

## **ADMINISTRATIVE PANEL DECISION**

Namecheap, Inc. v. Umair Maqbool  
Case No. D2023-4548

### **1. The Parties**

The Complainant is Namecheap, Inc., United States of America (“United States”), represented by Rome LLP, United States.

The Respondent is Umair Maqbool, United Kingdom.

### **2. The Domain Name and Registrar**

The disputed domain name <namecheap.fun> is registered with HOSTINGER Operations, UAB (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 2, 2023. On November 2, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 4, 2023, 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 (PRIVACY PROTECT, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 6, 2023, 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 November 10, 2023.

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 November 14, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 4, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 5, 2023.

The Center appointed Willem J. H. Leppink as the sole panelist in this matter on December 7, 2023. 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 an ICANN-accredited domain name registrar and web hosting company based in Phoenix, Arizona, United States. The Complainant was founded in 2000 by Richard Kirkendall and has since grown to become one of the largest domain name registrars in the world, with over 17 million domain names under management. Since 2000, the Complainant has continuously used the trademarks NAMECHEAP and NAMECHEAP.COM.

The Complainant owns a portfolio of trademark rights consisting of the word element NAMECHEAP, including United States Trademark Reg. Nos. 4,213,990, registered on September 25, 2012, for goods in class 35 and United Kingdom registration No. UK00003593968, registered on August 13, 2021, for goods in classes 35, 42 and 45. Hereinafter referred to as the NAMECHEAP Marks.

The disputed domain name <namecheap.fun> was registered on August 19, 2023. On October 10, 2023, the disputed domain name resolved to a website which includes a “DNS Propagation checker”. At the time of this decision, the disputed domain name does not resolve to an active website.

#### **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 the following.

The Respondent’s misappropriation of the disputed domain name was no accident. Where a mark is famous, as in the instant case, it is “not one traders would legitimately choose unless seeking to create an impression of an association” with the Complainant. This is especially true here where the infringing website purports to offer the same services offered by the Complainant and falsely suggests that the Respondent is somehow affiliated with Complainant and its services.

The Respondent registered the disputed domain name (and set up its corresponding infringing website) in bad faith by doing so with knowledge of the Complainant’s rights in its NAMECHEAP Marks. The Complainant has had an online presence and has been successfully selling and marketing its services since 2000. It is inconceivable that the Respondent was unaware of the Complainant’s rights in the NAMECHEAP Marks, especially where, as here the Respondent fully incorporates the NAMECHEAP Marks into the disputed domain name, attempts to make its infringing website resemble the legitimate Namecheap website.

The Respondent registered the disputed domain name in order to trade off the Complainant’s NAMECHEAP Marks and reputation by creating a false impression of association between the Complainant and the Respondent, and thereby to attract Internet users seeking information related to the Complainant’s services to the Respondent’s website and business.

On September 11, 2023, the Complainant’s counsel sent a cease-and-desist letter to “[...]@namecheap.fun”, which is the email address listed on the Respondent’s website. The letter informed the Respondent of Namecheap’s registered marks, and that the website to which the disputed domain name resolves as well as this domain name infringes the Complainant’s marks, and demanded that the Respondent immediately

cease and desist any use of the “namecheap.fun” name and the disputed domain name. The Complainant’s counsel did not receive a response to the letter.

## **B. Respondent**

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

## **6. Discussion and Findings**

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

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds 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 3.0](#), section 1.7.

Based on the available record, 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 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 has alleged that the Respondent’s has misappropriated the disputed domain name as it as it was chosen to create an impression of an association with the Complainant, because the associated website purports to offer the same services offered by the Complainant and falsely suggests that the Respondent is somehow affiliated with Complainant and its services. Such allegation has not been rebutted by the Respondent.

Based on the available record, 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 finds that the Respondent intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's mark.

On a balance, and certainly lacking a response, the Panel finds that given the notoriety of the Complainant's rights in its NAMECHEAP Marks, the Respondent must have had knowledge of the Complainant's rights in its NAMECHEAP Marks, when registering the disputed domain name and subsequently using it for its website to which the disputed domain name resolved.

The circumstances that the Respondent did not reply to the letter sent by the Complainant, nor respond formally to the Complaint, supports a finding of registration and use in bad faith.

Based on the available record, 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, <namecheap.fun> be transferred to the Complainant.

*/Willem J. H. Leppink/*

**Willem J. H. Leppink**

Sole Panelist

Date: December 11, 2023