

ADMINISTRATIVE PANEL DECISION

Norish Limited v. Rich Elliott
Case No. D2023-2236

1. The Parties

The Complainant is Norish Limited, United Kingdom, represented by Birkett Long LLP, United Kingdom.

The Respondent is Rich Elliott, Canada.

2. The Domain Name and Registrar

The disputed domain name <norishltd.com> (the “Domain Name”) is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 23, 2023. On May 24, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On May 24, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (PrivacyGuardian.org) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 8, 2023 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 amended Complaint on June 13, 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 the Respondent of the Complaint, and the proceedings commenced on June 14, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 4, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 18, 2023.

The Center appointed Jeremy Speres as the sole panelist in this matter on July 27, 2023. 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 has, since 1972, provided multi-temperature warehousing, logistics and import and export services under its NORISH mark. The Complainant owns the domain name <norish.com>, which was registered on July 23, 1997 and which the Complainant uses for its primary website. The Complainant owns United Kingdom Trade Mark Registration No. 00003737317 NORISH COLD STORAGE and device in class 39 with registration date April 22, 2022.

The Domain Name was registered on June 24, 2022, and, at the time of drafting of this Decision, resolves to an “Account Suspended” page. The Complainant’s evidence establishes that the Domain Name previously resolved to a website headed “NORISH LTD”, ostensibly for a “commercial and logistics” company.

5. Parties’ Contentions

A. Complainant

The Complainant contends that the Domain Name is confusingly similar to its NORISH mark, that the Respondent has no rights or legitimate interests in the Domain Name, and the Domain Name was registered and used in bad faith given that it has been used to fraudulently impersonate the Complainant.

B. Respondent

The Respondent did not reply to the Complainant’s contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

The Domain Name begins with the first and dominant part of the Complainant’s registered mark, being “NORISH”. Where at least a dominant feature of the relevant mark is recognisable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)) at section 1.7). The Complainant has satisfied the standing requirement under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant’s mark was used extensively long prior to registration of the Domain Name, and the Complainant owns a registration for its mark also predating registration of the Domain Name. The Domain Name is confusingly similar to the Complainant’s mark, and is identical to the Complainant’s corporate name, which has also been in longstanding use. The Complainant has certified that the Domain Name is unauthorised by it and the Respondent did not file a Response.

Given what is stated in relation to bad faith below, it is more likely than not that the Domain Name has been used to impersonate the Complainant for purposes of fraud. Panels have categorically held that use of a domain name for illegal activity (e.g., impersonation or other types of fraud) can never confer rights or legitimate interests ([WIPO Overview 3.0](#) at section 2.13.1). The Complainant has satisfied paragraph 4(a)(ii) of the Policy by virtue of having made out an un rebutted *prima facie* case ([WIPO Overview 3.0](#) at section 2.1).

C. Registered and Used in Bad Faith

The Complainant’s evidence credibly establishes that the Domain Name has been used in the course of

producing and using trade certificates, including certificates of manufacturing origin, which impersonate the Complainant, ostensibly for the purpose of exporting goods on the back of the Complainant's goodwill.

The Domain Name wholly consists of the Complainant's corporate name, which has been used for many years by the Complainant, and the Domain Name's erstwhile website has been used, ostensibly, for a company by the same name trading in competing services. The erstwhile website for the Domain Name listed an address identical to that of the Complainant.

The Respondent did not respond to the Complaint in circumstances where the Respondent has been accused of fraud. One would expect a respondent accused of serious, criminal conduct to defend themselves. The fact that they did not is telling, and it is appropriate to draw inferences from the Respondent's failure to respond in these circumstances ([WIPO Overview 3.0](#) at section 4.3).

Taken together, these facts clearly point to it having been the Respondent's intention to impersonate the Complainant when registering and using the Domain Name, falling squarely within paragraph 4(b)(iv) of the Policy.

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 Domain Name, <norishltd.com>, be transferred to the Complainant.

/Jeremy Speres/

Jeremy Speres

Sole Panelist

Date: August 10, 2023