

ADMINISTRATIVE PANEL DECISION

Namecheap, Inc., v. Agit Kaya
Case No. D2024-2569

1. The Parties

The Complainant is Namecheap, Inc., United States of America (“United States”), represented by Rome LLP., United States.

The Respondent is Agit Kaya, Germany.

2. The Domain Name and Registrar

The disputed domain name <namecheap.domains> is registered with Dynadot Inc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 24, 2024. On June 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 27, 2024, 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 (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 27, 2024, 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 28, 2024. On the same day the Center received an informal email communication from the Respondent that sought to “cancel the Complaint.” On June 29, 2024 the Center acknowledged receipt of the above informal email and advised the Respondent that he will be notified of the administrative proceeding that has been commenced against him once the Complainant is formally verified. 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 July 2, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 22, 2024.

On July 5, 2024, the Respondent sent an email communication to the Center submitting his response and setting forth his position in this matter. On the same day the Center confirmed receipt of said Response from the Respondent and requested confirmation as to whether it should be regarded as his complete response, in which case the Center regard the Respondent's communication of July 5, 2024 as his Response and proceed to appoint the Panel. Having received nothing further from the Respondent following his July 5, 2024 email communication, the Center appointed Zoltán Takács as the sole panelist in this matter on August 15, 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

The Complainant is an ICANN-accredited domain name registrar and web hosting company based in Phoenix, Arizona, United States.

Founded in 2000, the Complainant has since grown to become one of the largest domain name registrars in the world, with over 18 million domain names under management.

The Complainant owns a number of trademark registrations for the NAMECHEAP mark, including the European Union Trademark Registration No. 018412308 registered since September 8, 2021, for among others domain name registration services.

The Complainant is also owner of the domain name <namecheap.com> which was registered on August 11, 2000 and resolves to its corporate website.

The disputed domain name was registered on May 15, 2024 and has resolved to a non-functional website that purported to offer Whois domain name lookup services consisting solely of the following text: "Namecheap.domains, Search the WHOIS database, WHOIS Service, Namecheap is not as good like GoDaddy, Try the Registrar out at godaddy.com". Below the statement, there is a search bar for searching domain names.

Currently the disputed domain name resolves to a webpage titled "The best name cheap domains". The webpage at the disputed domain name appears to be static and non-functional alleging to show "how you can find the perfect Cheap Domain Name for your website".

5. Parties' Contentions

A. Complainant

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

Notably, the Complainant contends that:

- if the applicable Top-Level Domain ("TLD") ".domains" is disregarded the disputed domain name is identical to its NAMECHEAP mark;
- the Respondent has no rights or legitimate interests in respect of the disputed domain name since it is unable to rely on any of the circumstances set out in paragraphs 4(c)(i), (ii), or (iii) of the Policy;
- the Respondent has deliberately registered and is using the disputed domain name that includes its reputed trademark to falsely suggest that the Respondent is affiliated with or endorsed by the Complainant which is evidence of bad faith registration and use of the disputed domain name; and

- the Respondent directly contacted the Complainant in mere three days after registering the disputed domain name and offered to sell it to the Complainant and when the Complainant has not immediately responded the Respondent threatened to sell the disputed domain name at auction which is compelling evidence of bad faith.

The Complainant requests that the disputed domain name be transferred from the Respondent to the Complainant.

B. Respondent

The Respondent in his July 5, 2024 response states that:

- the addition of the “.domains” signifies the type of service offered, rather than trying to capitalize on the Complainant’s brand;
- he has legitimate interest in the disputed domain name since his intention was to use it to educate and inform users about affordable domain registration options, leveraging the term “namecheap” in a descriptive manner to attract users looking for budget-friendly domain name solutions; and
- he selected the disputed domain name (which the Respondent claims to have initially considered to let expire or to sell it, even wrote an email to that effect but ultimately changed his mind again and decided to keep it for his business focus) for its clarity and directness and its strategic advantage in effectively communicating to users seeking cost-effective solutions in domain registrations.

6. Discussion and Findings

A complainant must evidence each of the three elements required by paragraph 4(a) of the Policy in order to succeed on the complaint, namely that:

- (i) the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (ii) the 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

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant’s trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (“[WIPO Overview 3.0](#)”), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the NAMECHEAP mark is reproduced within the disputed domain name combined with the applicable TLD “.domains” which is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.7 and 1.11.1.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The Respondent is not affiliated with the Complainant in any way and has never been authorized by the Complainant to register and use a domain name incorporating its NAMECHEAP trademark.

Under the circumstances of the case the use of the disputed domain name for static, non-functional webpages that displayed the Complainant’s NAMECHEAP mark and information apparently related to the Complainant’s field of activities does not amount to a bona fide offering of goods and services, or legitimate noncommercial fair use.

In addition, the composition of the disputed domain name, namely comprising the Complainant’s mark and the “.domains” TLD exacerbated the risk of implied affiliation of the disputed domain name with the Complainant and thus cannot confer any rights or legitimate interests on the Respondent. [WIPO Overview 3.0](#), section 2.5.1.

The Panel finds that the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

It has been established in prior decisions under the UDRP, with which the Panel agrees, that the Complainant’s NAMECHEAP trademark is distinctive and well-known in relation to domain name services industry (see e.g., *Namecheap, Inc. v. Umair Maqbool*, WIPO Case No. [D2023-4548](#) and *Namecheap, Inc. v. Host Master, 1337 Services LLC*, WIPO Case No. [D2023-2748](#)). Prior UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4.

In contrast to the Respondent’s statement about his intent at registration of the disputed domain name (to use the “namecheap” term in a descriptive manner to attract users looking for budget-friendly domain name solutions) the evidence presented by the Complainant strongly suggest that the Respondent real motivation in relation to registration and use of the domain name identical with the Complainant’s mark was to capitalize and take advantage of the Complainant’s trademark rights with the aim of selling the disputed domain name primarily to the Complainant. A mere three days after the Respondent registered the disputed domain name (on May 15, 2024), and well before he was notified of the commencement of this administrative proceeding, the Respondent contacted the Complainant via emails inquiring if the Complainant would be interested in buying the disputed domain name, stating, “This Domain fits to namecheap, because namecheap is an Domain Company” and adding that if the Complainant is not interested in buying he will “auction the disputed domain name in four days”.

Although the Respondent did not demand payment of a specific amount from the Complainant in exchange for a possible transfer of the disputed domain name, he clearly indicated that should the Complainant be not interested in buying it from the Respondent he would auction it. These facts and circumstances persuade the Panel that the Respondent has registered the disputed domain name in bad faith, with the Complainant's trademark rights in mind and primarily for the purpose of selling it to the Complainant for a consideration most likely exceeding the Respondent's documented out-of-pocket costs directly related to the domain name. Paragraph 4(b)(i) of the Policy.

These facts in view of the Panel also show that the Respondent had actual knowledge of the Complainant and its trademark at registration of the disputed domain name. The TLD being ".domains" further supports the Respondent's targeting of the Complainant in the circumstances of this case, particularly noting that the Complainant is one of the largest domain name registrars in the world, which as mentioned above the Respondent was well aware of.

As mentioned above there is no indication that the Respondent made any use of the disputed domain name, other than connecting it to static webpages using information and facts available from public sources.

However, this still does amount to bad faith use of the disputed domain name when considering the totality of the circumstances, namely that the Complainant's mark has strong reputation and is widely known globally in the domain name service sector; the Respondent has failed to provide any evidence of good faith use of the disputed domain name; and the Panel cannot conceive of any legitimate use of the disputed domain name by the Respondent. [WIPO Overview 3.0](#), section 3.3.

The Panel finds that the Complainant has established the third element 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 <namecheap.domains> be transferred to the Complainant.

/Zoltán Takács/

Zoltán Takács

Sole Panelist

Date: August 27, 2024