

ADMINISTRATIVE PANEL DECISION

Rakesh Kumar v. Candra Candra, CANDRA
Case No. D2025-1951

1. The Parties

The Complainant is Rakesh Kumar, United States of America (“United States”), represented by Garrett Lang, United States.

The Respondent is Candra Candra, CANDRA, Cambodia.

2. The Domain Name and Registrar

The disputed domain name <namasteindianj.com> is registered with Namecheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 15, 2025. On May 15, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 16, 2025, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 19, 2025, 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 May 20, 2025. The Complaint was further amended and filed again on May 22, 2025.

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 May 23, 2025. In accordance with the Rules, paragraph 5, the due date for Response was June 12, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 13, 2025.

The Center appointed Jane Seager as the sole panelist in this matter on June 23, 2025. 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 the owner and operator of a restaurant based in New Jersey named "Namaste India", serving Indian cuisine. The restaurant has been in business since 2018. The Complainant asserts common law trademark rights in NAMASTE INDIA.

The disputed domain name was first registered on September 26, 2018, and was used by the Complainant in connection with a website promoting its restaurant.

In late-2024, the disputed domain name was allowed to lapse by the Complainant, subsequent to which it was registered by the Respondent.

The disputed domain name resolves to a website that reproduces the contents of the Complainant's website previously appearing at the disputed domain name (when the Complainant was still the registrant), with some pages displaying reduced functionality.

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.

The Complainant asserts common law trademark rights in NAMASTE INDIA. The Complainant submits that the disputed domain name is confusingly similar to its NAMASTE INDIA trademark.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant asserts that there is no connection between the Complainant and the Respondent and that the Respondent has not been authorized to use the Complainant's name. The Complainant asserts that the Respondent registered the disputed domain name after it was accidentally allowed to lapse in November 2024. The Complainant submits that there is no evidence that the Respondent has been commonly known by the disputed domain name. The Complainant further argues that the Respondent is not making any legitimate noncommercial or fair use of the disputed domain name, but is instead using the disputed domain name to display a non-functioning version of the Complainant's website previously appearing at the disputed domain name.

The Complainant submits that the disputed domain name was registered and is being used in bad faith. The Complainant notes that the Respondent acquired the disputed domain name after the Complainant had inadvertently allowed the disputed domain name to lapse. The Complainant argues that "the transfer to a new registrar and a distant, seemingly unrelated foreign entity immediately after the Complainant's recovery efforts became apparent – strongly suggests that this transfer was orchestrated or facilitated by the party or parties associated with the domain's registration while it was with GoDaddy.com, LLC. This maneuver appears calculated to shield the previous culpable party from direct responsibility for their actions and to frustrate the Complainant's legitimate and documented prior rights to the domain name." The Complainant explains that it initially attempted to regain control over the disputed domain name by purchasing it through the Registrar's domain broker service. The Complainant infers that the Respondent intended to extract payment from the Complainant for transfer of the disputed domain name, or to prevent the Complainant from using the disputed domain name. The Complainant further submits that by using the disputed domain name

in connection with a non-functioning version of the Complainant's website, the Respondent has sought to disrupt the Complainant's business.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

In order to prevail, the Complainant must demonstrate on the balance of probabilities that it has satisfied the requirements of paragraph 4(a) of the Policy:

- (i) the disputed 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 disputed domain name; and
- (iii) the disputed domain name was 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.

As noted above, the Complainant asserts common law trademark rights in NAMASTE INDIA. In order to establish unregistered or common law trademark rights for purposes of the Policy, a complainant must show that its mark has become a distinctive identifier which consumers associate with the complainant's goods and/or services. Based on the evidence put forward by the Complainant, the Panel is satisfied that the Complainant has made use of the name NAMASTE INDIA in connection with its restaurant and associated hospitality services such that it has become readily associated with the Complainant. As discussed in further detail below, the Panel notes that the Respondent has sought to target the Complainant through its registration of the disputed domain name, which further supports a finding of unregistered or common law rights in NAMASTE INDIA. The Panel finds that the Complainant has established common law trademark rights for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.3.

The disputed domain name reproduces the Complainant's NAMASTE INDIA trademark in its entirety, followed by the letters "nj", which is understood to be a reference to the State of New Jersey where the Complainant is located, under the generic Top-Level Domain ".com".

The Panel finds that the Complainant's trademark is immediately recognizable in the disputed domain name, and that the disputed domain name is confusingly similar to the Complainant's trademark. [WIPO Overview 3.0](#), section 1.7. The Panel further finds that the addition of the letters "nj" does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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.

As noted in the factual background above, the disputed domain name points to a website that reproduces the contents of the Complainant’s official website as it appeared when the Complainant was the registrant of the disputed domain name, albeit with reduced functionality. The Panel notes that there is no relationship between the Parties and that the Respondent has not been authorized to make use of the Complainant’s name or trademark. The Panel finds that such use of the disputed domain name risks misleading Internet users as to the source of the website to which the disputed domain name currently resolves and does not amount to use of the disputed domain name in connection with a *bona fide* offering of goods or services pursuant to paragraph 4(c)(i) of the Policy. The Respondent has been identified as “Candra Candra, CANDRA”. There is no evidence to suggest that the Respondent has become commonly known by the disputed domain name as contemplated by paragraph 4(c)(ii) of the Policy. Nor is the Respondent making any legitimate noncommercial or fair use of the disputed domain name within the meaning of paragraph 4(c)(iii) of the Policy.

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

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

In this instance, the timing of the Respondent’s registration of the disputed domain name, which took place at the time that the Complainant inadvertently allowed the disputed domain name to lapse, suggests that the Respondent registered the disputed domain name targeting the Complainant opportunistically, in bad faith.

The Panel notes that the Respondent has reproduced the contents of the Complainant’s official website at the disputed domain name, thereby misleading Internet users as to the source of the website as it currently appears, and as to the current ownership of the disputed domain name. By using the disputed domain name in such a manner, Internet users are likely to be misled into believing that they have arrived at the Complainant’s website, when in fact this is no longer the case. Such use of the disputed domain name has the effect of disrupting the Complainant’s business. In light of the above, the Panel finds that the disputed domain name was registered and is being used in bad faith.

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 <namasteindianj.com> be transferred to the Complainant.

/Jane Seager/
Jane Seager
Sole Panelist
Date: July 7, 2025