

## **ADMINISTRATIVE PANEL DECISION**

CNU Online Holdings, LLC v. hubson berling  
Case No. D2024-3276

### **1. The Parties**

The Complainant is CNU Online Holdings, LLC, United States of America (“U.S.”), represented by Squire Patton Boggs (US) LLP, U.S.

The Respondent is hubson berling, U.S..

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

The disputed domain name <netcredil.com> (the “Disputed Domain Name”) is registered with NameSilo, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 9, 2024. On August 12, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On August 12, 2024, 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 (Registration Private, PrivacyGuardian.org LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 15, 2024, 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 August 15, 2024.

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 August 19, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 8, 2024. The Respondent sent email communications to the Center on August 15, 16 and 19, 2024 (as described in more detail below). On August 19, 2024, in response to Respondent’s emails, the Center asked whether the Parties “wish to explore settlement options.” On

August 20, 2024, Complainant replied: "Please be informed that the Complainant does not wish to suspend the present dispute for settlement talks and would like the proceedings to continue." Accordingly, the Center sent a Commencement of Panel Appointment Process email to the Parties on September 12, 2024.

The Center appointed Douglas M. Isenberg as the sole panelist in this matter on September 17, 2024. 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**

Complainant states that it is "a Chicago-based financial services company that provides personal loans and lines of credit to online consumers under the NETCREDIT brand"; that it "has operated a business under the NETCREDIT name" since "on or around 2012"; and that it operates a website using the domain name <netcredit.com>.

Complainant also states, and provides evidence to support, that it is the owner of multiple registrations for trademarks that consist of or contain "NETCREDIT" (the "NETCREDIT Trademark"), including the following:

- U.S. Reg. No. 5,423,496 for NETCREDIT (registered on March 13, 2018) for use in connection with, inter alia, "arranging of loans"
- U.S. Reg. No. 4,980,015 for NETCREDIT (registered on June 14, 2016) for use in connection with, inter alia, "arranging of loans"
- U.S. Reg. No. 5,643,792 for NETCREDIT (registered on January 01, 2019) for use in connection with, inter alia, "consumer credit consultation"

The Disputed Domain Name was created on April 7, 2024. According to the Complaint, and as supported by an annex provided by Complainant, the Disputed Domain Name is used in connection with a website that purports to offer personal loans up to USD 5,000.

#### **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 as follows:

- The Disputed Domain Name is confusingly similar to the NETCREDIT Trademark because, inter alia, "the only difference" between the two is "the substitution of the letter 'l' for the letter 't,'" which is "highly similar" given that "only a short horizontal line differentiates the two letters."
- Respondent has no rights or legitimate interests in the Disputed Domain Name because, inter alia, Complainant "has not given the Respondent permission to use [the NETCREDIT Trademark] or any similar variants"; and "Respondent's use of a confusingly similar variant of NETCREDIT [ie 'NETCREDIL'] in its domain name registration clearly infringes the Complainant's rights in NETCREDIT."
- The Disputed Domain Name was registered and is being used in bad faith because, inter alia, "Respondent capitalizes on this confusion so that it can trade off the goodwill associated with the Complainant's NETCREDIT marks"; "Respondent is using the Complainant's name and reputation as a licensed loan

provider to induce unsuspecting consumers into engaging with the Respondent, thinking that it is actually the Complainant"; and "Respondent is intentionally using a confusingly similar variant of the Complainant's NETCREDIT mark to collect consumers' personally identifiable information, while providing false contact information so injured consumers cannot seek redress."

## **B. Respondent**

The Respondent did not reply to the Complainant's contentions. However, Respondent submitted three emails to the Center, as set forth below:

- August 15, 2024: "I have received all your information. Our team is aware of the issue. We will resolve it within the next 6 hours. Sorry for the misunderstanding. Please feel free to contact me."

- August 16, 2024: "I have successfully deactivated the domain. I am happy to comply with all agreements. Thank you for your understanding."

- August 19, 2024: "Yes, please proceed. I have terminated the service of this domain name. I have provided all the details."

## **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.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy, namely, the NETCREDIT Trademark. [WIPO Overview 3.0](#), section 1.2.1.

As set forth in section 1.9 of [WIPO Overview 3.0](#): "A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element.... Examples of such typos include... substitution of similar-appearing characters." Here, it is obvious that Respondent's use of the letter "l" in lieu of the letter "t" in the Disputed Domain Name is an intentional misspelling of the NETCREDIT Trademark, because they are similar-appearing characters. The Complainant's trademark remains recognizable within the Disputed Domain Name, accordingly, the Disputed Domain Name is confusingly similar to the NETCREDIT Trademark for the purposes of the Policy.

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 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 notes that the Respondent has created a website that offers the same services as described by Complainant's NETCREDIT Trademark. This is clearly intended "to attract, for commercial gain, Internet users to [Respondent's] web site... by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of [Respondent's] web site." Policy, paragraph 4(b)(iv). Panels have held that the use of a domain name for illegal activity – such as impersonation/passing off, as is the case here – constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the Disputed Domain Name constitutes bad faith under the Policy.

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 <netcredil.com> be transferred to the Complainant.

*/Douglas M. Isenberg/*

**Douglas M. Isenberg**

Sole Panelist

Date: September20, 2024