

ADMINISTRATIVE PANEL DECISION

Nike Innovate C.V. v. Larry Faulkner

Case No. D2022-0755

1. The Parties

Complainant is Nike Innovate C.V., United States of America (“United States”), represented by Stobbs IP Limited, United Kingdom.

Respondent is Larry Faulkner, United States.

2. The Domain Name and Registrar

The disputed domain name <teamnike.com> is registered with Dynadot, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 3, 2022. On March 4, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 7, 2022, the Registrar transmitted by email to the Center its verification response confirming that Respondent is listed as the registrant and providing the contact details.

The Center verified that the 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 March 9, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 29, 2022. Respondent did not submit any response. Accordingly, the Center notified the Parties of Respondent’s default on March 31, 2022.

The Center appointed Ingrida Karina-Berzina as the sole panelist in this matter on April 7, 2022. 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 is a leading manufacturer of sports shoes and sports apparel. It is the proprietor of a significant number of registrations for its NIKE mark in jurisdictions around the world, including United States Trademark No. 0978952 for NIKE (word mark), registered on February 19, 1974 for goods in class 25.

The disputed domain name was registered on November 30, 1998. It resolves to a page featuring pay-per-click (“PPC”) links, including links mentioning sports shoes and apparel.

5. Parties’ Contentions

A. Complainant

Complainant’s contentions may be summarized as follows:

Under the first element, Complainant states that it is the world’s leading manufacturer of sports shoes and apparel, and operates an established business in respect of a large variety of goods in countries around the world. The NIKE brand was adopted by Complainant in 1971 and has been registered and used in many countries of the world. The NIKE brand is among the most widely recognized brands in the world and has been extensively promoted by Complainant. The mark should be considered well-known and famous around the world. The disputed domain name wholly incorporates Complainant’s NIKE mark alongside the generic term “team.”

Under the second element, Complainant states that Respondent is using the disputed domain name for a parked page with click-through links to sportswear and trainers which compete with Complainant’s goods and services. The disputed domain name is also being offered for sale through this parking page. Respondent has not been commonly known by the disputed domain name and is not making a legitimate non-commercial or fair use of it.

Under the third element, Complainant states that the disputed domain name is being used with the sole purpose of creating an association with Complainant and profiting from this association. The NIKE mark has received worldwide recognition and it significantly pre-dates the registration of the disputed domain name. Respondent has registered numerous domain names that are identical or confusingly similar to recognizable trademarks, demonstrating a pattern of bad faith conduct. The disputed domain name is being passively held in bad faith.

Complainant requests transfer of the disputed domain name.

B. Respondent

Respondent did not reply to Complainant’s contentions.

6. Discussion and Findings

Paragraph 4(a) of the UDRP requires Complainant to make out all three of the following:

- (i) the disputed 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 disputed domain name; and
- (iii) Respondent has registered and is using the disputed domain name in bad faith.

Under paragraph 15(a) of the Rules, “[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”.

A. Identical or Confusingly Similar

Complainant has provided evidence, not challenged by Respondent, establishing that it has trademark rights in the NIKE mark through registrations in the United States and many other jurisdictions. Complainant thereby satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.2.

In comparing Complainant’s NIKE mark with the disputed domain name, the Panel finds that the disputed domain name is confusingly similar to it. The disputed domain name comprises Complainant’s NIKE mark in its entirety, preceded by the term “team.” It is the consensus view of UDRP panels that, where a domain name incorporates the entirety of a trademark, the domain name will normally be considered confusingly similar to that mark. Moreover, where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. See [WIPO Overview 3.0](#), sections 1.7 and 1.8.

It is the well-established view of UDRP panels that the addition of the generic Top-Level Domain (“gTLD”), in this case, “.com,” to a domain name is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test (see [WIPO Overview 3.0](#), section 1.11.1, and cases cited thereunder).

Accordingly, the Panel finds that Complainant has established the first element under paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

The circumstances stated in the Complaint and evidence in support set forth in the annexes thereto indicate that Respondent has no rights or legitimate interests in the disputed domain name.

The Panel finds that the evidence submitted by Complainant establishes a *prima facie* case that Respondent has no rights or legitimate interests in the disputed domain name. Respondent is not authorized by Complainant and is not commonly known by the disputed domain name. Furthermore, the disputed domain name comprises Complainant’s mark, with the addition of a descriptive term, thereby creating a likely risk of connection with Complainant. Such holding of the disputed domain name cannot confer rights or legitimate interests. See [WIPO Overview 3.0](#), section 2.5.1.

Pursuant to [WIPO Overview 3.0](#), section 2.1, and cases thereunder, where Complainant makes out a *prima facie* case that Respondent lacks rights or legitimate interests, the burden of production on this element shifts to Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name.

Respondent has not provided any rebuttal of Complainant’s *prima facie* case and has therefore not proved rights or legitimate interests in the disputed domain name. There is no evidence that Respondent is commonly known by the disputed domain name, or that there are any circumstances or activities that would establish Respondent’s rights therein. Rather, the disputed domain name was used to redirect to a pay-per-click website with no evidence of any effort to mitigate an inference of targeting Complainant with keywords linked to Complainant’s industry. It is well-established that such use does not establish rights or legitimate interests. See, e.g., *Harpo, Inc. and Oprah’s Farm, LLC v. Robert McDaniel*, WIPO Case No. [D2013-0585](#), and *The Knot, Inc. v. In Knot We Trust Ltd*, WIPO Case No. [D2006-0350](#), *Get Away Today.com., Inc. v.*

Warren Gilbert, WIPO Case No. [DCO2010-0021](#). See also [WIPO Overview 3.0](#), section 2.4, and cases cited thereunder.

Accordingly, the Panel finds that Complainant has established the second element under paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that Complainant has demonstrated Respondent's bad faith registration and use of the disputed domain name. Complainant has provided evidence of trademark rights that predate the registration of the disputed domain name by decades. The NIKE mark is clearly a well-known mark, and the disputed domain name reflects it in its entirety, together with a term ("team") that only serves to strengthen the association with Complainant as a manufacturer of sporting goods and apparel. 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 trademark by an unaffiliated entity can by itself create a presumption of bad faith on the part of Respondent. See [WIPO Overview 3.0](#), section 3.1.4.

The use of the disputed domain name to redirect to a pay-per-click website with keywords related to Complainant and its industry is further evidence of bad faith. Complainant provides additional evidence regarding Respondent's registrations of domain names that incorporate well-known marks, and Respondent's offer for sale of the disputed domain name. Such evidence further supports a finding of bad faith. Respondent has provided no evidence of actual or contemplated good-faith use of the disputed domain name and the Panel does not find any such use plausible. All these circumstances clearly indicate bad faith in the registration and use of the disputed domain name. See, for instance, *Shangri-La International Hotel Management Limited v. NetIncome Ventures Inc.*, WIPO Case No. [D2006-1315](#); *Villeroy & Boch AG v. Mario Pingerna*, WIPO Case No. [D2007-1912](#).

The Panel therefore finds that Complainant has established the third element under paragraph 4(a) of the Policy.

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 name <teamnike.com> be transferred to Complainant.

/Ingrida Karina-Berzina/

Ingrida Karina-Berzina

Sole Panelist

Date: April 21, 2022