

ADMINISTRATIVE PANEL DECISION

New American Funding, LLC v. Chris Martin
Case No. D2025-0708

1. The Parties

The Complainant is New American Funding, LLC, United States of America (“United States”), represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Chris Martin, United States.

2. The Domain Name and Registrar

The disputed domain name <nafbuilder.com> (the “Disputed Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 20, 2025. On February 21, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On February 21, 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, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 25, 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 amended Complaint on February 26, 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 the Respondent of the Complaint, and the proceedings commenced on March 4, 2025. In accordance with the Rules, paragraph 5, the due date for Response was March 24, 2025. The Respondent sent an email communication to the Center on March 4, 2025.

The Center appointed Douglas M. Isenberg as the sole panelist in this matter on April 3, 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 states that it was founded in 2003 and is “a prominent independent mortgage lender headquartered in Tustin, California” with 285 locations nationwide, “manag[ing] a servicing portfolio exceeding 270,000 loans, valued at over \$71 billion making it one of the largest, privately-owned mortgage lenders in the United States”. The Complainant further states, and provides documentation to support, that it owns multiple trademark registrations for marks that contain “NAF”, including U.S. Reg. No. 7,220,000 for NAF for use in connection with “Consumer lending services; Financial information provided by electronic means in the field of residential lending; Financial services, namely, money lending; Lending consultant services; Mortgage lending; Providing an on-line searchable database featuring financial information about residential lending; Real estate lending services; Wholesale lending services; Financial services, namely, mortgage planning; Financial services, namely, mortgage refinancing; Mortgage banking; Mortgage banking services, namely, origination, acquisition, servicing, securitization and brokerage of mortgage loans; Mortgage compliance consulting services concerning financial requirements for mortgages for mortgage lenders and servicers and mortgage brokers; Mortgage services, namely, buyer pre-qualification of mortgages for mortgage brokers and banks” (registered November 14, 2023) (the “NAF Trademark”).

The Disputed Domain Name was created on November 1, 2024. The Complainant states that the Disputed Domain Name is being used in connection with “a website that attempts to impersonate Complainant’s official website by featuring Complainant’s NAF trademark and logo, in connection with the same navy blue and white color scheme shown on Complainant’s website, while also listing the location for Complainant’s Brentwood, CA office under the ‘contact’ information”. Complainant further states that the purpose of this website “is to fool unsuspecting visitors into divulging their personal information through the use of a ‘NAF Cash Pre-Approval Form’”.

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 Disputed Domain Name is identical or confusingly similar to the NAF Trademark because “[p]ast Panels have consistently held that a disputed domain name that consists merely of a complainant’s trademark and an additional term that closely relates to and describes that complainant’s business is confusingly similar to that complainant’s trademarks”; “the generic, descriptive term ‘builders’ [...] is closely linked and associated with Complainant’s brand and trademark only serves to underscore and increase the confusing similarity between the Disputed Domain Name and the Complainant’s trademark”; and “Respondent’s use of the Disputed Domain Name contributes to the confusion. Respondent is using the Disputed Domain Name to host an impersonation website that attempts to portray itself as Complainant while offering the same services as those offered by Complainant, which suggests that Respondent intended the Disputed Domain Name to be confusingly similar to Complainant’s trademark as a means of furthering consumer confusion”.

- The Respondent has no rights or legitimate interests in the Disputed Domain Name because, inter alia, “Respondent is not sponsored by or affiliated with Complainant in any way”; “Complainant has not given Respondent permission to use Complainant’s trademarks in any manner, including in domain names”; “Respondent is not commonly known by the Disputed Domain Name” because the underlying registrant information – Chris Martin – “does not resemble the Disputed Domain Name in any manner”; Respondent’s use of the Disputed Domain Name in connection with a misleading website is “presumably for commercial gain, and with devious, nefarious motives, clearly fails to constitute a bona fide offering of goods or services pursuant to Policy ¶4(c)(i) or a legitimate noncommercial or fair use pursuant to Policy ¶4(c)(iii)”; “selling competing goods, coupled with the unauthorized use of a complainant’s trademarks in a confusingly similar domain name, does not qualify as a bona fide offering of goods or services under Policy ¶ 4(c)(iii)”; Respondent has copied source code from Complainant’s website, which “has been held to be a strong indicator that a respondent lacks rights or legitimate interests”; and the Respondent’s registration of the Disputed Domain Name on November 1, 2024, “is significantly after Complainant filed for registration of its NAF trademark with the USPTO in 2023, and also significantly after Complainant’s first use in commerce of its trademark on 2003”.

- The Respondent registered and is using the Disputed Domain Name in bad faith because, inter alia, “Respondent creates a likelihood of confusion with Complainant and its trademarks by [r]egistering a confusingly similar domain name and then using it to host an impersonation website, featuring Complainant’s NAF trademark and logo in connection with Complainant’s color scheme and one of its official office locations, with Respondent then attempting to profit from such confusion by promoting the same products and services offered by Complainant”; and “Respondent is using the Disputed Domain Name’s website to fraudulently pose as Complainant for purposes of launching a phishing attack” because “Respondent has created a ‘NAF Cash Pre-Approval’ page requesting personal and financial information; any internet user with the misfortune of mistakenly landing at the Disputed Domain Name could easily be deceived and misled into believing that the Disputed Domain Name is officially associated with Complainant”.

B. Respondent

The Respondent did not reply to the Complainant’s contentions. However, the Respondent sent an email to the Center on March 4, 2025, stating: “I recently discovered that my domain nafbuilders.com, which I purchased through your services, has been suspended. I would appreciate it if you could provide me with the reason for this suspension. If there was any issue with the domain, I was not informed beforehand. Could you please clarify why I was not notified? Additionally, I would like to know the steps required to reactivate my domain. Kindly guide me on how to resolve this issue as soon as possible.” Respondent also sent an email to the Center on March 5, 2025, stating: “Any. Update.”

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 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.

Based on the registrations cited by the Complainant and the certificates of registration included as annexes, the Complainant has shown rights in respect of a trademark or service mark for purposes of the Policy, that is, the NAF Trademark. [WIPO Overview 3.0](#), section 1.2.1.

As set forth in [WIPO Overview 3.0](#), section 1.7, “in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing”. Here, the entirety of the NAF Trademark is reproduced within the Disputed Domain Name.

Further, as set forth in section 1.15 of [WIPO Overview 3.0](#): “In some instances, panels have [...] taken note of the content of the website associated with a domain name to confirm confusing similarity whereby it appears prima facie that the respondent seeks to target a trademark through the disputed domain name.” Here, given that the website associated with the Disputed Domain Name offers the same or services similar to those associated with the NAF Trademark, the content of this website is relevant and serves to confirm confusing similarity.

Accordingly, the Disputed Domain Name is confusingly similar to the NAF Trademark for the purposes of the Policy.

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.

Further, as set forth in section 2.13 of [WIPO Overview 3.0](#): “Panels have categorically held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, *impersonation/passing off*, or other types of fraud) can never confer rights or legitimate interests on a respondent.” (Emphasis added.) Clearly, by creating a website using the Disputed Domain Name that offers the same or services similar to those associated with the NAF Trademark while displaying the Complainant’s trademarks (including its stylized trademark) under a similar blue and white color scheme, the Respondent is attempting to impersonate the Complainant. The Panel also notes that despite the serious fraud contentions in the Complaint, the Respondent did not deny such contentions, or otherwise explain any potential rights or legitimate interests in the Disputed Domain Name.

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 notes that the Respondent has created a website using the Disputed Domain Name that offers the same or services similar to those associated with the NAF Trademark. This clearly shows that the Respondent has created a likelihood of confusion under paragraph 4(b)(iv) of the Policy.

See, e.g., *Arla Foods amba v. Jucco Holdings*, WIPO Case No. [D2006-0409](#) (“the practice of registering a domain name and using it to redirect a user to a website which is used for the sale of competing services constitutes evidence of registering and using a trademark in bad faith”); and *Emu (Aus) Pty Ltd. and Emu Ridge Holdings Pty Ltd. v. Antonia Deinert*, WIPO Case No. [D2010-1390](#) (“a reasonable person who visited the Respondent’s website was likely to be misled in relation to the source, sponsorship, affiliation, or endorsement of the website and the products purportedly made available for online sale on the website”).

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 <nafbuilders.com> be transferred to the Complainant.

/Douglas M. Isenberg/

Douglas M. Isenberg

Sole Panelist

Date: April 9, 2025