

ADMINISTRATIVE PANEL DECISION

Nara Aziza Smith v. Vanessa Clarke

Case No. D2025-1839

1. The Parties

The Complainant is Nara Aziza Smith, United States of America, represented by Kia Kamran P.C., United States of America.

The Respondent is Vanessa Clarke, United States of America.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 7, 2025. On May 8, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 9, 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 (Privacy service) and contact information in the Complaint. The Center sent an email communication to the Complainant on the same day, 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 the same day.

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 May 12, 2025. In accordance with the Rules, paragraph 5, the due date for Response was June 1, 2025. The Response was filed with the Center on May 30, 2025.

The Center appointed David H. Bernstein as the sole panelist in this matter on June 16, 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 model and social media influencer. She is known professionally as “Nara Smith”. She has over 11.9 million followers on her Tik Tok channel and 4.7 million followers on her Instagram channel.

The Respondent registered the disputed domain name on March 16, 2024. The Respondent filed a trademark application with the U.S. Patent and Trademark Office (“USPTO”) for NARA SMITH ORGANICAS SKINCARE on October 22, 2024 (application number 98814135).

The disputed domain name resolves to a website entitled “Nara Smith Organicas Skincare”, with a photo of an organic skin care product with a disclaimer stating, “Copyright NARA SMITH ORGANICAS SKINCARE All Rights Reserved” and “Nara Smith Organicas Skincare is not affiliated with any influencer or public figure named Nara Aziza Smith.”

5. Parties’ Contentions

A. Complainant

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

First, the Complainant has used her name and likeness in conjunction with her modeling career since the year 2020 and in conjunction with her activities as social media influencer and content creator since the year 2022. Since then, the Complainant has developed substantial good will in the mark NARA SMITH. The Complainant has amassed over 16 million followers across social media platforms as well as features in international fashion magazines such as *Elle*, *Vogue*, *People*, and *Harper’s Bazaar*. Additionally, the Complainant has used her name to collaborate with fashion, beauty, and lifestyle brands including Marc Jacobs, Prada, Isabel Marant, Charlotte Tilbury, Le Creuset, and Williams Sonoma. Based on these facts, the Complainant has established common law trademark rights in her name, NARA SMITH. The disputed domain name is identical to that mark.

Second, the Respondent has no rights or legitimate interests to the disputed domain name. The Respondent is not commonly known by the disputed domain name, and the Complainant has not authorized the Respondent to use her mark in the disputed domain name. Further, the Complainant avers, there is no evidence that the Respondent is using, or has made demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services. Rather, the disputed domain name “is being used to redirect web users to the website where the Respondent prominently displays a picture of an organic skin care product branded as NARA SMITH. Therefore, the Respondent’s use of the [disputed] Domain Name is undoubtedly intended to divert consumers to the Respondent’s website for the Respondent’s commercial gain by creating a likelihood of confusion with the Complainant.”

Third, the Respondent registered the disputed domain name in bad faith for two reasons: (1) email correspondence between the Parties before the proceedings, demonstrates that the Respondent acquired the disputed domain name for the primary purposes of selling the disputed domain name (to the Complainant) for USD 75,000, an amount far exceeding any out-of-pocket costs related to the disputed domain name, and (2) the Respondent intentionally attempted to attract Internet users to her website for commercial gain by creating a likelihood of confusion. Specifically, the website to which the disputed domain name resolves displays a skin care product that looks “homemade” and is shown in the same type of acacia wooden bowl that the Complainant uses in most of her videos showcasing skincare and food recipes that she makes from scratch.

B. Respondent

The Respondent contends that the Complainant has not satisfied any of the elements required under the Policy for a transfer of the disputed domain name.

First, the Respondent contends that the disputed domain name is not confusingly similar to any trademark in which the Complainant has rights because the Respondent's webpage includes a disclaimer stating that the website is not affiliated with the Complainant. Second, the Respondent contends that she is the founder of a "small, independently created skincare brand" called Nara Smith Organicas Skincare. The Respondent cites her website, Instagram account (@nara_smith_organicas), and USPTO application (application number 98814135) as proof of her use of the disputed domain name in connection with a bona fide business prior to having received notice of the dispute.

Third, the Respondent contends that, although the initial valuation of the disputed domain name was approximately USD 75,000, the Complainant "omit[s] the fact that [the Respondent] later agreed to sell the domain for USD 10,000." Additionally, the Respondent claims that the disclaimer demonstrates her "transparent and honest intentions."

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that, to obtain transfer of a domain name, a complainant must prove each of the following:

- (i) the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (ii) the respondent has no rights or legitimate interests in respect of the domain name; and
- (iii) the respondent's domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The standing (or threshold) test of the first element requires that the Complainant show that she has rights in a trademark, and that the disputed domain name is identical or confusingly similar to that trademark. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

Although the Complainant does not have any registration in her claimed NARA SMITH trademark, she has established that she has unregistered trademark rights in her name. The evidence that she submitted, which is not refuted by the Respondent, clearly establishes that she uses the name NARA SMITH "in commerce as a distinctive identifier of" her services. [WIPO Overview 3.0](#), section 1.5.2; see also [WIPO Overview 3.0](#), section 1.3. She has a large social media following, and also does collaborations with numerous well-known brands.

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

The Respondent's argument that the disputed domain name is not identical or confusingly similar to the NARA SMITH trademark is entirely without merit. She argues that the disputed domain name is not confusingly similar because the webpage includes a disclaimer, but that is irrelevant to the issue of similarity under the first factor. (If anything, the fact that she is using a disclaimer shows that she recognizes the similarity between the disputed domain name and the Complainant's trademark. See [WIPO Overview 3.0](#) section 1.15 ("In some instances, panels have however 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.”).

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

The Respondent alleges that she has rights in the disputed domain name because, “before any notice of the dispute,” the Respondent used “the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services.” Policy, paragraph 4(c)(i).

The record reflects that the Respondent did make some use of the disputed domain name before notice of the dispute. The Panel finds, however, that the use was not a bona fide offering of goods, and therefore the Respondent cannot claim rights or legitimate interests.

First, the Panel is unpersuaded that the Respondent is running a legitimate business under the name “Nara Smith Organicas Skincare”. The Respondent does not allege or demonstrate that she has actually offered or sold any goods or services under “Nara Smith Organicas Skincare” name. Indeed, the evidence that she submitted shows that she has only 51 followers on Instagram. The Panel has reviewed the website to which the disputed domain name resolves, and it does not offer or even show any goods that are available for sale. Although the Respondent claims that she was unable to launch her business because, “after acquiring the domain, I received a cancer diagnosis in April 2024,” she offers no documentary evidence to support that claim and no documentary evidence to show demonstrable preparations to offer goods under this name. On the evidence submitted, and noting in particular that the disputed domain name is an identical replication of the Complainant’s name and mark, and bears no resemblance to the Respondent’s name, the Panel finds that the Respondent’s claims lack credibility, and that her website, Instagram account, and trademark application are a pretext and do not reflect a genuine, or bona fide, offering of goods or services.

Second, even if the Respondent were running a real business called Nara Smith Organicas Skincare, and even if she did obtain a cancer diagnosis, and even if that diagnosis has prevented her from moving forward with this business during the last 14 months, the Panel still would not find it to be a bona fide offering of goods and services. That is because, the Panel finds, on a preponderance of the evidence, the Nara Smith Organicas Skincare name infringes the Complainant’s rights in her trademark.

The Panel recognizes that there is some debate among panelists and commentators about whether questions of trademark infringement are outside of the scope of the UDRP. See, e.g., *Boyd Gaming Corp. v. Moises Cohen*, Forum Claim No. FA2310002067853 (“the question of trademark infringement is beyond the scope” of the Policy; “[i]f the Complainant wishes to bring proceedings against the Respondent for trademark infringement or passing off, such a proceeding is more appropriately brought in a court of competent jurisdiction”); *Reshape Wealth, LLC v. Vinay Menda*, WIPO Case No. [DCO2020-0011](#) (“Thus, it is arguable whether the services are related for purposes of a likelihood of confusion analysis for trademark infringement or unfair completion under the applicable trademark laws in the United States, an issue that is well beyond the scope of this proceeding”); *Data Parrot Holdings, LLC v. Christopher Hamoen*, WIPO Case No. [DAI2024-0072](#) (“When a dispute involves potential trademark infringement that raises complex issues beyond clear cybersquatting, such matters are generally more appropriately resolved in judicial proceedings rather than under the UDRP.”); *Tesla Inc. v. hao zou / FEL – Friendly Elder Life Store*, Forum Claim No. FA2410002120768 (“the current facts and evidence present a case that is beyond the scope of the Policy as it involves questions of whether the disputed domain name infringes Complainant’s trademark”); *Terracon Consultants, Inc. v. Steven Dye, Off The Wall*, WIPO Case No. [D2019-2055](#) (“To be sure, to the extent that Complainant may have a claim against Respondent for trademark infringement or unfair competition, such a claim belongs in another forum and is beyond the scope of a UDRP proceeding.”).

The Panel disagrees that claims for trademark infringement are per se beyond the scope of the Policy and cannot be adjudicated in UDRP proceedings. The Policy is designed to prevent the abusive registration of domain names that “**infringe** upon or otherwise violate the rights of” trademark owners. See Policy,

paragraph 2 (emphasis added). That is why registrants are warned that it is their “responsibility to determine whether your domain name registration *infringes* or violates someone else’s rights.” Id. (emphasis added). Furthermore, one of the examples provided of “evidence of the registration and use of a domain name in bad faith” is that a respondent has used the domain name to “attract, for commercial gain, Internet users to your web site or other on-line location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation or endorsement of your web site or location or of a product or service on your web site or location.” Id., paragraph 4(b)(iv). That “likelihood of confusion” inquiry is the key issue in cases of alleged trademark infringement.

It therefore cannot be said that the question of trademark infringement is per se beyond the scope of the Policy. To the contrary, when a domain name (and its use) is infringing a complainant’s rights, the Policy makes clear that such infringement shows that the registrant has violated its obligations under the Policy. Moreover, because the Policy requires the registrant to ensure that its domain name does not infringe a third party’s rights, a failure to comply with that obligation can constitute willful blindness, which undermines the good faith and honesty that is required for conduct that is bona fide. See <https://thelawdictionary.org/bona-fide/> (defining “bona fide” as “[i]n or with good faith; honestly, openly, and sincerely; without deceit or fraud. Truly; actually; without simulation or pretense. Innocently; in the attitude of trust and confidence; without notice of fraud, etc.”).

It is for this reason that this Panelist and others have found in prior cases that an infringing use cannot be bona fide. See, e.g., *On AG, On Clouds GmbH v. Nguyen Luu, Withheld for Privacy Purposes, Privacy service provided by Withheld for Privacy ehf, Vuong Hoang, AN NGUYEN, NEO CORP., and Ngoc Tam Nguyen* WIPO Case No. [D2021-1714](#) (“a use cannot be deemed bona fide if the disputed domain names constitute trademark infringement”); *Sai Machine Tools Private Limited v. Mr. Sudhir Jaiswal, Shree Sai Extrusion Technik Pvt. Ltd*, WIPO Case No. [D2018-2560](#) (“bona fide use is predicated on honest adoption of the name” and respondent failed to show such honest adoption; rather, respondent’s use was infringing and therefore not bona fide); *Schouten Industries B.V. and Schouten Products B.V. v. Canadian SoyLife Health Co.*, Forum Claim No. FA0303000149188 (where respondent adopted domain name with actual knowledge of complainant’s trademark and used the domain name in a way likely to cause confusion, the offering of services under such a mark is infringing, not bona fide).

Some panels have approached this issue in a different way; they have said that a finding of infringement is a complicated assessment that raises difficult issues. But UDRP panelists need to assess difficult issues all the time, and there is nothing about the elements that constitute trademark infringement that makes it so difficult that it is beyond the capabilities of panelists (many of whom, after all, are experienced in trademark matters). *National Association of Realtors v. John Fothergill*, WIPO Case No. [D2010-1284](#) (deciding a “difficult question” whose facts presented a “close case”); see also *Victor Bekhet v. Kirk Uhler / Brian Jagger*, WIPO Case No. [D2021-0039](#) (deciding the “close question” of whether, “under the free speech clause of the First Amendment to the United States Constitution, . . . the political nature of Respondent’s website mitigates this impersonation”). The Panel does appreciate that there may be a reluctance to rely solely on a claimed trademark infringement if to do so would require an assessment of a number of likelihood of confusion factors that themselves might be subject to different interpretations. In other words, the more obvious the trademark infringement, the more closely that aligns with a finding of lack of bona fide use, and therefore a violation of the Policy; the more complicated the question of trademark infringement, the more difficult the Panel’s task will be in assessing the various factors to determine whether the infringement was sufficiently clear that the respondent should have known that its registration and use of the domain name was likely to “infringe[] or violate[] someone else’s rights,” such that the registration and use would likely constitute cybersquatting and therefore subject to remediation under the Policy. See Policy, paragraph 2.

Even when that assessment raises difficult issues or presents a close question, it remains the panel’s task to assess the facts based on the record presented. Panels should not routinely deny complaints merely because the case presents a close question. Although some commentators have suggested that panels should rule against complainants in close cases because “the UDRP is only intended for and only equipped to resolve clear cut cases of cybersquatting,” *UDRP Perspectives*, Section 0.2 (“If a Panel determines that the case is so finely balanced that it could go either way, this is a good indication that the case is not a ‘clear

cut case”); “such cases are best left to the courts which are equipped and intended to resolve unclear cases”), such an approach is inconsistent with the long-accepted view that the burden of proof is the “preponderance of the evidence,” also known as the “on balance” standard. [WIPO Overview 3.0](#), paragraph 4.2. If the case is a close one, the panel is still obligated to weigh the evidence, and if the preponderance of the evidence tilts in one direction or the other, the panel should so find.

Nowhere in the Policy does it say that the evidence must be “clear cut,” as suggested in one editorial: *UDRP Perspectives*, Sections 0.1 and 0.2. That may be the standard of proof in URS proceedings, Uniform Rapid Suspension System, paragraph 8.2, but it is not the burden of proof in UDRP proceedings. [WIPO Overview 3.0](#), paragraph 4.22 (“While the UDRP operates on an “on balance” standard, the burden of proof on the more limited pleadings provided for under the URS requires that the complainant demonstrate by “clear and convincing evidence” that the particular case facts merit a determination in its favor.”) Thus, only if the case is so close that the evidence does not tilt in one direction or the other should the panel rule against a complainant on the ground that the complainant failed to carry its burden of proving the element by a preponderance of the evidence. See, e.g., *Tribeca Film Center, Inc. v. Lorenzo Brusasco-Mackenzie*, WIPO Case No. [D2000-1772](#) (where the parties submitted conflicting affidavits about whether respondent offered to sell the domain name to complainant, and where the panel could not determine which affidavit was correct, panel held that complainant failed to carry its burden of proof). Otherwise, the Policy would be biased against complainants in cases where the respondent shows the matter to be complex or simply plagued with disputed facts (which the respondent could introduce without challenge).

Applying these principles to this case, the Panel finds, on a preponderance of the evidence, that the disputed domain name infringes Complainant’s trademark rights. It is identical to the Complainant’s trademark and purports to offer goods that are related to those offered or endorsed by the Complainant. The Respondent has not come forward with any evidence that could establish why the disputed domain name is not infringing, such as that it is a fair use or that the Respondent has credible competing trademark rights – indeed it would be difficult to conceive of either possibility based on the record before the Panel. Nor has the Respondent offered any explanation as to why she references “Nara Smith” in the disputed domain name or why she applied to register NARA SMITH ORGANICAS SKINCARE as a trademark. Given that the Respondent’s use of NARA SMITH in the disputed domain name plainly seeks to cause confusion with (UDRP paragraph 4(b)(iv)) and improperly invokes the name and mark of the Complainant, i.e., is infringing, that use cannot be bona fide and therefore the Respondent does not have 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 finds bad faith on two grounds: that the Respondent (i) attempted to sell the disputed domain name to the Complainant for profit; and (iv) intentionally attempted to attract, for commercial gain, Internet users to her website by creating a likelihood of confusion with the Complainant’s mark.

First, the Complainant alleges—and the Respondent does not dispute—that the Respondent initially offered to sell the disputed domain name for USD 75,000. The Complainant has submitted documentary proof of this offer (actually, the email from the Respondent offered to sell the disputed domain name for \$75,999). The Respondent contends that the Complainant omits the fact that she later agreed to sell the domain for USD 10,000. The email exchange submitted by the Complainant shows a long negotiation, with the Complainant offering to purchase the disputed domain name for USD 10,000, but the Respondent indicating that she would not accept less than USD 15,000. Regardless of whether the Respondent was willing to sell the disputed domain name for USD \$15,000 or USD \$10,000, that amount, absent any evidence from the

Respondent to the contrary, is likely an amount far in excess of the Respondent's out-of-pocket costs directly related to the disputed domain name. Such an offer to sell is a paradigmatic demonstration of bad faith. Policy, paragraph 4(b)(i). On top of that, the Respondent's offer to sell the disputed domain name for this price (after initially demanding \$75,999), on the record of this case, undercuts the Respondent's claim that she is operating a bona fide business undertaking; rather, it supports a finding that she intended all along to unfairly capitalize on the reputation of the Complainant.

Second, several factors support a finding of bad faith registration and use under 4(b)(iv). The Respondent registered the disputed domain name in 2024. She does not deny awareness of the Complainant and her work as a model and influencer, which began in 2020 and 2022, respectively. Moreover, a number of the Complainant's Tik Tok videos showcase skincare and food recipes "made from scratch" in an acacia wooden bowl. The Respondent's "organic skincare" webpage similarly displays a product in an acacia wooden bowl. The striking similarities between the Complainant's video content and the Respondent's landing page, combined with the use of the Complainant's full name, present clear evidence that the Respondent intentionally attempted to attract Internet users to her website for commercial gain by creating a likelihood of confusion.

The Respondent contends that the disclaimer included on her website ("*Nara Smith Organicas Skincare is not affiliated with any influencer or public figure named Nara Aziza Smith") demonstrates her "transparent and honest intentions" and therefore undermines any finding of bad faith. Although disclaimers may, in some circumstances, help demonstrate a lack of bad faith, that is not the case on this record. To the contrary, the disclaimer serves to demonstrate that the Respondent was aware of the Complainant, which supports, rather than undermines, a finding of bad faith. See [WIPO Overview 3.0](#), section 3.7 ("where the overall circumstances of a case point to the respondent's bad faith, the mere existence of a disclaimer cannot cure such bad faith. In such cases, panels may consider the respondent's use of a disclaimer as an admission by the respondent that users may be confused").

In sum, 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 <narasmith.com> be transferred to the Complainant.

/David H. Bernstein/
David H. Bernstein
Sole Panelist
Date: June 30, 2025