

ADMINISTRATIVE PANEL DECISION

New Balance Athletics, Inc. v. “James DAVIS”
Case No. D2025-1219

1. The Parties

Complainant is New Balance Athletics, Inc., United States of America (“United States”), represented by Day Pitney LLP, United States.

Respondent is “James DAVIS”, United States.

2. The Domain Name and Registrar

The disputed domain name <newbalanceholding.com> is registered with IONOS SE (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 25, 2025. On March 26, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 27, 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 Complainant on March 28, 2025, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on April 1, 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 Respondent of the Complaint, and the proceedings commenced on April 2, 2025. In accordance with the Rules, paragraph 5, the due date for Response was April 22, 2025. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on April 25, 2025.

The Center appointed Timothy D. Casey as the sole panelist in this matter on May 6, 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

Complainant is a large athletic footwear and apparel company offering branded products in more than 120 countries. Complainant has used the mark and trade name NEW BALANCE since at least 1974 and owns various trademark registrations in different jurisdictions that consist of the mark NEW BALANCE or contain NEW BALANCE as part of the mark (the “NEW BALANCE Marks”), including:

Mark	Jurisdiction	Class(es)	Registration No.	Registration Date
NEW BALANCE	United States	10, 25	1053241	November 23, 1976
NEW BALANCE	United States	35, 36, 41	2690233	February 25, 2003
NEW BALANCE	United States	1, 3, 5, 26	2990081	August 30, 2005

Complaint owns and operates a website at the domain name <newbalance.com>.

The disputed domain name was registered on March 11, 2025. At the time of filing the Complaint, the disputed domain name did not resolve to an active website. Currently the disputed domain name resolves to the Registrar’s hosting website. Registrant’s name is the same as that of the owner and chairman of Complainant, but the owner and chairman of Complainant states he did not register the disputed domain name.

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.

Notably, Complainant contends that it has rights in the NEW BALANCE Marks, and that the disputed domain name is confusingly similar to the NEW BALANCE Marks because the disputed domain name incorporates the NEW BALANCE Marks in their entirety, and the addition of the generic term “holding” in the disputed domain name does not prevent the confusing similarity. Furthermore, an affiliated corporate entity of Complainant is named “New Balance Holding, Inc.,” which further adds to the likelihood of consumer confusion.

Complainant contends that Respondent has no rights to or legitimate interests in the disputed domain name because Respondent has not made any demonstrable preparations to use the disputed domain name in connection with a bona fide offering of goods or services, Respondent has not acquired or owned any trademark or service mark rights in the names New Balance or New Balance Holdings, Respondent has not been commonly known by the disputed domain name, and Respondent is not making a legitimate noncommercial or fair use of the disputed domain name without intent for commercial gain to misleadingly divert consumers or to tarnish Complainant’s NEW BALANCE Marks..

Complainant contends that Respondent’s registration of the disputed domain name was in bad faith because Respondent is intentionally attempting to attract for commercial gain, Internet users to a website by creating a likelihood of confusion, and this remains the case even though the disputed domain name does not resolve to an active website. Complainant also contends that Respondent had actual knowledge of the NEW BALANCE Marks at the time of registration of the disputed domain name. Finally, Complainant alleges Respondent provided false information at the time of the disputed domain name’s registration by utilizing the name of the owner and chairman of Complainant as the registrant.

B. Respondent

Respondent did not reply to Complainant's contentions.

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.

Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, "holding," 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 3.0](#), section 1.8.

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 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 Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Respondent has not rebutted 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 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 Respondent had actual knowledge of Complainant's trademarks at the time of registration as evidenced by Complainant's long-established rights in the trademarks and Respondent's combination of the terms "new balance" and "holding," which are clearly based on one of Complainant's name. Such bad faith is further evidenced by Respondent's identification of itself in the registration by the name of the owner and chairman of Complainant, which the evidence does not support as being the case.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Complainant's trademark, and the composition of the disputed domain name, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

The Panel finds that 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 <newbalanceholding.com> be transferred to Complainant.

/Timothy D. Casey/

Timothy D. Casey

Sole Panelist

Date: May 23, 2025