

ADMINISTRATIVE PANEL DECISION

Newmark Group, Inc., Newmark & Company Real Estate, Inc. v. Pham Van Thai, EXIT Realty
Case No. D2025-2760

1. The Parties

Complainants are Newmark Group, Inc., United States of America (“United States”), and Newmark & Company Real Estate, Inc., United States, represented by Akerman LLP, United States.

Respondent is Pham Van Thai, EXIT Realty, United States.

2. The Domain Name and Registrar

The disputed domain name <newmarkppc.com> is registered with Squarespace Domains II, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 14, 2025. On July 14, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 14, 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 (REDACTED FOR PRIVACY, EXIT Realty) and contact information in the Complaint. The Center sent an email communication to Complainants on July 25, 2025, providing the registrant and contact information disclosed by the Registrar, and inviting Complainants to submit an amendment to the Complaint. Complainants filed an amended Complaint on July 25, 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 Respondent of the Complaint, and the proceedings commenced on July 28, 2025. In accordance with the Rules, paragraph 5, the due date for Response was August 17, 2025. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on August 19, 2025.

The Center appointed Lorelei Ritchie as the sole panelist in this matter on August 21, 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

Complainants, together with their corporate affiliates (collectively, "Complainant"), are based in the United States. For years prior to the registration of the disputed domain name, Complainant has offered various commercial and real estate services under its name and mark, NEWMARK. In this regard, Complainant owns various trademark registrations for its NEWMARK mark, in the United States and globally. These include, among others, United States Registration No. 6,167,012 (registered October 6, 2020). Complainant also uses its NEWMARK mark on its website, located at "www.nmrk.com". Complainant uses its website and emails associated with the domain name <nmrk.com> to communicate with customers and business partners.

The disputed domain name was registered on July 1, 2025. Although the disputed domain name does not appear to resolve to an active website, Respondent has used an email associated with the disputed domain name to send messages posing as an employee of Complainant in correspondence with prospective business partners. Respondent also included reference to Complainant's own website and physical mailing address. Respondent has no affiliation with Complainant, nor any license to use its marks.

5. Parties' Contentions

A. Complainant

Complainant contends that (i) the disputed domain name is identical or confusingly similar to Complainant's trademarks; (ii) Respondent has no rights or legitimate interests in the disputed domain name; and (iii) Respondent registered and is using the disputed domain name in bad faith.

Specifically, Complainant contends that it owns rights to the mark NEWMARK, for which Complainant has demonstrated "significant fame" in connection with Complainant's various commercial and real estate services. Complainant further alleges that it is a "top commercial real estate services platform with a rapidly expanding international footprint" with approximately 8,100 employees in 165 offices across four continents, and trading as NMRK on the Nasdaq stock exchange. Complainant contends that Respondent has incorporated in full Complainant's NEWMARK mark, adding only the letters "ppc" which will likely be understood as a "pay-per-click" option for online users seeing services offered by Complainant under its NEWMARK mark. Complainant further asserts that Respondent has sent messages impersonating Complainant in a "fraudulent scheme" intended to confuse potential business partners, presumably for Respondent's own commercial gain.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

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 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.

Complainant has shown rights in respect of a trademark or service mark, NEWMARK, for the purposes of the Policy. WIPO Overview 3.0, section 1.2.1.

The Panel finds that the addition of the term “ppc” does not prevent a finding of confusing similarity between the disputed domain name and Complainant’s mark for purposes of the Policy. WIPO Overview 3.0, section 1.9.

The Panel therefore finds that the disputed domain name is confusingly similar to a trademark in which Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which Respondent may demonstrate rights or legitimate interests in the 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 Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Respondent has not rebutted 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. Panels have held that the use of a domain name for illegal activity, including fraudulent communications as here, can never confer rights or legitimate interests on a respondent. WIPO Overview 3.0, section 2.13.1.

The Panel finds that Complainant has provided sufficient evidence of Respondent’s lack of “rights or legitimate interests” in accordance with paragraph 4(a)(ii) of the Policy which Respondent has not rebutted.

C. Registered and Used in Bad Faith

There are several ways that a complainant can demonstrate that a domain name was registered and used in bad faith. As noted in Section 4, above, Respondent has used an email associated with the disputed domain name to send messages posing as an employee of Complainant in correspondence with prospective business partners. Respondent has thus impersonated Complainant, further including reference to Complainant’s own website and physical mailing address. Prior UDRP panels have held that such use of a domain name for illegal activity constitutes bad faith. WIPO Overview 3.0, section 3.4.

Therefore, the Panel finds sufficient evidence that Respondent registered and used the disputed domain name in bad faith for purposes of 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 <newmarkppc.com> be transferred to Complainant.

/Lorelei Ritchie/

Lorelei Ritchie

Sole Panelist

Date: September 1, 2025