

ADMINISTRATIVE PANEL DECISION

Nutricia International B.V. v. anthony Gibson
Case No. DNL2025-0038

1. The Parties

The Complainant is Nutricia International B.V., Netherlands (Kingdom of the) ("the Netherlands"), represented by Herbert Smith Freehills Kramer Paris LLP, France.

The registrant of the disputed domain name is anthony Gibson, United States of America, (the "Respondent").

2. The Domain Name and Registrar

The disputed domain name <aptamileu.nl> is registered with SIDN through Namecheap, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on November 17, 2025. On November 18, 2025, the Center transmitted by email to SIDN a request for registrar verification in connection with the disputed domain name.

On November 19, 2025, SIDN 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 and contact information in the Complaint.

The Center sent an email communication to the Complainant on November 20, 2025, providing the information disclosed by SIDN, and inviting the Complainant to amend the Complaint in this light. The Complainant filed an amended Complaint on November 21, 2025.

The Center verified that the Complaint as amended satisfies the formal requirements of the Dispute Resolution Regulations for .nl Domain Names (the "Regulations").

In accordance with the Regulations, articles 5.1 and 16.4, the Center formally notified the Respondent of the Complaint and the proceedings commenced on November 25, 2025. In accordance with the Regulations, article 7.1, the due date for Response was December 15, 2025. The Center did not receive any response. Accordingly, the Center notified the Respondent's default on December 18, 2025.

The Center appointed Charles Gielen as the panelist in this matter on January 5, 2026. The Panel finds that it was properly constituted. The Panelist has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required to ensure compliance with the Regulations, article 9.2.

4. Factual Background

The Complainant is a company incorporated under the laws of the Netherlands, and one of the pioneers of early life nutrition as well as specialized medical nutrition. The Complainant is present in more than 100 countries across the world, with a portfolio of strong global and local brands, including the trade mark APTAMIL, which is used throughout the world for infant foods, and has acquired considerable renown, consumer recognition, and goodwill at an international level. The Complainant is the owner of various registered trade marks that include APTAMIL in various jurisdictions throughout the world, including the following:

- International trade mark registration No. 376506 for APTAMIL, registered as of February 2, 1971, covering goods in class 5 and designating, among others, the Benelux;
- European Union trade mark registration No. 007203813 for APTAMIL, registered as of October 21, 2010, covering goods in classes 5, 29, 30 and 32.

The Complainant also owns and uses the domain name <aptamil.com> for its main website as well as other domain names including APTAMIL.

The disputed domain name was registered on November 14, 2021, and directs to a website offering infant formula products bearing the APTAMIL trade mark.

5. Parties' Contentions

A. Complainant

The Complainant submits that the disputed domain name is confusingly similar to the Complainant's trade mark APTAMIL. The disputed domain name reproduces in its entirety the Complainant's trade mark APTAMIL. The disputed domain name only differs from the APTAMIL trade mark by the mere addition of the term "eu" after the APTAMIL trade mark. This addition is not enough to avoid the likelihood of confusion arising from the use of the APTAMIL trade mark in the disputed domain name since the first, dominant and recognizable element is the APTAMIL trade mark. The Complainant refers to a prior panel that has already addressed an almost identical case in which the same Complainant successfully challenged a domain name incorporating its APTAMIL trade mark with the same addition of the term "eu". The panel held that was confusingly similar to Complainant's APTAMIL trade mark. See *Nutricia International B.V. v. Domain Protection Services, Inc. / Enoch Okine, Okine Tax & Bookkeeping, LLC*, WIPO Case No. [D2022-1776](#) (<aptamileu.com>).

Furthermore, the Complainant contends that the Respondent does not have any rights or legitimate interests in the disputed domain name. The Complainant contends that the Respondent is not affiliated with the Complainant in any way. It is not an authorized dealer, distributor, or licensee of the Complainant, nor has it been permitted by the Complainant to make any use of its APTAMIL trade mark or to seek registration of any domain name incorporating such trade mark. Furthermore, the Complainant submits that the Respondent cannot conceivably assert that it is using the disputed domain name in connection with a bona fide offering of goods or services in accordance with article 3.1(a) of the Regulations. On the contrary, the disputed domain name is used to direct to a website which fraudulently misleads Internet users into thinking that it is affiliated with the Complainant ("German Aptamil" is mentioned on the website tab) and is purportedly used to promote infant formula products including alleged APTAMIL products or other trade marks (including figurative trade marks) of the Complainant as well as products of direct competitors of the Complainant such as Nestlé. The Respondent's sole purpose appears to be to fraudulently impersonate the Complainant and

to exploit the goodwill in the APTAMIL trade mark in order to confuse Internet users, attract traffic to the website and generate financial gains. Further, the Respondent cannot assert that it is commonly known by the name “Aptamil”, in accordance with article 3.1(b) of the Regulations. Finally, the Complainant submits that the Respondent cannot assert that the use of the disputed domain name constitutes fair use pursuant to article 3.1(c) of the Regulations.

Finally, the Complainant asserts that the disputed domain name has been registered or is being used in bad faith. With respect to the registration of the disputed domain name, the Complainant contends that the Respondent deliberately choose to register a domain name composed of the highly distinctive APTAMIL trade mark with the geographic abbreviation “eu”, and under the country code Top-Level Domain “.nl”, which reveals a calculated attempt to target the Complainant’s European market presence. This combination is likely to mislead Internet users into believing that the disputed domain name is officially connected with the Complainant or its European Union operations. With respect to use of the disputed domain name, the Complainant submits that because the disputed domain name directs to a website that allegedly sells infant formula products bearing the APTAMIL trade mark of the Complainant and by prominently reproducing (including in the header and in other instances on the landing page) the Complainant’s APTAMIL trade mark, the website has thus been seeking to fraudulently mislead Internet users into believing that they are dealing with a genuine website of the Complainant or at least endorsed by the Complainant or associated with the Complainant, where in fact it is not the case at all.

B. Respondent

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

6. Discussion and Findings

Based on article 2.1 of the Regulations, a claim to transfer a domain name must meet three cumulative conditions:

- a. the domain name is identical or confusingly similar to a trademark, trade name or geographical indication protected under Dutch law in which the complainant has rights, or a personal name registered in the General Municipal Register (in Dutch: ‘gemeentelijke basisadministratie’) of a municipality in the Netherlands, or the name of a Dutch public legal entity or the name of an association or foundation registered in the Netherlands under which the complainant undertakes public activities on a permanent basis; and
- b. the registrant has no rights to or legitimate interests in the domain name; and
- c. the domain name has been registered or is being used in bad faith.

As the Respondent has not filed a Response, the Panel shall rule based on the Complaint. In accordance with article 10.3 of the Regulations, the Complaint shall in that event be granted, unless the Panel considers it to be without basis in law or in fact.

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 Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 1.7. ¹

¹In view of the fact that the Regulations are substantially similar to the Uniform Domain Name Dispute Resolution Policy (“UDRP”), it is well established that both cases decided under the Regulations and cases decided under the UDRP, and therefore [WIPO Overview 3.0](#),

[Footnote continued on next page]

The Complainant has shown rights in respect of a trade mark valid in the Netherlands for the purposes of the Regulations.

The Panel finds that the mark is recognizable within the disputed domain name. The only difference is that the term “eu” is added behind the word “aptamil”. This difference does not prevent the finding of confusing similarity between the trade mark and the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Regulations. [WIPO Overview 3.0](#), sections 1.7 and 1.8.

The Panel finds the first element of the Regulations has been established.

B. Rights or Legitimate Interests

Although the overall burden of proof in 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 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 Regulations or otherwise. First, the Respondent did not show that it owns any rights to the name “Aptamil” nor that it has any license from the Complainant to use its APTAMIL trade mark. Second, the Respondent did not argue that it is commonly known, or that it has ever been known under the name “aptamileu”. Third, there is no evidence that the Respondent has used, or prepared to use, the disputed domain name in connection with a bona fide offering of goods or services. On the contrary, the evidence submitted by the Complainant shows that the disputed domain name directs to a website, on which the trade mark APTAMIL of the Complainant as well as original products offered by the Complainant are being shown. Such type of activity, impersonating the Complainant can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel finds the second element of the Regulations has been established

C. Registered or Used in Bad Faith

The Panel notes that for the purposes of art. 2.1(c) of the Regulations it is sufficient that it is established that the disputed domain name has been registered or is being used in bad faith.

The Panel finds first of all that the disputed domain name is registered in bad faith. The Respondent, when registering the disputed domain name, had the trade mark of the Complainant in mind. This trade mark is widely used in the world and is very well known. The fact that the Respondent on its website uses the trade mark of the Complainant in relation to products offered for sale by the Complainant shows that the Respondent had the trade mark of the Complainant in mind. The Panel also finds that the disputed domain name is being used in bad faith. The Panel agrees with the Complainant, that the Respondent, by using the

trade mark of the Complainant in relation with pictures of original products offered for sale by the Complainant, intentionally attempted to attract, for commercial gain, Internet users to the website by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation or endorsement of the website.

The Panel finds that the Complainant has satisfied the requirements of Article 2.1(c) of the Regulations.

7. Decision

For the foregoing reasons, in accordance with articles 1 and 14 of the Regulations, the Panel orders that the Complainant shall become the registrant of disputed domain name.

/Charles Gielen/

Charles Gielen

Panelist

Date: January 9, 2026