	**Mr Paddy TAM**

DATE OF PANEL DECISION 2026-01-02

Publish the Decision