ADMINISTRATIVE PANEL DECISION

CUETARA S.L. v. Domain Registration, Nayzak, Inc.
Case No. D2026-3453

1. The Parties

The Complainant is CUETARA S.L., Spain, represented by BALDER IP LAW, S.L., Spain.

The Respondent is Domain Registration, Nayzak, Inc., United States of America ("United States").

2. The Domain Name and Registrar

The disputed domain name <cuetara.com> is registered with TLDS L.L.C. d/b/a SRSPlus (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on August 4, 2026. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 5, 2026, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 August 10, 2026. In accordance with the Rules, paragraph 5, the due date for Response was August 30, 2026. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 31, 2026.

The Center appointed Matthew Kennedy as the sole panelist in this matter on September 7, 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 is a Spanish bakery company founded by the Cuétara brothers. It holds trademark registrations in multiple jurisdictions, including United States trademark registration number 1060023 for a figurative CUÉTARA mark, registered on February 22, 1977, specifying cookies, biscuits, pastries, and other products in class 30. That registration remains current. By January 1996, the Complainant's group had 27 authorized distributors of its products in the United States and Canada. In May 1997, its trademark registration was recorded with the United States Customs Service.

The Respondent is a United States company. According to evidence presented by the Complainant, the Respondent provides a range of information technology-based business solutions for medium-sized companies and enterprises, including network design and web hosting.

The disputed domain name was registered on February 26, 1997. According to archived screenshots presented by the Complainant, as at May 28, 2007, the disputed domain name resolved to a landing page displaying Pay-Per-Click ("PPC") links related to a wide range of topics and a small notice reading "Coming Soon! This site is under construction". On May 17, 2022, it resolved to a webpage that merely displayed a test message. At the time of this proceeding, the disputed domain name does not resolve to any active website; rather, it is passively held.

On June 23, 2026, the Complainant sent a cease-and-desist letter to the Respondent as an attachment to an email. On the following day, the Complainant received a receipt confirming that the email had been read.

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 its figurative CUETARA mark.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent has not been authorized, licensed or otherwise permitted by the Complainant to register or hold a domain name corresponding to the CUETARA trademark.

The disputed domain name was registered and is being used in bad faith. At the time when the Respondent registered the disputed domain name, the CUETARA trademark was already a long-standing, distinctive, and protected mark. At that time, the CUETARA trademark was commercially present in the United States and was being used in connection with a real distribution network for the relevant goods. The Respondent has passively held the disputed domain name for a very substantial period of time.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that the Complainant must prove each of the following elements:

(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 respect of the disputed domain name; and

(iii) the disputed domain name has been registered and is being used in bad faith.

The burden of proof of each element is borne by the Complainant.

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. See WIPO Overview of WIPO Panel Views on Select UDRP Questions ("WIPO Overview 3.1"), section 1.7.

The Complainant has shown registered rights in respect of a figurative CUÉTARA mark for the purposes of the Policy. See WIPO Overview 3.1, section 1.2.1.

The disputed domain name reproduces the textual element of the CUÉTARA mark, replacing the accented letter "É" with the equivalent ASCII character ("E") for technical reasons. Given that the figurative elements of the mark cannot be reflected in a domain name for technical reasons, the Panel will disregard them in its assessment of confusing similarity for the purposes of the Policy. The only additional element in the disputed domain name is a generic Top-Level Domain ("gTLD") extension (".com") which, as a standard requirement of domain name registration, may also be disregarded in the assessment of confusing similarity for the purposes of the Policy. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. See WIPO Overview 3.1, sections 1.7, 1.10, and 1.11.1.

Therefore, 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 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. See WIPO Overview 3.1, section 2.1.

In the present case, the disputed domain name incorporates the textual element of the Complainant's CUÉTARA mark, omitting only the accent above the letter "É". This incorporation creates a heightened risk of implied affiliation. However, the Complainant submits that the Respondent has not been authorized, licensed or otherwise permitted by it to register or hold a domain name corresponding to its mark. The disputed domain name is currently passively held. These circumstances do not indicate that the Respondent is using the disputed domain name in connection with a bona fide offering of goods and services, nor that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name.

Further, the Registrar has verified that the name of the Respondent is "Nayzak, Inc." and the name of its contact person is "Nazih Chamtie", neither of which resembles the disputed domain name. Nothing in the record indicates that the Respondent (whether as an individual, business or other organization) has been commonly known by the disputed domain name.

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.

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

C. Registered and Used 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. See WIPO Overview 3.1, section 3.2.1.

In the present case, the disputed domain name was registered in 1997, 20 years after the registration of the Complainant's mark, including in the United States, where the Respondent is based. The CUÉTARA mark is distinctive and the disputed domain name incorporates its textual element, omitting only the accent above the letter "E" for technical reasons. The mark is not a dictionary word. The evidence shows that the mark was the subject of longstanding and widespread use in the United States and elsewhere prior to the registration of the disputed domain name. The Respondent offers no explanation for its choice to register the disputed domain name. The evidence of the use of the disputed domain name with a landing page displaying apparently random PPC links at one time ten years after its registration, and a test message at another time 25 years after its registration, does not establish any intention for the disputed domain name that would displace the inference that the Respondent knew of the Complainant's mark. In view of these circumstances, the Panel finds it more likely than not that the Respondent knew of the Complainant's mark at the time when it registered the disputed domain name.

As regards use, prior UDRP panels have found that the non-use of a domain name would not by itself prevent a finding of bad faith under the doctrine of passive holding. To the contrary, in looking at the totality of circumstances in each case, panels have found that the registration and non-use of a domain name can still constitute bad faith for purposes of the Policy. See WIPO Overview 3.1, section 3.3. Having reviewed the available record, the Panel notes the distinctiveness and reputation of the Complainant's trademark, the composition of the disputed domain name, and the Respondent's lack of explanation of any intended good faith use, 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.

Therefore, 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 <cuetara.com> be transferred to the Complainant.

/Matthew Kennedy/
Matthew Kennedy
Sole Panelist
Date: September 14, 2026