

ADMINISTRATIVE PANEL DECISION

Diem Pham v. Ihor Laba
Case No. D2026-1208

1. The Parties

The Complainant is Diem Pham, United States of America (“United States”), self-represented.

The Respondent is Ihor Laba, Ukraine.

2. The Domain Name and Registrar

The disputed domain name <nycphotosafari.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 20, 2026. On March 20, 2026, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 20, 2026, 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 (Unknown Respondent) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 23, 2026, 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 March 24, 2026.

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 March 27, 2026. In accordance with the Rules, paragraph 5, the due date for Response was April 16, 2026. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 20, 2026.

The Center appointed Adam Taylor as the sole panelist in this matter on May 4, 2026. 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 has operated a business providing photography tours of New York, United States, under the mark NEW YORK CITY PHOTO SAFARI since 2010.

On or around August 13, 2013, the Complainant registered the disputed domain name and redirected it to the Complainant's main website at "www.newyorkcityphotosafari.com". The Complainant also used the disputed domain name, and the mark NYC PHOTO SAFARI, in connection with its branding, including on marketing material and merchandise.

The Complainant owns United States trade mark No. 7913575 for NYC PHOTO SAFARI, registered on August 26, 2025, in class 41, with a claimed first-use date of January 1, 2014.

The Complainant inadvertently allowed the disputed domain name to lapse in November 2025, and the Respondent registered it at some point in December 2025.

The disputed domain name continued to redirect to "www.newyorkcityphotosafari.com" until February 2026, when it was resolved to a website entitled "Creative design Studio" and stating that "[a]t Nycphotosafari.com, we stand out in the world of web design and development".

The Respondent did not reply to the Complainant's contact requests, citing trade mark infringement, that were sent via the Registrar on January 21 and 29, 2026, and on February 17, 2026.

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.

B. Respondent

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

6. Discussion and Findings

6.1 Preliminary Issue: Location of Respondent

Under paragraph 10 of the Rules, the Panel is required to ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case, and also that the administrative proceeding takes place with due expedition.

Since the Respondent's postal address is stated to be in Ukraine, which is subject to an international conflict at the date of this decision and which may impact notifications relating to this proceeding, it is appropriate for the Panel to consider, in accordance with its discretion under paragraph 10 of the Rules, whether the proceeding should continue.

The Panel notes that the courier was not able to deliver the written notice of the Complaint to the Respondent's address in Ukraine, but the Complaint was delivered to the Respondent's email address, as provided by the Registrar.

Furthermore, for the reasons set out below, the Panel has no serious doubt (albeit in the absence of any Response) that the Respondent registered and has used the disputed domain name in bad faith and with the intention of unfairly targeting the Complainant's goodwill in its trade mark.

The Panel concludes that the Parties have been given a fair opportunity to present their case and, in order that the administrative proceeding continues with due expedition, the Panel will proceed to a decision accordingly.

6.2 Substantive Issues

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 trade mark and the disputed domain name. WIPO Overview of WIPO Panel Views on Select UDRP Questions ("[WIPO Overview 3.1](#)"), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.1](#), section 1.2.1.

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 3.1](#), section 1.7.

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 recognised 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 3.1](#), 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.

As to paragraph 4(c)(i) of the Policy, and as further discussed under the third element below, the Panel considers that the Respondent has used the disputed domain name to intentionally attempt to attract, confuse, and profit from Internet users seeking the Complainant's goods and/or services. Such use of the disputed domain name is not bona fide.

Nor is there any evidence that paragraphs 4(c)(ii) or (iii) of the Policy are relevant in the circumstances of this case.

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 considers that the Respondent has intentionally attempted to attract Internet users to its website for commercial gain by creating a likelihood of confusion with the Complainant's trade mark in accordance with paragraph 4(b)(iv) of the Policy.

First, the disputed domain name exactly reflects the Complainant's mark.

Second, the Complainant had been using the disputed domain name, and the NYC PHOTO SAFARI mark, for some 13 years prior to its acquisition by the Respondent. Furthermore, not only did the disputed domain name still redirect to the Complainant's main site at the time of acquisition, but the Respondent allowed the redirection to continue for around a further two months thereafter. It seems likely, therefore, that the Respondent was aware of the Complainant's use of the disputed domain name and the corresponding mark when it acquired the disputed domain name.

Third, the disputed domain name, focused on New York/photography, does not seem to be an obvious name for the Respondent to use for a website that purports to offer general web design services, indicating that its use is likely illegitimate.

Accordingly, the Panel concludes that, more likely than not, the Respondent's purpose was to attract and profit from Internet traffic seeking the former owner of the disputed domain name, namely the Complainant. The likelihood of confusion is not diminished by the possibility that users arriving at the Respondent's site may at some point realise that it is no longer officially connected with the Complainant. Paragraph 4(b)(iv) of the Policy is concerned with the intentional attracting of Internet users. Here, the disputed domain name creates a high risk of implied affiliation with the Complainant, and the Respondent profits from at least some of the traffic intended for the Complainant.

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 <nycphotosafari.com> be transferred to the Complainant.

/Adam Taylor/

Adam Taylor

Sole Panelist

Date: May 19, 2026