ARBITRATION
AND
MEDIATION CENTER

WIPO
WORLD
INTELLECTUAL PROPERTY
ORGANIZATION

# ADMINISTRATIVE PANEL DECISION
National Restaurant Association v. Mitesh Gala, Restaurant Association
Case No. D2026-3459

## 1. The Parties

Complainant is National Restaurant Association, United States of America ("United States"), represented by Eversheds Sutherland (US) LLP, United States.

Respondent is Mitesh Gala, Restaurant Association, United States, represented by John Berryhill, Ph.d., Esq., United States.

## 2. The Domain Name and Registrar

The disputed domain name <restaurantassociation.com> is registered with Amazon Registrar, Inc. (the "Registrar").

## 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on August 4, 2026. On August 5, 2026, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 10, 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 (Amazon Registrar, Inc.) and contact information in the Complaint. The Center sent an email communication to Complainant on August 11, 2026, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on August 11, 2026.

The Center verified that the Complaint together with the amendment to the 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 August 13, 2026. In accordance with the Rules, paragraph 5, the due date for Response was September 2, 2026. The Center granted the Respondent an automatic four-calendar-day extension under Rules, paragraph 5(b). The Response was filed with the Center on September 6, 2026.

On September 11, 2026, Complainant submitted a supplemental filing to the Center.

The Center appointed Georges Nahitchevansky, Douglas M. Isenberg, and Sally M. Abel as panelists in this matter on October 6, 2026. The Panel finds that it was properly constituted. Each member of 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

Complainant, National Restaurant Association, is a foodservice trade association in the United States that represents and supports restaurants through advocacy, education, research, and industry resources. Complainant offers its services under the mark NATIONAL RESTAURANT ASSOCIATION and owns several trademark registrations in the United States in connection with its services and association. These include, inter alia, a word mark registration for NATIONAL RESTAURANT ASSOCIATION (Registration No. 1240672) which issued to registration on May 31, 1983, a word mark for NRA NATIONAL RESTAURANT ASSOCIATION (Registration No. 1243949) which issued to registration on June 28, 1983 and a stylized version of NATIONAL RESTAURANT ASSOCIATION as part of a logo (Registration No. 4235415) which issued to registration on October 30, 2012. Complainant also owns and uses the domain name <restaurant.org> for a website concerning Complainant and its services.

Respondent is a non-profit corporation incorporated in Texas in July 2026. Respondent's stated mission is to promote and improve business conditions in the restaurant industry. Respondent purchased the disputed domain name through Afternic in January 2024. At some point in mid-2026, Respondent posted a partly developed website at the disputed domain name that (i) featured a logo for “Restaurant Association”, (ii) included articles related to the foodservice industry, (iii) posted purported information regarding the organization's leadership team, and (iv) offered membership in Respondent's organization. Currently, the website at the disputed domain name features a logo for “American Restaurant Association” and largely contains the same content.

## 5. Parties’ Contentions

### A. Complainant

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

Complainant contends that it has been operating since 1919 and is well-known to restaurants, hotels, and other foodservice establishments throughout the United States. Complainant contends that it has rights in the NATIONAL RESTAURANT ASSOCIATION mark through its many registrations and because the mark has “acquired distinctiveness and has become incontestable within the United States Patent and Trademark Office”.

Complainant maintains that the disputed domain name is confusingly similar to its NATIONAL RESTAURANT ASSOCIATION mark because it “incorporates a dominant portion of the National Restaurant Association's registered mark and does not include any additional or distinctive elements”.

Complainant asserts that Respondent does not have rights or legitimate interests in the disputed domain name as Respondent has (i) no right, title, interest or license to use Complainant's NATIONAL RESTAURANT ASSOCIATION mark, (ii) hidden its identity and used AI -generated content for its alleged team members on the website at the disputed domain name, (iii) registered the disputed domain name that contains a dominant portion of the NATIONAL RESTAURANT ASSOCIATION mark and used such for a website that offers services that mirror those of Complainant and which holds itself out as a membership association for the restaurant industry, (iv) sent out emails with links to the disputed domain name to

members of Complainant's association. In that regard, Complainant notes that the emails claimed that the "recipient has 'membership' in the 'Restaurant Association" and ended with a reference to Complainant's trademark for "WE'RE GLAD YOU'RE HERE". In all, Complainant contends that Respondent is "dishonestly masquerading" by using the disputed domain name in a way that suggests that it is connected to Complainant.

Lastly, Complainant argues that Respondent has registered and used the disputed domain name in bad faith "in opposition" to Complainant and for the purpose of attracting and diverting Complainant's members to Respondent's website for Respondent's commercial gain. Complainant further argues that Respondent's actions are meant to create confusion by mimicking Complainant's website through its offering of membership and have been done at least seven years after Complainant's launch of its website at "www.restaurant.org".

**B. Respondent**

Respondent rejects Complainant's contentions.

Respondent maintains that the disputed domain name was acquired by Respondent at a substantial expense and that Respondent is a non-profit corporation whose principals have longstanding and very public reputations in the restaurant industry. Respondent further maintains that its organization provides restaurant owners and operators the opportunity to learn from the vast experience of Respondent's principals.

Respondent argues that the term "restaurant association" is a widely used generic term used by many parties and that Complainant cannot claim confusing similarity based on the incorporation of that term in the disputed domain name. In that regard, Respondent notes that Complainant only submitted certain of its trademark registrations that contain NATIONAL RESTAURANT ASSOCIATION and omitted those in which Complainant expressly disclaimed the words "restaurant association". Respondent also notes that each of the five registrations for NATIONAL RESTAURANT ASSOCIATION submitted by Complainant are subject to a distinctiveness limitation statement claiming acquired distinctiveness under Section 2(f) of the United States Lanham Act. Given the foregoing, Respondent contends that "restaurant association" is not distinctive of Complainant and that Complainant's rights are narrow and only extend to the phrase NATIONAL RESTAURANT ASSOCIATION as a whole and not "Restaurant Association" by itself.

Respondent also notes that there are several trademark registrations in the United States that contain the phrase "restaurant association", such as, inter alia, LATINO RESTAURANT ASSOCIATION, GEORGIA RESTAURANT ASSOCIATION, MICHIGAN RESTAURANT ASSOCIATION, LOUISIANA RESTAURANT ASSOCIATION, and CALIFORNIA RESTAURANT ASSOCIATION. In each of these registrations, the term "restaurant association" is disclaimed, thereby further confirming the term's lack of distinctiveness.

Respondent asserts that it has rights and legitimate interests in the disputed domain name. Respondent again notes that it is a recently incorporated non-profit organization and that it has made demonstrable preparations to use the disputed domain name including by (i) recently launching a website with "AI-generated content providing a template in which the Respondent intends to engage in further development", (ii) configuring the disputed domain name for email, and (iii) engaging in prospective member outreach.

Respondent also asserts that because "restaurant association" is a descriptive term that is widely used by parties not connected to Complainant, "Respondent has as much right as anyone else to use the term 'restaurant association'". Respondent also notes that its principals have all been active in the restaurant industry and have extensive experience in the restaurant business.

Lastly, Respondent contends that it has not abusively registered or used the disputed domain name. In support of its contention, Respondent reiterates that the term "restaurant association" is not distinctive of Complainant and notes that Complainant "withheld evidence of its habitual disclaimer thereof". Respondent also argues that it registered the disputed domain name for some time without objection from Complainant

and that Complainant only surfaced when Respondent constructed a “skeletal website template” and “tes[ed] email interest among some of Respondent's vast industry connections developed over decades”. Respondent also argues that Complainant has veered away from the subject of the dispute and has instead focused on the r phrase “we're glad your'e here” as a declarative sentence in an email sent by Respondent.

**6. Preliminary Issue – Complainant's Supplemental Filing**

Complainant submitted an unsolicited supplemental filing on September 11, 2026 in reply to Respondent's Response and has asked the Panel to consider such. Neither the Policy nor the Rules provide a party with an automatic right to submit additional arguments or evidence. Under paragraph 10 of the Rules, panels enjoy broad powers for conducting administrative proceedings, provided that the parties are treated fairly and the proceedings are conducted expeditiously. Within this framework, a panel can determine within its sole discretion whether to admit or reject supplemental submissions, and, under paragraph 12 of the Rules, to request further statements or documents from either party. Moreover, a party submitting an unsolicited supplemental filing should show its relevance to the case and why the information could not have been provided earlier. WIPO Overview of WIPO Panel Views on Select UDRP Questions (“WIPO Overview 3.1”), section 4.6. For the reasons stated below, the Panel will not consider Complainant's Supplemental Filing.

Here, the Panel notes that after the Center provided the registrar's disclosure of the underlying registrant of the disputed domain name on August 11, 2026, Complainant chose not to file an Amended Complaint and simply amended the Complaint to include the new registrant information disclosed. Notably, much of what Complainant now seeks to introduce in this proceeding are matters that were clearly known and available to Complainant and which Complainant decided to withhold when it filed its Complaint on August 4, 2026 and when it subsequently elected not to file an Amended Complaint.

But putting aside the fact that Complainant is now seeking to buttress its arguments with evidence it clearly had in its possession, much of what Complainant now seeks to introduce will not change the outcome of this proceeding as explained further below. The Panel thus finds that the existing record is sufficient to decide the case and, accordingly, need not considered Complainant’s supplemental filing.

**7. Discussion and Findings**

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel that:

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

(ii) 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 3.1 at section 1.7. Additionally, in making that assessment a Panel can also consider the scope of protection afforded to a complainant's mark. *Id*. at section 1.10.

Here, Complainant claims to own rights in the mark NATIONAL RESTAURANT ASSOCIATION, which it claims to have used since 1919 and for which it owns several United States trademark registrations. Notably, Complainant withheld information regarding some of its trademark filings for NATIONAL RESTAURANT ASSOCIATION and, in particular, the fact that it had previously disclaimed “restaurant

association" in a number of its non-disclosed registrations that include its claimed NATIONAL RESTAURANT ASSOCIATION mark.

To the Panel, such prior disclaimers of "restaurant association" put into question the scope of Complainant's claimed rights. Moreover the fact that Complainant's existing registrations are all based on claims of acquired distinctiveness under Section 2(f) of the Lanham Act also narrows the extent of Complainant's rights in NATIONAL RESTAURANT ASSOCIATION. While Complainant claims broad rights in NATIONAL RESTAURANT ASSOCIATION, the evidence produced by Complainant regarding its prior use of such and its claimed reputation is quite limited in the record before the Panel. In total, there are serious questions as to whether Complainant has any rights in the term "restaurant association" by itself apart from its use as part of the NATIONAL RESTAURANT ASSOCIATION mark.

Nevertheless, the question for the Panel is whether for purposes of the first element, which has a low threshold, Complainant has standing based on its NATIONAL RESTAURANT ASSOCIATION mark. For the majority of the Panel, although "restaurant association" may be descriptive, or even possibly generic, particularly in light of the many third parties who use and/or have registered the term, as Respondent maintains, Complainant does enjoy some rights in at least NATIONAL RESTAURANT ASSOCIATION. As the disputed domain name consists of two of three words in NATIONAL RESTAURANT ASSOCIATION, the majority of the Panel is willing to accept that Complainant has sufficient standing for purposes of the first element only and believes that the issue regarding the scope of Complainant's rights is more properly addressed in the second or third element.

**B. Rights or Legitimate Interests**

In view of the Panel's findings under the third element below, the Panel need not decide whether the Respondent has rights or legitimate interests in the disputed domain name.

**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. Complainant must establish the conjunctive requirement of both bad faith registration and use. Here, and as explained further below, the Panel concludes that Complainant has not established bad faith registration of the disputed domain name.

As already noted, there are serious questions as to the scope of Complainant's rights in the term "restaurant association". Numerous third parties appear to be using "restaurant association" and coexisting with Complainant. There are also a number of existing United States trademark registrations that include and disclaim "restaurant association". Moreover, and as Respondent notes, Complainant has itself disclaimed "restaurant association" in a number of registrations it owns that it chose not to disclose in this proceeding. As such, it is clear that Complainant does not have exclusive rights in the term "restaurant association" and that such is a common term used by many parties descriptively.

That Respondent chose to acquire the disputed domain name in January 2024 which solely consists of the common term "restaurant association" does not ipso facto constitute bad faith registration. To hold otherwise would essentially give Complainant broad rights over a common term that is not exclusive to Complainant. See, e.g., *Intel Corporation v. Mira Holdings, Inc. and Domain Admin*, WIPO Case No. D2024-4776 (denying transfer of <realsense.com> where "the expression 'real sense' is not exclusively associated with the Complainant but has been used as a common phrase which is used in daily English language"); *TPS Parking Management, LLC (d/b/a The Parking Spot) v. Donald Growizz, Growizz*, WIPO Case No. D2025-4342 (denying transfer of <parkingsspots.com> where complainant "failed to provide any evidence establishing or suggesting that Respondent more likely than not registered the disputed domain name to trade off of Complainant's rights in the mark THEPARKINGSPOT, as opposed to simply registering a typo version of a common phrase that is generic or descriptive"); and *Allegra Holdings, LLC v. Hyped Media, Domain By Proxy Inc., Signs Up Now Inc.*, WIPO Case No. D2008-0539 (denying transfer of

<signsupnow.com> and describing (and rejecting) complainant's arguments that "merely because of its registered trademarks in common and descriptive phrases it is entitled to transfer of any domain name incorporating that phrase for a similar business, or that because of its priority of use of a common and descriptive phrase for a particular business, Complainant is somehow more entitled to the disputed domain name than Respondent").

Subsequent uses of the disputed domain name and the associated website by Respondent in 2026 that the Complainant considers as impinging on its rights cannot establish bad faith registration of a common term in January 2024. Whether the Respondent's current actions with the disputed domain name infringe Complainant's trademark rights or unfairly compete with Complainant is a matter for a court of competent jurisdiction, on which the Panel expresses no view.

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

**8. Decision**

For the foregoing reasons, the Complaint is denied.

*/Georges Nahitchevansky/*
**Georges Nahitchevansky**
Presiding Panelist

*/Sally M. Abel/*
**Sally M. Abel**
Panelist

*/Douglas M. Isenberg/*
**Douglas M. Isenberg**
Panelist
Date: October 27, 2026

**Concurring Opinion of Sally M. Abel**

I concur in denying the Complaint.

I agree with the majority that Complainant fails to satisfy the third element of the Policy, but disagree that Complainant satisfies the first element of the Policy. Complainant deliberately attempts to hide from the Panel that it has disclaimed rights in the generic term "restaurant association" in not one or two, not even a handful, but 6 actual United States registrations and one pending application. Complainant simply ignores these admissions; I cannot.

The UDRP never was intended to protect generic terms; determining whether a domain name is "confusingly similar" under the first element of the test is meaningless if it is a generic that creates confusing similarity. Yes, the test is not a full blown likelihood of confusion analysis - that is undisputed - but suggesting that the threshold is as low as the majority does, so that an admittedly generic phrase satisfies the first element, essentially does away with the entire concept of "confusingly similar" in the test.

I do not agree that the first element "has a low threshold" as suggested by the majority. Nor do I agree, WIPO's Overview 3.1 notwithstanding, that the first element "functions primarily as a standing requirement". That was not the intent of the drafters of the UDRP, who considered each of the three elements to be substantive, each to be proven by the complainant before relief would be granted.

If the first element is merely a "low threshold" showing, then the entire structure is subject to abuse by unscrupulous complainants who know they really do not have a strong case, but also know that by forcing less well funded respondents to incur legal fees responding or to give up, they can wrest the domain name away no matter if the domain name predates the alleged trademark rights or, as is the case here, the domain name is merely a generic phrase which Complainant has admitted is generic though it has tried to pull the wool over our eyes. This was never the intent of the first element.

WIPO Overview 3.1 at section 1.10 provides in part: "where the trademark registration entirely disclaims the textual elements … panels may find that the complainant's trademark registration is insufficient by itself to establish confusing similarity." Complainant has entirely disclaimed the textual elements "restaurant association" in 6 registrations and a pending application and wants us to look the other way. I will not. In addition to the second and third element of the Policy, Complainant has not established the first elements of the Policy.

*/Sally M. Abel/*
**Sally M. Abel**
Panelist (Concurring)
Date: October 27, 2026