

ADMINISTRATIVE PANEL DECISION

Namecheap, Inc. v. Agit Kaya

Case No. D2025-1923

1. The Parties

The Complainant is Namecheap, Inc., United States of America (“United States”), represented by Rome LLP., United States.

The Respondent is Agit Kaya, Germany.

2. The Domain Name and Registrar

The Disputed Domain Name <namecheap.auction> is registered with Porkbun LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 14, 2025. On May 14, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On May 15, 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 (Whois Privacy, Private by Design, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 21, 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 May 24, 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 June 12, 2025. In accordance with the Rules, paragraph 5, the due date for Response was July 2, 2025. The Response was filed with the Center on July 15, 2025.

The Center appointed Marilena Comanescu as the sole panelist in this matter on July 24, 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, founded in 2000 in Phoenix, Arizona, United States, is an ICANN-accredited domain name registrar and web hosting company. Currently, the Complainant is one of the largest domain name registrars in the world, with over 20 million domain names under management.

The Complainant owns trademark rights worldwide for or including NAMECHEAP, such as the following:

- the European Union Trademark Registration number 018412308 for NAMECHEAP (word), filed on March 2, 2021, registered on September 8, 2021, covering services in International Classes 35, 42, 45;
- the United States Trademark Registration number 4213990 for NAMECHEAP (word), filed on February 29, 2012, registered on September 25, 2012, covering services in International Classes 35, 39, 42, 45; and
- the United States Trademark Registration number 3622358 for NAMECHEAP.COM (word), filed on September 26, 2008, registered on May 19, 2009, covering services in International Class 42.

The Complainant is the owner of the domain name <namecheap.com> which resolves to its corporate website.

The Disputed Domain Name was registered on April 1, 2025, and, at the time of filing the Complaint it resolved to a non-functional website that purported to offer for sale low-priced domain names through an auction, merely displaying the following text: “namecheap.auction / get a cheap domain name on the auction” and “namecheap.auction is currently worked on (...) soon you will be able to buy cheap names at an auction”. At the top left side of the website under the Disputed Domain Name, in white letters on a white background and in a small font, the following note was displayed: “not affiliated with namecheap.com”.

The same parties were involved in a prior UDRP dispute decided in August 2024, see *Namecheap, Inc., v. Agit Kaya*, WIPO Case No. [D2024-2569](#), for the domain name <namecheap.domains>¹.

It has been established in prior UDRP decisions that the Complainant’s NAMECHEAP trademark is distinctive and well-known in relation to domain name services industry. See *Namecheap, Inc. v. Umair Maqbool*, WIPO Case No. [D2023-4548](#); or *Namecheap, Inc. v. Host Master, 1337 Services LLC*, WIPO Case No. [D2023-2748](#).

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 and confusingly similar to its earlier trademark since it incorporates it, and the generic Top-Level Domain (“gTLD”) “.auction” should be disregarded when evaluating the risk of confusing similarity.

The Respondent has no rights or legitimate interests in the Disputed Domain Name, there is no evidence that would indicate that the Respondent is commonly known by the NAMECHEAP mark; by using the Complainant’s registered trademark in its URL as the first and most dominant element, the Respondent uses the Disputed Domain Name to misdirect or “bait” Internet users seeking the Complainant’s services to its

¹ See Panel’s powers to undertake limited factual research, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.8.

own site, where it claims to sell services similar to the Complainant's own (though the site claims that these services will be available soon), and this is not a good faith use.

The Respondent's disclaimer that the Disputed Domain Name has no affiliation with the Complainant's website is insufficient to vest the Respondent with any legitimate interest in the Disputed Domain Name or to shield the Respondent from trademark infringement or from its violations of the Policy. This is because, by the time the visitors diverted on the website under the Disputed Domain Name have an opportunity to read the disclaimer, they would already have been drawn to such website believing it is associated with the Complainant and would have been exposed to its content. Moreover, the disclaimer is brief, and the combination of the font size and color choice makes it scarcely visible, suggesting that the Respondent "had no particular desire to draw the attention of visitors to [its] website of [its] lack of connection with the Complainant."

The Respondent registered and is using the Disputed Domain Name in bad faith, as evidenced mainly by the following: the Complainant has had an online presence and has been successfully selling and marketing its services since 2000, long before the registration of the Disputed Domain Name in 2025; the Respondent's use of the NAMECHEAP mark as the dominant element of the Disputed Domain Name, while also purporting to auction "cheap" domain names (thereby using the secondary part of the NAMECHEAP marks) further demonstrates the Respondent's prior knowledge of the Complainant's trademark rights and services related to offering low-cost domain names for sale; the Respondent registered the Disputed Domain Name for the purpose of trading off of the Complainant's NAMECHEAP marks, goodwill and reputation by creating a false impression of association between the Complainant and the Respondent, and thereby unlawfully attracting Internet users seeking information related to the Complainant's services to the Respondent's website and business; the Respondent's actions are likely to damage the Complainant's trademarks and assets; the Respondent's use of a scarcely visible disclaimer shows in fact the Respondent's prior knowledge of the Complainant's website, and the use of the NAMECHEAP mark, as the central element of the Disputed Domain Name, further demonstrates that the Respondent is acting in complete bad faith.

B. Respondent

The Respondent claims mainly that the Disputed Domain Name has no affiliation with the Complainant, since this is clearly stated on the search engines – both in title and meta description – as well as in the disclaimer available on the website under the Disputed Domain Name. Further, its "logo also visually separates the two words to emphasize that we [i.e., the Respondent] offer "cheap" "name"s through "auction"s".

6. Discussion and Findings

Under the Policy, the Complainant is required to prove on the balance of probabilities that:

- (i) the Disputed 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 the Disputed Domain Name; and
- (iii) the Disputed Domain Name has been registered and is being used in bad faith.

A. Procedural issue. Late Response

Paragraph 10(c) of the Rules requires the Panel to ensure that the administrative proceeding takes place with due expedition, adding that the Panel may extend a period of time fixed by the Rules "in exceptional cases".

Paragraph 14(a) of the Rules provides that, in the event of a late response, absent exceptional circumstances, panels shall proceed to a decision based solely on the complaint.

Further paragraph 10(b) of the Rules requires panels to ensure that parties are treated with equality and that each party is given a fair opportunity to present its case.

Although properly notified by the Center, the Respondent provided a response thirteen (13) days after the due date and did not set out the reason it is late or asserted any exceptional circumstances.

Based on the overall circumstances of the case and particularly taking into account the fact that the Response was filed before the appointment of the Panel, and therefore that the delay has not delayed the resolution of this proceeding, the Panel accepts the late filing of the Response.

B. 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 3.0](#), section 1.7.

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

C. 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 Disputed 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 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 Respondent asserts that the Disputed Domain Name has no affiliation with the Complainant, is used for its generic meaning, i.e., to offer cheap domain names through auctions, and also a disclaimer is available on the website under the Disputed Domain Name.

Based on the evidence before it, particularly having in mind the well-known status of the Complainant's trademark, the prior UDRP procedure between the Parties, the intended use of the Disputed Domain Name in relation to services similar to those provided by the Complainant, the presence of a non-prominent disclaimer, the Panel does not accept the Respondent's allegations and finds that the Respondent's activities

do not amount to a bona fide offering of goods and services, or legitimate noncommercial fair use of the Disputed Domain Name.

The Panel further notes the composition of the Disputed Domain Name, reproducing exactly the Complainant's trademark, and being highly similar to the Complainant's trade name and domain name, carries a high risk of implied affiliation with the Complainant. UDRP panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. [WIPO Overview 3.0](#), section 2.5.1.

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

D. 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 Disputed Domain Name was registered in bad faith, with knowledge of the Complainant and its trademark particularly because it reproduces the Complainant's trademark exactly, the Complainant's trademark predates the registration of the Disputed Domain Name by more than 14 years and is well known worldwide. Furthermore, the fact that the Parties were involved in a prior UDRP dispute in relation to the Complainant's trademark NAMECHEAP, almost eight (8) months before the registration of the Disputed Domain Name enhances such finding. See *Namecheap, Inc., v. Agit Kaya, supra*.

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.

At the time of filing the Complaint, the Disputed Domain Name was used in connection to a website purportedly promoting the sale of domain names.

Paragraph 4(b)(iv) of the Policy provides that the use of a domain name to intentionally attempt "to attract, for commercial gain, Internet users to [the respondent's] website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of [the respondent's] website or location or of a product or service on [the respondent's] website or location" is evidence of registration and use in bad faith.

Given that the Disputed Domain Name reproduces exactly the Complainant's trademark, and the website operated under the Disputed Domain Name purports to provide similar services to those of the Complainant, indeed in this Panel's view, the Respondent has intended to attract Internet users accessing the website corresponding to the Disputed Domain Name who may be confused and believe that such website is held, controlled by, or somehow affiliated with or related to the Complainant, for the Respondent's commercial gain. This activity may also disrupt the Complainant's business and tarnish its trademark.

The existence of the disclaimer on the website under the Disputed Domain Name, given the overall circumstances in this case, including its obscure representation (the combination of its position, font size and color choice), and the fact that the Disputed Domain Name is identical to the Complainant's trademark, cannot cure such bad faith finding. To the contrary, in such cases, panels may consider the respondent's use of a disclaimer as an admission by the respondent that users may be confused. [WIPO Overview 3.0](#), section 3.7.

The Respondent's registration of at least two domain names reproducing exactly the Complainant's trademark, and the registration of the Disputed Domain Name after the prior proceeding between the Parties, lead the Panel to conclude that the Respondent has acted in bad faith.

The Panel notes that the Respondent argues that the logo visually separates the two words to emphasize that the Respondent offers “cheap” “name”s through “auction”s. However, despite the use of different colours in its logo, the Panel notes that the composition of the Disputed Domain Name follows the same identical order to one of the Complainant’s trademarks, and that the website also reproduces “namecheap” together.

Previous UDRP panels have found that the mere registration of a domain name that is identical or confusingly similar to a widely known trademark by an unaffiliated entity can, by itself, create a presumption of bad faith for the purpose of Policy. [WIPO Overview 3.0](#), section 3.1.4.

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, <namecheap.auction>, be transferred to the Complainant.

/Marilena Comanescu/

Marilena Comanescu

Sole Panelist

Date: August 5, 2025