

ADMINISTRATIVE PANEL DECISION

**NXT Capital, LLC v. Privacy Service Provided by Withheld for Privacy ehf /
Chima Promise
Case No. D2022-1503**

1. The Parties

The Complainant is NXT Capital, LLC, United States of America (“USA”), represented by Jones Day, USA.

The Respondent is Privacy Service Provided by Withheld for Privacy ehf, Iceland / Chima Promise, Nigeria.

2. The Domain Name and Registrar

The disputed domain name <nextcapital.ltd> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 26, 2022. On April 27, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 27, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name, which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on April 29, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint on May 3, 2022.

The Center verified that the Complaint together with the amendment to 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 the Respondent of the Complaint, and the proceedings commenced on May 4, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 24, 2022. The Respondent submitted an informal communication email on May 12, 2022, but did not submit any formal response. Accordingly, the Center notified the Parties of the commencement of panel appointment process on May 25, 2022.

The Center appointed Nayiri Boghossian as the sole panelist in this matter on May 31, 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

The Complainant is a lender that provides structured financing solutions to companies. The Complainant provides its services under the trademark NXT CAPITAL and owns trademark registrations for NXT CAPITAL such as:

United States Registrations No. 6,138,880 and No. 6,138,881, both registered on September 1, 2020, and claiming a date of first use in commerce in May 2010, and May 2015 respectively.

The disputed domain name was registered on January 23, 2022 and resolves to a webpage offering cryptocurrency trading and investment services. The "Contact Us" page of the webpage shows the address of the Complainant.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights. The disputed domain incorporates the Complainant's trademark and simply adds the letter "E", which does not prevent a finding of confusing similarity. The generic Top-Level-Domain ("gTLD") ".ltd" is a standard registration requirement and does not affect the analysis of confusing similarity.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant did not authorize the Respondent to use its trademark in the disputed domain name and the Respondent is not affiliated with the Complainant. The Respondent is not commonly known by the disputed domain name as it has registered it using a proxy service. The Respondent is not using the disputed domain name in connection with a *bona fide* offering of goods or services nor has used the disputed domain name for any legitimate noncommercial or fair use. Instead, the Respondent is trying to impersonate the Complainant in order to confuse consumers or as part of a phishing scheme.

The Complainant contends that the disputed domain name is registered and is being used in bad faith. The disputed domain name directs to a webpage containing the Complainant's address and a slightly modified version of its trademark. This shows an attempt to impersonate the Complainant, which is clear evidence of bad faith. The Respondent is attempting to lure customers of the Complainant into providing personal and financial information, which clearly demonstrates bad faith. Also, there was no response to the cease-and-desist notifications sent to the Respondent.

B. Respondent

The Respondent did not formally reply to the Complainant's contentions. The Respondent sent an email communication to the Center informing of its preference for the disputed domain name to be cancelled.

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant owns trademark registrations for NXT CAPITAL. The Panel is satisfied that the Complainant has established its ownership of the trademark NXT CAPITAL.

The disputed domain name is a misspelling of the Complainant's trademark NXT CAPITAL by adding the letter "e". This is a typical case of typosquatting, which is designed to create a confusingly similar domain name (*Redbox Automated Retail, LLC d/b/a Redbox v. Milen Radumilo*, WIPO Case No. [D2019-1600](#)). The gTLD ".ltd" can be ignored when assessing confusing similarity as it is viewed as a standard registration requirement.

Consequently, the Panel finds that the disputed domain name is identical or confusingly similar to the trademark of the Complainant and that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, a complainant must make at least a *prima facie* showing that a respondent does not have any rights or legitimate interests in the disputed domain name. Once such showing is made, the burden of production shifts to the respondent. In the instant case, the Complainant asserts that the Respondent is not authorized by the Complainant to use its trademark nor is it affiliated with the Complainant. Furthermore, the Respondent is trying to impersonate the Complainant. Therefore, the Complainant has established a *prima facie* case and the burden of production shifts to the Respondent to show that it has rights or legitimate interests.

The Respondent has not provided any evidence to show that it has any rights or legitimate interests in the disputed domain name. Accordingly, the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Typosquatting may be an indication of bad faith (*ESPN, Inc v. XC2*, WIPO Case No. [D2005-0444](#)). In the present case, the Respondent was aware of the Complainant's trademark and has changed only one letter in order to confuse Internet users and to benefit from typos.

There is sufficient evidence to demonstrate that the Respondent is aware of the Complainant's trademark and is attempting to impersonate the Complainant. The trademark registrations produced by the Complainant show that the trademark has been first in use in commerce in 2010 while the disputed domain name was registered on January 23, 2022, *i.e.* more than 10 years after the Complainant had started using its trademark. Although the areas of activity of the Complainant and the Respondent are not identical, they certainly overlap as they both relate to investment and financial services. Furthermore, the disputed domain name resolves to a webpage which shows the address of the Complainant under the "Contact Us" tab. Also, the webpage shows the letters NEXT CAPITAL written in a font and style identical to the manner in which the Complainant writes its trademark NXT CAPITAL on its website. The slight differences are the addition of the letter "e" and the color. This is clearly an attempt to impersonate the Complainant, which is evidence of bad faith.

The Respondent is attempting to impersonate the Complainant either for the purpose of attracting Internet users looking for the Complainant's website into the Respondent's website or in order to obtain information on customers of the Complainant, *i.e.* phishing.

Furthermore, the Respondent did not reply to the cease-and-desist letters sent by the Complainant, which under the circumstances further supports a finding of bad faith.

Such conduct would fall squarely within the meaning of paragraph 4(b)(iv) of the Policy. Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(iii) 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, <nextcapital.ltd> be transferred to the Complainant.

/Nayiri Boghossian/

Nayiri Boghossian

Sole Panelist

Date: June 8, 2022