

ADMINISTRATIVE PANEL DECISION

Cataratas Nauyaca S.A. v. Gary Stutesman
Case No. D2025-5441

1. The Parties

The Complainant is Cataratas Nauyaca S.A., Costa Rica, represented by Morera & Chahin, Costa Rica.

The Respondent is Gary Stutesman, United States of America

2. The Domain Name and Registrar

The disputed domain name <nauyacawaterfall.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 30, 2025. On January 2, 2026, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 4, 2026, 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 (NAUYACA WATERFALL NATURE PARK S.A.) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 16, 2026, 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 January 21, 2026.

On January 16, 2026, the Center informed the parties in English and Spanish, that the language of the registration agreement for the disputed domain name is English. On January 21, 2026, the Complainant confirmed its request that Spanish be the language of the proceeding. The Respondent did not submit any comment on the Complainant’s submission.

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 January 27, 2026. In accordance with the Rules, paragraph 5, the due date for Response was February 16, 2026. The Respondent sent an email communication to the Center on February 12, 2026.

The Center appointed Pablo A. Palazzi as the sole panelist in this matter on February 23, 2026. 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 Costa Rican tourism company that has been engaged in adventure tourism for over forty years in the area where the waterfalls locally known as Santo Cristo or Barú are located. The Complainant has operated continuously from its tourist establishment CATARATAS NAUYACA located in Barú de Pérez Zeledón in Costa Rica.

The Complainant states that it has continuously operated its adventure tourism business under the name CATARATAS NAUYACA for more than 30 years.

The trade name CATARATAS NAUYACA was applied for in Costa Rica on July 12, 1996, and registered on April 16, 1997, under registration number 100936. The Complainant subsequently registered multiple trademarks incorporating the element “NAUYACA”.

The Complainant is the owner of the following trademarks in Costa Rica:

Trademark	Number	Class	Filed	Registered
CATARATAS NAUYACA (design)	415041	25, 36, 41, 43	August 12, 2025	January 29, 2026
CATARATAS NAUYACA (word)	322047	39, 41	July 28, 2023	February 22, 2024

The Complainant operates the following domain names <nauyacawaterfallscostarica> and <cataratasnauyaca>.

The disputed domain name was registered on April 14, 2019.

The disputed domain name resolves to a website, available both in English and Spanish, where tourist services are offered under the title “Welcome to Nauyaca Waterfall Nature Park” with the following explanation: “Nauyaca Waterfall Nature Park is a private nature park bordering the famous Nauyaca Waterfalls and provides the very best access and facilities for enjoying this natural treasure. Spend the day exploring our network of manicured trails through a dense virgin rainforest along the side of the waterfalls and cool off in the many natural pools below the waterfall. Come and enjoy the epic beauty of this Costa Rican natural wonder. #1 WATERFALL EXPERIENCE IN COSTA RICA Book Now!”

In the “About us section of the disputed domain name the following explanation is available: “We are a privately owned nature preserve with clean, modern facilities, and roads that provide the best access to Nauyaca waterfall” and “ICT Recognized Tour Company. We are a NEW nature park that provides access to the eastern side of Nauyaca Waterfalls. When it comes to the best waterfall in Costa Rica, Nauyaca waterfalls are definitely the best”.

The footer of the disputed domain name contains a reference to Respondent "Nauyaca Waterfall Nature Park S.A. ID: 3-101-790930."

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:

- The mark CATARATAS NAUYACA was created as a trade name in 1996, the year from which it has been used commercially. The Complainant further states that the company invested for decades in traditional advertising, international travel guides, documentaries, social media, and digital presence, achieving wide national and international recognition.
- The term "nauyaca" is a fanciful term that does not correspond to any geographic name. The Complainant further states that "nauyaca" is the name given in Mexico to a type of snake, and the name of an "hacienda" featured in a radio program broadcasted in Costa Rica during the 1970s.
- The Respondents' conduct follows a deliberate and systematic pattern. According to the Complainant, on November 27, 2019, the Respondent incorporated the entity NAUYACA WATERFALL NATURE PARK S.A.
- In December 2019, the Respondent filed numerous trademark applications reproducing the NAUYACA mark in whole or in part, many of which were reportedly blocked or rejected by the Costa Rican Trademark Registry.
- Since 2020, the Respondent have operated a tourist establishment on property SJ-566485-000 under the NAUYACA denomination, using it in advertising, signage, vehicles, social media, booking platforms, and the disputed domain name <nauyacawaterfall.com>.
- In Complainant's submission, the totality of this conduct reflects a deliberate effort to exploit the reputation and goodwill of Complainant CATARATAS NAUYACA S.A., resulting in consumer confusion, diversion of clientele, and parasitic appropriation of Complainant's mark.
- The Complainant notes for informational purposes that a preliminary injunction has allegedly been issued by a Costa Rican court against the Respondent in connection with the unauthorized use of the NAUYACA denomination and unfair commercial practices. The Complainant states it is prepared to submit further documentation regarding those proceedings should the Panel consider it relevant.
- The Complainant contends that the disputed domain name wholly incorporates the term "nauyaca", which the Complainant submits constitutes the distinctive and dominant element of its registered marks and commercial identity.
- The Complainant argues that the addition of the term "waterfall" does not dispel confusing similarity, as it merely refers to the nature of the services offered.
- The Respondent have no prior trademark registrations or rights derived from legitimate use of the NAUYACA denomination. The Complainant further contends that Respondent is not commonly known by that name, that the Respondent's trademark applications were blocked or rejected by the Costa Rican Registry for lack of legal basis, and that no contractual authorization or license was ever granted by the Complainant.

- The Complainant submits that the following course of conduct demonstrates bad faith within the meaning of paragraph 4(b) of the Policy:
- The Respondent allegedly reproduced a sign that the Complainant has used continuously since 1996;
- The Respondent reportedly filed infringing trademark applications beginning in 2019;
- The Respondent purportedly use the disputed domain name to attract Internet users by creating a likelihood of confusion with the Complainant's mark.
- The Respondent has diverted the Complainant's clientele and free-ridden on the reputation of Complainant's tourist establishment.
- The Respondent uses the disputed domain name to operate a directly competing business, capturing traffic from users who are originally seeking the Complainant.

B. Respondent

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

On February 12, 2026, an email was sent to the Center stating the following: "I am letting you know that I received the letter attached via snail mail. Thank you, Gary Stutesman, dvm."

6. Discussion and Findings

A. Consolidation

The Complainant has requested consolidation of its claims against both the registrant of the disputed domain name and the company operating the tourist services advertised therein.

The Panel finds that consolidation is unnecessary in the circumstances of this case. The proceeding concerns a single disputed domain name, and the Policy and Rules do not require — nor does the Panel consider it necessary for the purposes of this proceeding — to formally consolidate claims against multiple respondents where only one domain name is at issue.

Furthermore, the Panel notes that as per the Rules "Respondent means the holder of a domain-name registration against which a complaint is initiated". Noting that the Registrar has identified the named Respondent as the registrant of the disputed domain name, the Panel will proceed accordingly.

The Panel will therefore proceed on the basis of the record as filed.

B. Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is English. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in Spanish. The Complainant requested that the language of the proceeding be Spanish for several reasons, including the fact that the disputed domain name and its associated website target the public in Costa Rica, where Spanish is the official and common language. The website content, relevant trademark registrations, administrative and judicial documents between the parties, and even the Respondent's failed trademark applications are all in Spanish. The final administrative resolution ordering the immobilization of the Respondent's company is also written in Spanish. Therefore, requiring a translation

of the Complaint into English would cause unnecessary cost and delay without providing any real benefit to the Respondent's ability to defend himself, as the Respondent clearly operates in Spanish.

The Respondent did not comment on the Complainant's request for the language of the proceeding be Spanish but sent email communications in English.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Select UDRP Questions ("[WIPO Overview 3.1](#)"), section 4.5.1).

In view of the circumstances of this proceeding, the Panel has accepted and considered all the submissions in the language submitted by the Complainant, but the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

C. 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 ("[WIPO Overview 3.1](#)"), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.1](#), section 1.2.1.

In the present case the disputed domain name is a translation to English of the Complainant trademark CATARATAS NAUYACA.

A domain name that consists or is comprised of a translation of a trademark will normally be found to be identical or confusingly similar to such trademark for purposes of standing under the Policy, where the trademark – or its variant – is incorporated into or otherwise recognizable, through such translation, in the domain name. [WIPO Overview 3.1](#), section 1.14.

The Panel finds the mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.1](#), section 1.7.

Although the addition of other terms here, "waterfall" may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.1](#), section 1.8.

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

D. 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.

The Respondent has not submitted any evidence showing that the Respondent has been commonly known as the disputed domain name. However, the Panel has carefully examined the record of the case and the evidence available in public records including the Respondent's website, the Complainant trademarks registration and the current and past use of the disputed domain name.

The Respondent registered the disputed domain name in 2019 and, according to the Internet Wayback machine¹ has been using it for at least since 2021² with content substantially like its current form. Accordingly, the Respondent has used the disputed domain name for nearly five years to offer services in direct competition with the Complainant before the filing of this complaint. According to the complaint, the Respondent has operated a tourist establishment on a property since at least 2020. The Complainant filed the trademarks in 2023 and 2025, and it was granted in 2024 and 2026. However, the Complainant has previously registered trade names and states that it has been using the name for more than 30 years.

While the Complainant argues that the term “nauyaca” is a fanciful term that does not correspond to any geographic name the Panel notes that it is extensively used on the Internet to refer to the Nauyuca waterfalls in the sense of a geographical location or what could be perceived as similar to a geographical location (but it is not always used in a trademark sense). Where a domain name corresponds to a geographical location, respondents may possess legitimate interests in utilizing such names for bona fide purposes, absent clear evidence of targeting the trademark rights (in the sense of its function as a source identifier of products or services) or bad faith appropriation of complainant's trademark rights. The geographical nature of a domain name where the respondent's conduct does not align with bad faith under the Policy may support a finding of legitimate interests.

According to the evidence available in this case, the disputed domain name is used to advertise tourist services to the Nauyuca waterfalls in competition with those of the Complainant. Such business activities can be legitimate under the Policy when based on the geographical value of the terms and are not in themselves a breach of the Policy so long as they do not unfairly take advantage of the owner's trademark rights. See *Consorzio per la Tutela del Formaggio Gorgonzola v. Rob Monster / DigitalTown, Inc.*, WIPO Case No. [D2017-0253](#).

In addition, the Complainant has not provided any evidence that the Respondent registered the disputed domain name for the purpose of profiting from the goodwill of the Complainant's business.

Because offering services by using the corresponding term in a geographical sense as here is a legitimate use of the term, the Panel concludes that the Complainant has failed to establish the second element of the Policy.

In the present case, the Respondent does not purport to be the Complainant, but rather presents itself as a distinct company, including its own corporate name in the footer of the website associated with the disputed domain name. Moreover, the Respondent operates from a different access point to the Nauyuca waterfalls. Available online information indicates that the site has more than one entrance, and the evidence submitted by the Complainant itself shows tourists accessing the waterfalls through an alternative entrance, rather than through the Complainant's facilities.

In the present case, the Complaint asserts that the Respondent's corporate name has been “immobilized” pursuant to a decision issued by the authority responsible for legal entities in Costa Rica. The Panel has reviewed such decision, which was submitted as Annex 8 to the Complaint. However, irrespective of the grounds for restricting the Respondent's use of its corporate name, such determination pertains exclusively to the relationship between corporate names and pre-existing trademarks or trade names under Costa Rican law. The scope of the Policy is limited to the assessment of the disputed domain name under the three elements required under the Policy, and does not extend to determining the validity or permissibility of using a corporate name by the entity offering services via the disputed domain name.

Unlike classic cybersquatting, the Respondent appears to be operating a genuine — even if competing — business rather than impersonating the Complainant for the purposes of the Policy. The cases and the apparent confusion reflected in the evidence submitted with the complaint seem to stem from the fact that

¹ A panel may undertake limited factual research into matters of public record if it would consider such information useful to assessing the case merits and reaching a decision. [WIPO Overview 3.1](#), section 4.8.

² The Panel visited “https://web.archive.org/web/20230301000000*/https://www.nauyacawaterfall.com/”.

tourists seek to access the waterfalls through both existing entrances, which leads them to refer to the waterfalls as a single geographic location, suggesting that this dispute may be more appropriately resolved before a court or administrative authority than under the Policy

The Panel's findings with respect to the second element of the Policy are made solely for the purposes of the Policy and do not constitute, and shall not be construed as, any opinion or determination regarding the merits of any trademark or unfair competition claim that may be available to the Complainant under the laws of any competent jurisdiction.

The Panel finds the second element of the Policy has not been established.

E. 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.

Given the Panel's finding that the Complainant has failed to establish that the Respondent lacks rights or legitimate interests in the disputed domain name, the Panel considers it unnecessary to address the third element of the Policy concerning registration and use in bad faith.

The evidence in the case file as presented does not indicate that the Respondent's aim in registering the disputed domain name was to profit from or exploit the Complainant's trademark.

Rather, the evidence indicates that the Respondent has been using the disputed domain name for several years to operate a commercial and tourism business related to the waterfall bearing the same name as the disputed domain name. As discussed in the preceding section, for the purposes of the Policy, the nature of the term at issue — for which no apparent alternative denomination exists — further supports a finding that the Respondent's use is grounded in a bona fide legitimate interest under the Policy, without a bad faith targeting of the Complainant's trademark rights under the Policy.

The Panel finds the third element of the Policy has not been established.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Pablo A. Palazzi/

Pablo A. Palazzi

Sole Panelist

Date: March 16, 2026