

ADMINISTRATIVE PANEL DECISION

NerdWallet, Inc. v. Name Redacted, Nerd Wallet, Jeff Ometo, Ometo Advertising and Ricco Davis
Case No. D2023-4671

1. The Parties

Complainant is NerdWallet, Inc., United States of America (“United States”), represented by Culhane Meadows PLLC, United States.

Respondent is Name Redacted¹, Nerd Wallet, United States, Jeff Ometo, Ometo Advertising, United States and Ricco Davis, United States.

2. The Domain Names and Registrars

The disputed domain names <nerdwalletmortgage.com>, <nerdwalletmortgage15.com> and <nerdwalletmortgage16.com> are registered with Spaceship, Inc.

The disputed domain name <nerdwalletmortgage.org> is registered with NameCheap, Inc.

The disputed domain name <nerdwalletmortgages.com> is registered with Name.com, Inc.

The disputed domain names <nerdwalletmortgage11.com>, <nerdwalletmortgage12.com> and <nerdwalletmortgage14.com> are registered with OwnRegistrar, Inc.

The disputed domain names <nerdwalletmortgage10.com>, <nerdwalletmortgage17.com>, <nerdwalletmortgage18.com>, <nerdwalletmortgage19.com>, <nerdwalletmortgage2.com>, <nerdwalletmortgage20.com>, <nerdwalletmortgage21.com>, <nerdwalletmortgage22.com>, <nerdwalletmortgage23.com>, <nerdwalletmortgage24.com>, <nerdwalletmortgage25.com>, <nerdwalletmortgage26.com>, <nerdwalletmortgage27.com>, <nerdwalletmortgage3.com>, <nerdwalletmortgage5.com>, <nerdwalletmortgage6.com>, <nerdwalletmortgage7.com>, <nerdwalletmortgage8.com> and <nerdwalletmortgage9.com> are registered with Hosting Concepts B.V. d/b/a Registrar.eu.

¹ The Respondent appears to have used the name of a third party when registering the disputed domain name <nerdwalletmortgage.org>. In light of the potential identity theft, the Panel has redacted the Respondent’s name from this decision. However, the Panel has attached as Annex 1 to this decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

The disputed domain name <nerdwalletmortgage4.com> is registered with NameSilo, LLC.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 10, 2023. On November 13, 2023, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On November 13 and 14, 2023, the Registrars transmitted by email to the Center their verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Redacted For Privacy, Withheld for Privacy ehf, Domain Protection Services, Inc., PrivacyGuardian.org llc, Whois Privacy Protection Foundation, WhoisSecure) and contact information in the Complaint.

The Center sent an email communication to Complainant on November 20, 2023, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrars, requesting Complainant to either file separate complaint(s) for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity. Complainant filed an amended Complaint on November 24, 2023.

Respondent Ricco Davis sent an email communication on November 20, 2023.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified Respondent of the Complaint, and the proceedings commenced on December 1, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 21, 2023.

The purported registrant of the disputed domain name <nerdwalletmortgage.org> sent email communications on December 4, 11 and 13, 2023.

On December 26, 2023, the Center notified the Parties that it would proceed to panel appointment.

The Center appointed Robert A. Badgley as the sole panelist in this matter on January 8, 2024. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

Complainant alleges that it “provides consumer-driven advice about personal finance through its platform by connecting individuals and small and mid-sized businesses with providers of financial products.”

Complainant’s stated mission is “to provide clarity for all of life’s financial decisions, believing that everyone should be able to make financial decisions with confidence.” According to Complainant, “as a personal finance website and app, Complainant provides consumers with trustworthy and knowledgeable financial information.” Among other things, Complainant provides information and tools relating to mortgages.

Complainant states that it was founded in 2009, and alleges that it “has used and continues to use the NERDWALLET mark and name.” Complainant owns registrations for the mark NERDWALLET in connection with personal finance and related services, including the following United States Patent and Trademark Office (“USPTO”) registrations: USPTO Reg. No. 5017280 (word mark registered on August 9, 2016 with a

February 16, 2009 date of first use in commerce), USPTO Reg. No. 5,259,269 (word mark registered on August 8, 2017 with a February 16, 2009 date of first use in commerce), and USPTO Reg. No. 6898889 (design mark registered on November 15, 2022 with a February 2, 2016 date of first use in commerce).

Complainant holds trademark registrations for NERDWALLET in several other jurisdictions, including Australia, Canada, and the United Kingdom.

Complainant owns the domain name <nerdwallet.com> and operates a commercial website via that domain name.

The 28 disputed domain names were registered between September 20, 2023 and October 4, 2023. As of September 29, 2023, the disputed domain name <nerdwalletmortgage.com> resolved to a website that prominently displayed Complainant's NERDWALLET mark and, according to Complainant, "copied the look and feel of Complainant's website in attempt to impersonate Complainant." At least 23 of the other 27 disputed domain names were redirected to this same website at "www.nerdwalletmortgage.com".

A comparison between Complainant's website and Respondent's website reveals many similarities. For instance, Complainant's stylized NERDWALLET mark appears frequently on Respondent's site, some of the content is identical, the color scheme (largely green) used by Complainant on its site also permeates Respondent's site, and Respondent's website shows a street address identical to Complainant's street address.

Respondent's site purports to offer mortgage services similar to those offered by Complainant, and Respondent's site invites visitors to provide their personal information.

On November 20, 2023, nominal Respondent Ricco Davis ("Davis") (purportedly the registrant of the disputed domain name <nerdwalletmortgages.com>) sent the Center an email stating as follows:

"My name is Ricco Davis, and I am listed as the owner of one of the domain names (nerdwalletmortgages.com). [...] I approve the transfer of this domain name to the Complainant. I also give permission for my Registrar to release the domain from my ownership and transfer to the Complainant."

On December 4, 2023, the purported registrant of the disputed domain name <nerdwalletmortgage.org> sent the Center an email stating as follows:

"I was shocked to receive a dispute notice today from you in the above indicated matter. This is a great surprise to me and I will explain as follows. I answered a craigslist ad for what I thought was basically an affiliate work opportunity to send traffic to mortgage companies. I paid a \$250 fee which I thought was for a legitimate work opportunity with a replicated website that a person by the name of Jeff Ometo at [...]@ometoadvertising.com built for me. I have never had access to the hosting or any of the files and have no control whatsoever with it. Additionally, I never promoted the website or profited in any way. I regretted almost from the first of ever getting involved and began to feel it was a strange way to operate what I thought was basically an affiliate opportunity. So now I am out \$250 and I am having to respond to you. If there was any way I could remove files or the domain I would certainly do it – but as I said earlier I have never had that access and I am surprised that my name is even on any domain registry in relation to this matter. I feel as much a victim in this matter as the complainant. Please write back and let me know if this response will suffice in removing me from any punitive measures, and if not, what more I can do. I ask because I have not idea what more I could possibly do."

On December 11, 2023, the registrant of the disputed domain name <nerdwalletmortgage.org> sent another email to the Center, reiterating his lack of involvement vis-à-vis the disputed domain name <nerdwalletmortgage.org>, and stating in part:

"I never gave anyone permission to use my name and information to register a domain. Consequently I have never had any access to a hosting account or files pertaining to the site."

On December 13, 2023, the registrant of the disputed domain name <nerdwalletmortgage.org> sent another email to the Center, along the same lines as his prior missives.

5. Parties' Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

B. Respondent

No formal Response was received in connection with any of the disputed domain names.

6. Discussion and Findings

A. Consolidation and Multiple Purported Respondents

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing Complainant's implicit request to consolidate in a single UDRP proceeding 28 disputed domain names purportedly registered by different persons or entities, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2.

It is undisputed that Respondent Jeff Ometo is the registrant of 25 of the 28 disputed domain names. Further, for the reasons set forth below, the Panel finds it more likely than not that all 28 disputed domain names at issue in this proceeding (including the three not expressly registered by Jeff Ometo) were in fact registered by the same Respondent, namely, Jeff Ometo.

As noted above, the disputed domain names were all registered within a very brief period of time (two weeks), and the numbering sequence of most of the disputed domain names is (2 through 27, omitting only 13) is too striking to be chalked up to coincidence. Further, most of them resolved to the website set up by Respondent in connection with the very first disputed domain name registered, namely, <nerdwalletmortgage.com>.

The nominal Respondents (Davis, concerning the disputed domain name <nerdwalletmortgages.com>, and the registrant of the domain name <nerdwalletmortgage.org>) have informally advised the Center that they have no objection to transferring the disputed domain name (Davis), or that they had no role in registering the disputed domain name <nerdwalletmortgages.com> in the first place, respectively. The Panel accepts these statements at face value as being plausible. The Panel finds, for purposes of this proceeding, that the disputed domain names <nerdwalletmortgages.com> and <nerdwalletmortgage.org> were in fact registered by Respondent Jeff Ometo, either on his own behalf or on behalf of his apparent company, Ometo Advertising.

For the 26 other disputed domain names, no Response was made to the Complaint. Of these 26 disputed domain names, 24 are registered by Respondents Jeff Ometo and his firm, Ometo Advertising. One was registered by Respondent Jeff Ometo alone. Finally, with regard to the disputed domain name <nerdwalletmortgage4.com>, the purported registrant was "Nerd Wallet." Given the fact that this disputed domain name fits within a sequence of disputed domain names registered by Respondents Jeff Ometo and Ometo Advertising (<nerdwalletmortgage4.com> being registered by "Nerd Wallet" and

<nerdwalletmortgage2.com>, <nerdwalletmortgage3.com>, <nerdwalletmortgage 5.com>, etc. all the way to <nerdwalletmortgage27.com> being registered by Jeff Ometo and Ometo Advertising), and given the lack of any explanation regarding these registrations, the Panel finds it more likely than not that <nerdwalletmortgage4.com> was also registered by Respondents Jeff Ometo and Ometo Advertising.

In sum, the Panel concludes that all of the 28 disputed domain names were registered by the same Respondent, and the Panel will refer henceforth to "Respondent" as a monolith to describe Jeff Ometo.

B. Merits

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to each of the disputed domain names:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

a. Identical or Confusingly Similar

The Panel concludes that Complainant has rights in the trademark NERDWALLET through registration and use demonstrated in the record. The Panel also concludes that the disputed domain names are confusingly similar to that mark. Each of them fully incorporates the NERDWALLET mark, and the additional word "mortgage" (pluralized once) and, in most cases, the addition of a number, do not overcome the fact that the mark NERDWALLET is clearly recognizable within each of the disputed domain names.

Complainant has established Policy paragraph 4(a)(i).

b. Rights or Legitimate Interests

For each of the disputed domain names, pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the domain name, among other circumstances, by showing any of the following elements:

- (i) before any notice to you [Respondent] of the dispute, your use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services; or
- (ii) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Domain Name, even if you have acquired no trademark or service mark rights; or
- (iii) you [Respondent] are making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel concludes that Respondent lacks rights or legitimate interests in connection with the disputed domain names. Respondent has not come forward to articulate any *bona fide* reason for registering these disputed domain names. Based on the undisputed record in this case, it appears clear that Respondent has targeted Complainant's mark to create a fake website seeking to impersonate Complainant for untoward ends. Such conduct does not permit a finding that Respondent has rights or legitimate interests vis-à-vis the disputed domain names.

Complainant has established Policy paragraph 4(a)(ii).

c. Registered and Used in Bad Faith

For each of the disputed domain names, paragraph 4(b) of the Policy provides that the following circumstances, “in particular but without limitation,” are evidence of the registration and use of the domain name in “bad faith”:

- (i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or
- (ii) that Respondent 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 Respondent has engaged in a pattern of such conduct; or
- (iii) that Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or
- (iv) that by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent’s website or other online location, by creating a likelihood of confusion with Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of Respondent’s website or location or of a product or service on Respondent’s website or location.

The Panel concludes that Respondent registered and used the disputed domain names in bad faith under the Policy. The Panel incorporates its discussion above in the “Rights or Legitimate Interests” section. On this record, the Panel finds it clear that Respondent targeted Complainant’s mark when registering the disputed domain names, and has used them for illegitimate commercial gain by seeking to impersonate Complainant. This constitutes bad faith registration and use within the meaning of the above-quoted Policy paragraph 4(b)(iv).

In addition, the Panel finds that, by registering 28 domain names incorporating Complainant’s mark, Respondent is in bad faith within the meaning of the above-quoted Policy paragraph 4(b)(ii).

Complainant has established Policy paragraph 4(a)(iii).

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain names <nerdwalletmortgage.com>, <nerdwalletmortgage.org>, <nerdwalletmortgages.com>, <nerdwalletmortgage10.com>, <nerdwalletmortgage11.com>, <nerdwalletmortgage12.com>, <nerdwalletmortgage14.com>, <nerdwalletmortgage15.com>, <nerdwalletmortgage16.com>, <nerdwalletmortgage17.com>, <nerdwalletmortgage18.com>, <nerdwalletmortgage19.com>, <nerdwalletmortgage2.com>, <nerdwalletmortgage20.com>, <nerdwalletmortgage21.com>, <nerdwalletmortgage22.com>, <nerdwalletmortgage23.com>, <nerdwalletmortgage24.com>, <nerdwalletmortgage25.com>, <nerdwalletmortgage26.com>, <nerdwalletmortgage27.com>, <nerdwalletmortgage3.com>, <nerdwalletmortgage4.com>, <nerdwalletmortgage5.com>, <nerdwalletmortgage6.com>, <nerdwalletmortgage7.com>, <nerdwalletmortgage8.com> and <nerdwalletmortgage9.com> be transferred to Complainant.

/Robert A. Badgley/

Robert A. Badgley

Sole Panelist

Date: January 17, 2024