

ADMINISTRATIVE PANEL DECISION

New Balance Athletics, Inc. v. Ketevan Simonishvili
Case No. DGE2025-0003

1. The Parties

The Complainant is New Balance Athletics, Inc., United States of America ("US"), represented by Day Pitney LLP, US.

The Respondent is Ketevan Simonishvili, Georgia.

2. The Domain Name and Registry

The disputed domain name <newbalance.ge> is registered with Caucasus Online LLC (the .GE Registry).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on May 16, 2025. On May 20, 2025, the Center transmitted by email to the .GE Registry a request for registry verification in connection with the disputed domain name. On May 23, 2025, the .GE Registry 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 May 23, 2025, providing the registrant and contact information disclosed by the .GE Registry, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on May 28, 2025.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the .GE Domain Name Dispute Resolution Policy (the .GE Policy), the Rules for .GE Domain Name Dispute Resolution Policy (the .GE Rules), and the WIPO Supplemental Rules for .GE Domain Name Dispute Resolution Policy (the Supplemental Rules).

In accordance with the .GE Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on June 2, 2025. In accordance with the .GE Rules, paragraph 5, the due date for Response was June 22, 2025. The Respondent did not submit a formal Response, however sent email communications to the Center on June 2, 2025, and June 25, 2025.

The Center appointed Mladen Vukmir as the sole panelist in this matter on July 7, 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 .GE Rules, paragraph 7.

4. Factual Background

The Complainant is New Balance Athletics, Inc., a corporation organized under the laws of Massachusetts, US, and is one of the largest and most recognized footwear and apparel companies in the world.

The Complainant is the owner of numerous NEW BALANCE trademarks registered in various jurisdictions, including NEW BALANCE (word) trademark registered in the US on November 23, 1976, under the registration number 1053241, for goods in class 25 of International Classification ("IC"), NEW BALANCE (word) trademark registered in the US on February 25, 2003, under the registration number 2690233, for services in classes 35, 36 of IC, and NEW BALANCE (word) trademark registered in the US on August 30, 2005, under the registration number 2990081, for goods in classes 1, 3, 5 and 26 of IC ("NEW BALANCE trademark").

The disputed domain was registered on September 3, 2024, and resolves to a website offering what appears to be a variety of the Complainant's NEW BALANCE branded footwear.

5. Parties' Contentions

A. Complainant

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

Notably, the Complainant contends that:

- (i) the Complainant is the owner of the famous NEW BALANCE trademark, which has been used exclusively and continuously since at least as early as 1974 to identify its footwear and apparel products. Over the decades, the Complainant has built a substantial global reputation and goodwill associated with the NEW BALANCE brand. Today, the Complainant is one of the world's leading athletic footwear and apparel companies, offering products under NEW BALANCE trademark in more than 120 countries. NEW BALANCE trademark is highly distinctive and carries a reputation synonymous with the highest quality of athletic footwear and apparel around the world;
- (ii) the disputed domain name is confusingly similar to the Complainant's NEW BALANCE trademark, as it incorporates said trademark in its entirety. Given that the disputed domain name and NEW BALANCE trademark are identical, it is difficult to conceive of a plausible scenario under which anyone other than the Complainant could register and use the disputed domain name without infringing NEW BALANCE trademark;
- (iii) the Respondent has no rights or legitimate interests in the disputed domain name. There is no conceivable use of the disputed domain name other than to refer to the Complainant. The Respondent has not made any demonstrable preparations to use the disputed domain name in connection with bona fide offering goods or services and instead is engaged in infringing sales of counterfeit and/or unlicensed goods. The Respondent has not acquired, or owned, any trademark or service mark rights in the name of "New Balance" and has not been commonly known by the disputed domain name. The Respondent is not making a legitimate noncommercial or fair use of the disputed domain name without intent for commercial gain or without intent to misleadingly divert consumers or tarnish the Complainant's NEW BALANCE trademark. Instead, the Respondent is exploiting the NEW BALANCE trademark in its entirety and trading off its goodwill in order to purportedly sell the NEW BALANCE footwear to consumers. The Respondent does not own any

trademark or service mark rights in the name “New Balance” and has not been commonly known by the disputed domain name. The Complainant has never licensed, permitted or otherwise authorized the Respondent to use the NEW BALANCE trademark.

(iv) When the Respondent registered the disputed domain name, decades after the Complainant established its trademark rights, the Respondent did so with the bad faith intention of profiting from the Complainant’s reputation and goodwill. The disputed domain name resolves to an active website that purports to offer NEW BALANCE footwear to sale. The Respondent is impersonating the Complainant and expressly trading off the goodwill inherent in the NEW BALANCE trademark as well as confusing consumers into believing there is a direct connection between the parties. In that manner, the Respondent is using this confusion to divert sales of footwear that would have otherwise been purchased through the Complainant to an authorized retailer. This conduct puts the Complainant at risk of irreparable injury, having no control over the Respondent’s use of the disputed domain name and/or the nature and quality of the footwear being sold. Given the Complainant’s international recognition and long-time use of the NEW BALANCE trademark, confusion could lead to substantial damage through loss of consumers and injury to the Complainant’s reputation. The omission of public contact information from both the website created under the disputed domain name and the WhoIs records indicates an intent to conceal the Respondent’s identity from the Complainant.

B. Respondent

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

However, as mentioned under section 3 of this Decision, the Respondent has sent informal email communications to the Center. In its email communication of June 2, 2025, the Respondent asked the Center “what can i help you”, and in email communication of June 25, 2025, the Respondent stated that it wants to give the disputed domain name but does not know how to do it.

6. Discussion and Findings

In accordance with paragraph 4(a) of the .GE Policy, the Complainant must prove that each of the three following elements is satisfied:

- (i) the disputed domain name is identical or confusingly similar to a trademark 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 or is being used in bad faith.

Having in mind the similarities between the .GE Policy and .GE Rules on the one side, and the Uniform Domain Name Dispute Resolution Policy (“UDRP”) and associated rules on the other side, the Panel considers some UDRP precedents as well as the applicable sections of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), relevant to the present proceeding and will refer to them where appropriate.

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. [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of a trademark for the purposes of the .GE Policy.

The entirety of the Complainant's NEW BALANCE trademark is reproduced within the disputed domain name, without any amendments or additions. Accordingly, the disputed domain name is identical to NEW BALANCE trademark for the purposes of the .GE Policy.

The country code Top-Level Domain ("ccTLD") ".ge" can be disregarded under the first element confusing similarity test, being a standard registration requirement.

The Panel concludes that the Complainant has met the requirements of paragraph 4(a)(i) of the .GE Policy by proving its right to NEW BALANCE trademark and demonstrating that the disputed domain name is identical to its NEW BALANCE trademark.

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

B. Rights or Legitimate Interests

Paragraph 4(c) of the .GE 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, and similarly in .GE Policy 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 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 with 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 .GE Policy or otherwise.

The Respondent is not authorized to use the Complainant's NEW BALANCE trademark, and there is no indication that the Respondent is commonly known by the disputed domain name. There is no apparent relation, from the record, between the Respondent and the Complaint, nor does it arise that the Complainant has ever licensed or otherwise permitted the Respondent to use its NEW BALANCE trademark, or to apply for or use any domain name incorporating the same trademark.

There is no evidence in the case file or otherwise apparent to the Panel that the Respondent has been using the disputed domain name in connection with bona fide offering of goods or services or making a legitimate noncommercial or fair use of the disputed domain name. On the contrary, the Respondent is using the disputed domain name to purportedly profit from the sale of the Complainant's NEW BALANCE products. The website created under the disputed domain name makes no effort to disclose the Respondent's lack of affiliation with the Complainant, which creates a false impression of endorsement or official connection. Together with other allegations, the absence of identifying details on the Respondent's website, combined with unauthorized use of the Complainant's branding, reinforces the conclusion that the Respondent has no rights or legitimate interests in the disputed domain name. Additionally, in its unofficial email communication of June 25, 2025, the Respondent stated that it wants to give the disputed domain name but does not know how to do it.

The facts and circumstances of the case do not support a finding of rights or legitimate interests by the Respondent, and the Panel finds the second element of the .GE Policy has been established.

C. Registered or Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the .GE Policy, paragraph 4(b) of the .GE 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 .GE 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.

In the present case, the disputed domain name resolves to a website that purports to offer NEW BALANCE footwear for sale, with the Respondent unlawfully impersonating the Complainant and deliberately trading on the goodwill associated with the NEW BALANCE trademark to mislead consumers and divert sales.

The Panel accepts that the Complainant's NEW BALANCE trademark is well-known, distinctive and widely recognized as identifying the Complainant's footwear. It is highly unlikely that the Respondent was unaware of the Complainant and its NEW BALANCE trademarks when it registered the disputed domain name, especially when considering the use to which the disputed domain name was put.

The Respondent's actions regarding the registration and use of the disputed domain names demonstrate bad faith. The Complainant's NEW BALANCE trademarks were registered well before the disputed domain name, and the Respondent has never received authorization from the Complainant to use its NEW BALANCE trademark or to register the disputed domain name.

Given the nature and use of the disputed domain name, the Panel is of opinion that the Respondent registered the domain with full awareness of the Complainant's NEW BALANCE trademark and is using it to misleadingly attract Internet users. The disputed domain name resolves to a website that purports to sell the Complainant's NEW BALANCE footwear without disclosing the Respondent's lack of a relationship with the Complainant. The impression given by the disputed domain name and this website could cause Internet users to believe that the Respondent is somehow associated with the Complainant when, in fact, it is not.

The Panel holds that by using the disputed domain name, the Respondent intentionally attempted to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website in the sense of .GE Policy, paragraph 4(b)(iv). It is well established that if a respondent has intentionally attempted to attract for commercial gain by creating a likelihood of confusion with the complainant's trademark it is an indicator of bad faith.

The Panel finds that the Complainant has established the third element of the .GE Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the .GE Policy and 15 of the .GE Rules, the Panel orders that the disputed domain name, <newbalance.ge>, be transferred to the Complainant.

/Mladen Vukmir/

Mladen Vukmir

Sole Panelist

Date: July 21, 2025