

## **ADMINISTRATIVE PANEL DECISION**

Nanu-Nana Joachim Hoepp GmbH & Co. KG v. zjlswnv nvnns1  
Case No. D2025-0038

### **1. The Parties**

The Complainant is Nanu-Nana Joachim Hoepp GmbH & Co. KG, Germany, represented by NORDEMANN, Germany.

The Respondent is zjlswnv nvnns1, United States of America.

### **2. The Domain Name and Registrar**

The disputed domain name <nanuundnana.com> is registered with Gname.com Pte. Ltd. (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on January 6, 2025. On January 7, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 8, 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") and contact information in the Complaint. The Center sent an email communication to the Complainant on January 8, 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 amendment to the Complaint on January 9, 2025.

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 the Respondent of the Complaint, and the proceedings commenced on January 17, 2025. In accordance with the Rules, paragraph 5, the due date for Response was February 6, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on February 11, 2025.

The Center appointed Peter Burgstaller as the sole panelist in this matter on February 13, 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 a German limited liability company and part of a group of companies operating under the mark NANU-NANA and offering a wide range of articles in the fields of home & living, kitchen utensils, home accessories, decoration, presents/gifts, seasonal products, toys and much more (Annex 3 to the Complaint).

The Complainant owns several trademark registrations containing the mark NANU-NANA, inter alia:

- European Union trademark (word), No. 6217814, registered April 11, 2011;
- United Kingdom trademark (word), No. UK00003702330, registered May 6, 2022;
- European Union trademark **NANU-NANA**, No. 15434798, registered December 30, 2016 (Annex 4 to the Complaint).

The Complainant offers and presents its products not only in retail stores but also on a web shop available under the domain name <nanu-nana.de> and on Instagram (Annex 3 to the Complaint).

The disputed domain name was registered on November 23, 2024 (Annex 1 to the Complaint). At the time of filing the Complaint the disputed domain name resolved to a website displaying the Complainant's logo **NANU-NANA** and presented products for sale, displayed in identical form to those of the Complainant's website. Finally, the website addressed by the disputed domain name did not provide any information about the relationship with the Complainant (Annex 5 to the Complaint).

#### 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 NANU-NANA trademarks are distinctive and the disputed domain name contains the NANU-NANA trademarks in its entirety, simply replacing the hyphen between NANU and NANA with "und" (which means "and" in German). It further notes, that it owns the domain name <nanu-nana.de> and the disputed domain name also represents its trade name NANU-NANA.

The Complainant alleges, that it has never assigned, granted, licensed, sold, transferred, or in any way authorized the Respondent to register or use the NANU-NANA trademarks or its trade name in any manner.

Further, the Complainant submits that it is inconceivable that the Respondent would not have been aware of the Complainant and its trademarks when registering the disputed domain name, because the Respondent used the Complainant's NANU-NANA logo on its website and tried to create an association with the Complainant which did not exist; the Complainant has already received an email from a customer who questioned whether the website was affiliated with the Complainant or a potential fraudulent operation, as the displayed prices were in euros but changed to USD during the payment process.

Moreover, the Complainant contends that the Respondent's website clearly evidences that the Respondent's use of the disputed domain name is not for a legitimate purpose but rather to infringe the Complainant's rights therein and pirate the Complainant's content to pass it off as its own. The website addressed by the disputed domain name is a pure imitation of the Complainant's website and business.

## **B. Respondent**

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

## **6. Discussion and Findings**

According to paragraph 4(a) of the Policy, the Complainant must prove that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests with respect to the disputed domain name; and
- (iii) the disputed 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 submitted evidence that establishes rights in the mark NANU-NANA.

The disputed domain name is confusingly similar to the NANU-NANA trademark of the Complainant since it only replaces the hyphen with "und" (which means "and" in German).

It has long been established under UDRP decisions that where the relevant trademark is recognizable within the disputed domain name the mere addition or replacement of a term or sign will not prevent a finding of confusing similarity under the first element of the Policy. [WIPO Overview 3.0](#), section 1.8. This is the case at present.

Finally, it has also long been held that generic Top-Level-Domains are generally disregarded when evaluating the confusing similarity of a disputed domain name. [WIPO Overview 3.0](#), section 1.11.

Based on the available record, 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.

While 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 often impossible 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. 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 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 Complainant's trademark NANU-NANA is distinctive and fanciful; it is inconceivable that the Respondent would not have been aware of it when registering the disputed domain name.

Further, the Complainant expressly denies there being any relationship between itself and the Respondent.

The Complainant also notes that the disputed domain name is not being used for a bona fide offering of goods or services – it resolves to an unauthorized website showing the Complainant's logo together with purported products of the Complainant and displaying photographs of products identical to those on the Complainant's website.

Under the Oki Data test, the Respondent must inter alia accurately and prominently disclose the registrant's relationship with the trademark holder to show a legitimate use of a trademark as a reseller, distributor, or service provider. [WIPO Overview 3.0](#), section 2.8; *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#).

The evidence in the Complaint does not reveal any disclaimer that discloses the Respondent's relationship with the Complainant, and the Respondent has not introduced any evidence to the contrary. Rather, it appears the Respondent has purposely attempted to create a false association with the Complainant. Accordingly, the Panel concludes that the Respondent clearly does not comply with the Oki Data test.

The Respondent did not reply to the Complainant's contentions and hence has not rebutted the Complainant's prima facie showing.

Based on the available record, the Panel finds 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.

In the present case, the Complainant provided evidence which demonstrates that it has rights in the mark NANU-NANA and it has intensively used this mark in business for years and long before the disputed domain name was registered.

Further, the Complainant has registered and been using the domain name <nanu-nana.de> for years and has a strong online presence.

It is inconceivable for this Panel that the Respondent registered and used the disputed domain name without knowledge of the Complainant's rights, which leads to the necessary inference of bad faith.

[WIPO Overview 3.0](#), section 3.2.2. This finding is supported by the fact that the mark NANU-NANA is fanciful and distinctive.

The disputed domain name was also used in bad faith. In the present case, the Panel notes that the Respondent provided, without authorization by the Complainant, a website, addressed by the disputed domain name, which prominently displayed the Complainant's logo as well as offered purported products of the Complainant and displayed photographs of products identical to those on the Complainant's website.

By doing this, the Respondent disrupted the Complainant's business and intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's mark which constitutes bad faith use.

Based on the available record, 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 <nanuundnana.com> be transferred to the Complainant.

*/Peter Burgstaller/*

**Peter Burgstaller**

Sole Panelist

Date: February 27, 2025