

ADMINISTRATIVE PANEL DECISION

Nordstrom, Inc. and NIHC, Inc. v. kennet kennet
Case No. D2025-0285

1. The Parties

The Complainants are Nordstrom, Inc., United States of America (“United States”) (“the first Complainant”) and NIHC, Inc., United States, (“the second Complainant”), represented by The GigaLaw Firm, Douglas M. Isenberg, Attorney at Law, LLC, United States.

The Respondent is kennet kennet, India.

2. The Domain Name and Registrar

The disputed domain name <nordstromgiftcardbalance.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 January 24, 2025. On January 24, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 24, 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 Complainants on January 27, 2025, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amendment to the Complaint on January 27, 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 28, 2025. In accordance with the Rules, paragraph 5, the due date for Response was February 17, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 18, 2025.

The Center appointed Peter Kružliak as the sole panelist in this matter on February 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

The first Complainant is a leading fashion retailer that was founded in 1901 and is a publicly traded company on the New York Stock Exchange. It operates 350 stores, as well as online business through its Nordstrom and Nordstrom Rack apps and websites and as of February 23, 2024, employs 54,000 people. The second Complainant is an intellectual property holding company for, and a wholly owned subsidiary of the first Complainant.

The Complainants have registered numerous NORDSTROM trademarks globally and are the owner of inter alia the following registrations:

- United States trademark registration NORDSTROM (word), number 1281000, registered on June 5, 1984 for class 42;
- European Union trademark registration NORDSTROM (word), number 000163378, registered on April 22, 1999 for classes 14, 18, 25, 30 and 35; and
- Indian trademark registration NORDSTROM (word), number 1335367, registered on March 27, 2007, for class 25.

(collectively the “NORDSTROM trademark”)

The Complainants also registered many domain names containing the NORDSTROM trademark, including <nordstrom.com>. As per the submitted evidence the first Complainant also operates a gift-card program for its clients at its online store operated under the domain name <nordstrom.com>.

The Respondent is an individual from India. The disputed domain name was created on July 17, 2023, and based on the available record it originally resolved to a website using the NORDSTROM trademark and purporting to provide a link where users can check the balance of their Nordstrom gift cards. The button labelled “check balance” on the Respondent’s website led to a Google Form requesting a user’s “Gift Card number” and “Access number or code” – which according to the Complaint enables the Respondent to access the funds in a user’s Nordstrom gift card account. As of the day of the Decision the disputed domain name resolves to an empty website.

5. Parties’ Contentions

A. Complainants

The Complainants contend that they have satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainants contend that the disputed domain name is confusingly similar to the NORDSTROM trademark of the Complainants, as it contains the NORDSTROM trademark in its entirety and the presence of the additional words “gift card balance” based on their descriptiveness does not prevent such finding.

The Complainants further assert that the Respondent has no rights nor legitimate interests in the disputed domain name, as the Complainants have never assigned, granted, licensed, sold, transferred or in any way authorized the Respondent to register or use the NORDSTROM trademark in any manner. Furthermore, the Respondent cannot establish rights or legitimate interests in the disputed domain name, since the disputed

domain name was used in connection with a website that falsely purports to be a website for, or otherwise associated with Complainants by using the NORDSTROM Trademark and purporting to provide a link where users can check the balance of their Nordstrom gift cards, but which actually enables Respondent to access the funds in a user's Nordstrom gift card account, thus Respondent's actions are clearly not legitimate and clearly are misleading and Respondent has failed to create a bona fide offering of goods or services under the Policy. According to the Complainants, Respondent has never been commonly known by the disputed domain name and has never acquired any trademark or service mark rights in the disputed domain name and Respondent's use of the disputed domain name cannot qualify as a fair use under paragraph 4(c)(iii) of the Policy because it clearly suggests affiliation with the trademark owner.

And finally, the Complainants submit that the unauthorized registration and use of the disputed domain name by the Respondent constitutes bad faith registration and use. The Complainants assert that mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. According to the Complainants, the NORDSTROM trademark is famous and/or widely known, given that it is protected by at least 79 trademark registrations in at least 16 countries or jurisdictions worldwide, thus given the global reach and popularity of the Complainants' services under the NORDSTROM trademark, as well as the disputed domain name's similarity to the Complainants' own domain name <nordstrom.com>, it is inconceivable that the Respondent chose the disputed domain name without knowledge of Complainants' activities and the name and trademark under which the Complainants are doing business. Furthermore, given the Respondent's use of the NORDSTROM trademark on its website and a fraudulent link to check the balance of a Nordstrom gift card, the Respondent's registration and use of the disputed domain name is creating a likelihood of confusion with the NORDSTROM trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's web site or location or of a product or service on Respondent's web site or location, thus creating bad faith pursuant to paragraph 4(b)(iv) of the Policy and because the disputed domain name is so obviously connected with the Complainants, the Respondent's actions suggest "opportunistic bad faith" in violation of the Policy. A further indication of bad faith under the Policy according to the Complainants is the fact that one of the oldest registrations for the NORDSTROM trademark (United States Reg. No. 1281000 was first used 51 years (and registered 39 years) before the Respondent's registration of the disputed domain name).

B. Respondent

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

6. Discussion and Findings

6.1 Consolidation: Multiple Complainants

The Complaint was filed by two Complainants against a single Respondent. The Complainants are part of the same group, and both have rights in relevant trademarks, which was confirmed also by previous Panel decisions (*Nordstrom, Inc. and NIHC, Inc. v. Simon Rahman*, WIPO Case No. [D2023-1956](#)). The Panel therefore finds that the Complainants have a common case against the Respondent who registered the disputed domain name and that it is efficient to permit the consolidation. As regards fairness and equity, the Panel sees no reason why consolidation would be unfair or inequitable to any Party. Therefore, the Complainants are referred to below collectively as "the Complainant" except as otherwise indicated.

6.2 Substantive Issues

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 has shown rights in respect of the NORDSTROM trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the NORDSTROM trademark is reproduced within the disputed domain name and the addition of other terms, such as “gift card balance” in this case, may bear on assessment of the second and third elements, however it does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Accordingly, the disputed domain name <nordstromgiftcardbalance.com> is confusingly similar to the NORDSTROM trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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.

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 available record does not show any trademark registrations or earlier relevant rights of the Respondent corresponding to the disputed domain name, nor the fact that the Respondent is commonly known by the disputed domain name. The available record also does not show that the Respondent would have acquired any rights to use the NORDSTROM trademark from the Complainant, such as license or assignment.

Furthermore, the Panel also points out to the use of the disputed domain name, which could neither be considered a bona fide offering of services, nor legitimate non-commercial or fair use. The disputed domain name originally resolved to a website containing the NORDSTROM trademark and the users may have been misled by the website to provide their data which would have allowed the Respondent to access the funds in their gift-card accounts held with the Complainant. Panels have held that the use of a domain name for illegal activity here, claimed impersonation/passing off and phishing of the users’ access data, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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 Panel first notes that the NORDSTROM trademark is registered in many jurisdictions globally, and it enjoys very significant degree of reputation, respectively is well-known, as recognized by earlier UDRP panel decisions (*Nordstrom, Inc. and NIHC, Inc. v. Simon Rahman*, WIPO Case No. [D2023-1956](#); *Nordstrom, Inc. and NIHC, Inc v. Domain Administrator, See PrivacyGuardian.org / Kas Is*, WIPO Case No. [D2022-1818](#)). Furthermore, the Panel points out to the terms “gift card balance” in the disputed domain name and to the fact the Complainant actually operates a gift-card program for its clients. Based on these circumstances, it is not conceivable that the Respondent registered the disputed domain name without knowledge of the Complainant's NORDSTROM trademark, which supports a finding of bad faith registration.

It is also apparent, as described previously, that the disputed domain name originally resolved to a website containing the NORDSTROM trademark and that the users may have been misled to provide their data based on which the Respondent would have access to the funds in their gift-card accounts held with the Complainant. Panels have held that the use of a domain name for illegal activity here, claimed impersonation/passing off and phishing of the users' access data, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

And finally, the present use of the disputed domain name would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3.

The Panel therefore finds that the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy and 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 <nordstromgiftcardbalance.com> be transferred to the Complainant.

/Peter Kružliak/

Peter Kružliak

Sole Panelist

Date: March 7, 2025