

ADMINISTRATIVE PANEL DECISION

NEW BALANCE ATHLETICS, INC. v. Name Redacted Case No. D2025-3652

1. The Parties

The Complainant is NEW BALANCE ATHLETICS, INC., United States of America ("United States"), represented by Day Pitney LLP, United States.

The Respondent is Name Redacted¹.

2. The Domain Name and Registrar

The disputed domain name <chuckdavisnewbalance.store> (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 September 9, 2025. On September 10, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On September 11, 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 Complainant on September 11, 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 September 16, 2025.

¹The Respondent appears to have used the name of a third party when registering the Disputed Domain Name. In light of the potential identity theft, the Panel has redacted the Respondent's name from this Decision. However, the Panel has attached as Annex 1 to this Decision an instruction to the Registrar regarding transfer of the Disputed Domain Name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in these proceedings and has indicated that Annex 1 to this Decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

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 September 18, 2025. In accordance with the Rules, paragraph 5, the due date for Response was October 8, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 9, 2025.

The Center appointed Lynda M. Braun as the sole panelist in this matter on October 14, 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, a Massachusetts, United States corporation, is one of the largest and most recognized global athletic footwear and apparel companies, offering products branded under the NEW BALANCE trademark in more than 120 countries worldwide. For over 50 years, the Complainant has used its trademarks to identify its footwear and apparel products and thus has amassed a global reputation and goodwill in connection with those trademarks.

The Complainant owns the following registered trademarks in the United States, through the United States Patent and Trademark Office (“USPTO”), including, but not limited to:

NEW BALANCE, United States Registration No. 1,053,241, registered on November 23, 1976, with a date of first use in commerce of 1951, in International Classes 10 and 25; NEW BALANCE, United States Registration No. 1,260,938, registered on December 13, 1983, in International Classes 18 and 25; NEW BALANCE, United States Registration No. 2,690,233, registered on February 25, 2003, in International Classes 35, 36 and 41; and NEW BALANCE, United States Registration No. 2,990,081, registered on August 30, 2005, in International Classes 1, 3, 5 and 26.

The Complainant also owns numerous registered trademarks in many jurisdictions worldwide.

The foregoing trademarks will hereinafter collectively be referred to as the “NEW BALANCE Mark”.

The Complainant owns the domain name <newbalance.com>, which resolves to its official website at “www.newbalance.com”, and which is used to promote and sell its footwear and apparel to the public.

The Disputed Domain Name was registered on August 5, 2025 and resolves to an inactive error landing page of the Registrar that states that the site cannot be reached. The Respondent purportedly used the Disputed Domain Name to perpetuate a phishing scheme in which the Respondent configured the Disputed Domain Name for email functions and used the email address to impersonate the Complainant’s Director of Human Resources and purportedly send a fraudulent email to an unsuspecting individual. The purpose of the email was to invite the individual to apply for a position at the Complainant’s company. A screenshot of the fraudulent email is shown in an Annex to the Complaint.

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 confusingly similar to the NEW BALANCE Mark;
- the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name;
- the Disputed Domain Name was registered and is being used in bad faith, and the Respondent has used the Complainant's employee's name when registering the Disputed Domain Name; and

The Complainant seeks the transfer of the Disputed Domain Name from the Respondent to the Complainant in accordance with paragraph 4(i) of the Policy.

B. Respondent

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

6. Discussion and Findings

In order for the Complainant to prevail and have the Disputed Domain Name transferred to the Complainant, the Complainant must prove the following (Policy, paragraph 4(a)):

- (i) the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and
- (iii) the Disputed Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires a two-fold inquiry: a threshold investigation into whether a complainant has rights in a trademark, followed by an assessment of whether the disputed domain name is identical or confusingly similar to that trademark. The Panel concludes that in the present case, the Disputed Domain Name is confusingly similar to the NEW BALANCE Mark as explained below.

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. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7.

It is uncontroverted that the Complainant has established rights in the NEW BALANCE Mark based on its years of use as well as its registered trademarks for the NEW BALANCE Mark. Thus, the Complainant has shown rights in the NEW BALANCE Mark for purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Disputed Domain Name consists of the NEW BALANCE Mark in its entirety, preceded by the name "chuckdavis" in the Disputed Domain Name, followed by the generic Top-Level Domain ("gTLD ") ".store". It is well established that a domain name that wholly incorporates a trademark may be deemed confusingly similar to that trademark for purposes of the Policy despite the addition of another term or name. Thus, the

addition of the name “chuckdavis” to the NEW BALANCE Mark in the Disputed Domain Name does not prevent a finding of confusing similarity. See e.g., *Cantor Fitzgerald Securities v. Wanda J. Bradley*, WIPO Case No. [D2020-3051](#). As stated in [WIPO Overview 3.0](#), section 1.8, “where the relevant trademark is recognizable within the disputed domain name, the addition of another term (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element”.

Finally, the addition of a gTLD such as “.store” in a domain name is a technical requirement. As such, it is well established that a gTLD may typically be disregarded when assessing whether the disputed domain name is identical or confusingly similar to a trademark. See *Proactiva Medio Ambiente, S.A. v. Proactiva*, WIPO Case No. [D2012-0182](#) and [WIPO Overview 3.0](#), section 1.11.1. Thus, the Panel finds that the Disputed Domain Name is confusingly similar to the NEW BALANCE Mark.

Based on the available record, the Panel finds that 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 a 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 that 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 Complainant’s prima facie case includes the fact that the Complainant has not authorized, licensed or otherwise permitted the Respondent to use the NEW BALANCE Mark, that there is no evidence that the Respondent is commonly known by the Disputed Domain Name or by any similar name, and that there is no evidence that the Respondent was using or making demonstrable preparations to use the Disputed Domain Name in connection with a bona fide offering of goods or services. See Policy, paragraph 4(c). Moreover, based on the circumstances of the case and the use made of the Disputed Domain Name to resolve to an inactive error landing page, the Panel finds that the Respondent is not making a bona fide offering of goods or services nor making a legitimate noncommercial or fair use of the Disputed Domain Name under the circumstances of the case. See *Lego Juris A/S v. Nofel Izz, JID*, WIPO Case No. [2019-2601](#).

Finally, the use of a disputed domain name for phishing “can never confer rights or legitimate interests on a respondent.” *Afton Chemical Corporation v. Whois Agent, Whois Privacy Protection Service, Inc./ Name Redacted*, WIPO Case No. [D2018-2833](#). “Panels have categorically held that the use of a domain name for illegal activity (e.g., phishing, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent.” [WIPO Overview 3.0](#), section 2.13.1. Given the phishing scheme the Respondent operated by configuring the Disputed Domain Name to send email communications impersonating the Complainant’s Director of Human Resources, the Respondent was not making a legitimate noncommercial or fair use of the Disputed Domain Name.

In sum, the Panel finds that the Complainant has established an un rebutted prima facie case that the Respondent lacks rights or legitimate interests in the Disputed Domain Name.

Based on the available record, the Panel finds that the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel finds that, based on the record, the Complainant has demonstrated the Respondent's bad faith registration and use of the Disputed Domain Name pursuant to paragraph 4(b) of the Policy.

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. 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.

First, the Respondent registered and is using a domain name that is confusingly similar to the Complainant's trademark. The Panel concludes that the Respondent likely had actual knowledge of the Complainant and the NEW BALANCE Mark and thus strains credulity to believe that the Respondent had not known of the Complainant or the NEW BALANCE Mark when registering the Disputed Domain Name. See *Myer Stores Limited v. Mr. David John Singh*, WIPO Case No. [D2001-0763](#) ("a finding of bad faith may be made where the respondent 'knew or should have known' of the registration and/or use of the trademark prior to registering the domain name"). The Panel also notes that the composition of the Disputed Domain Name affirms the Respondent's intention to take unfair advantage of the likelihood of confusion between the Disputed Domain Name and the Complainant's trademark. The Respondent's attempted impersonation of the Complainant's Director of Human Resources in connection with the fraudulent phishing scheme originating from the Disputed Domain Name also illustrates that the Respondent knew of the Complainant at the time of registration. In sum, the Panel finds that the Respondent had the NEW BALANCE Mark in mind when registering the Disputed Domain Name, another example of bad faith.

Second, the use of a domain name for illegitimate activity, here, phishing and passing off, may constitute bad faith. Having reviewed the record, the Panel finds the Respondent's registration and use of the Disputed Domain Name constitutes bad faith under the Policy due to the Respondent's impersonation as the Complainant's Director of Human Resources to send fraudulent emails to unwitting job seekers. The facts of this case thus establish the Respondent's bad faith in registering and using the Disputed Domain Name to impersonate the Complainant in communications with third parties. Moreover, identity theft and email-based phishing schemes that use a complainant's trademark in a disputed domain name are also evidence of bad faith. See [WIPO Overview 3.0](#), section 3.4 ("Panels have held that the use of a domain name for purposes other than to host a website may constitute bad faith. Such purposes include sending email, phishing, identity theft, or malware distribution. [...] Many such cases involve the respondent's use of the domain name to send deceptive emails, e.g., to obtain sensitive or confidential personal information from prospective job applicants, or to solicit payment of fraudulent invoices by the complainant's actual or prospective customers.").

Finally, based on the above, the Panel has taken into consideration the following factors in arriving at a finding of bad faith registration and use: (i) the Complainant's claim that its trademark is distinctive; (ii) the Respondent has not submitted a response in the proceedings nor provided any evidence of actual or contemplated good faith use of the Disputed Domain Name; (iii) the Respondent's use of the name of the Complainant's Director of Human Resources when registering the Disputed Domain Name; and (iv) the implausibility of any good faith use to which the Disputed Domain Name may be put. The Panel therefore finds that the Respondent registered and used the Disputed Domain Name in bad faith.

Based on the available record, the Panel finds that the third element of the Policy has been established.

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 <chuckdavisnewbalance.store> be transferred to the Complainant.

/Lynda M. Braun/

Lynda M. Braun

Sole Panelist

Date: October 28, 2025