

## **ADMINISTRATIVE PANEL DECISION**

Nalli Chinnasami Chetty v. Jennifer Nalli

Case No. D2024-3556

### **1. The Parties**

The Complainant is Nalli Chinnasami Chetty, India, represented by De Penning & De Penning, India.

The Respondent is Jennifer Nalli, United States of America (“United States”), represented by Kalamaras Law Office, LLC, United States.

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

The disputed domain name <nallifinancialservices.com> is registered with Squarespace Domains II LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 3, 2024. On September 3, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 4, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 11, 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 amended Complaint on September 13, 2024.

The Center verified that the Complaint together with the amended 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”).

The proceedings were suspended on September 18, 2024, for settlement discussions. In accordance with the Rules, paragraphs 2 and 4, the proceedings were reinstated, and the Center formally notified the Respondent of the Complaint, and the proceedings commenced on November 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 16, 2024. The Center commenced the panel appointment process on December 18, 2024.

The Center appointed Steven A. Maier as the sole panelist in this matter on December 24, 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**

The Complainant is a partnership established in India. It is a manufacturer of clothing, readymade garments, fashion accessories and textiles under the name and trademark NALLI.

The Complainant is the owner of numerous trademark registrations for the mark NALLI in various jurisdictions around the world. Those registrations include, for example:

- India trademark registration number 472754 for a device mark NALLI, registered with effect until May 27, 2028 (and with an application date of May 27, 1987) in International Class 24; and
- United States trademark registration number 2444608 for the word mark NALLI, registered on April 17, 2001, in International Classes 24 and 25.

The Complainant operates a website at "www.nalli.com".

The disputed domain name was registered on July 3, 2024.

The disputed domain name has resolved to a holding page stating "We're under construction. Please check back for an update soon."

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant states that it has operated since 1928 and has used the trademark NALLI in connection with its products since at least 1935. It claims extensive business activities in India and elsewhere throughout the world, although it does not provide supporting financial information. It draws attention to its website at "www.nalli.com", offering online sales internationally, and states that it employs 70 technical staff in this regard.

The Complainant submits that the name NALLI, although based on its founder's first name, is arbitrary in connection with its business, and that the trademark has acquired distinctiveness and a substantial commercial reputation in India and internationally. The Complainant produces a Google search against the term "nalli", the results of which relate overwhelmingly to the Complainant and its products.

The Complainant contends that the disputed domain name is confusingly similar to its NALLI trademark, which it states is the dominant element of the disputed domain name.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. It contends that it has never authorized the Respondent to use its NALLI trademark, and that it believes the Respondent registered the disputed domain name in order to misappropriate the Complainant's business goodwill.

The Complainant submits that the disputed domain name was registered and is being used in bad faith. It contends that, given the widespread scope of the Complainant's business activities, the Respondent would "definitely" have been aware of the Complainant and its trademark. It states that, in the light of such

awareness, the Respondent, which has no connection with the Complainant, should be assumed to have registered and used the disputed domain name on the basis of opportunistic bad faith.

The Complainant requests the transfer of the disputed domain name.

## **B. Respondent**

The Respondent did not file a formal response in the proceeding. However, in the course of correspondence between the Parties (copied to the Center) concerning possible settlement, the Respondent argued that the mark NALLI, being based on a personal name, was not unique to the Complainant. The Respondent submitted that her own surname was Nalli, and that her family is of Italian descent. The Respondent stated that she has worked in financial services in the private funds sector for 15 years, and that her activities in the field of financial services have no connection with the Complainant's business in connection with textiles and clothing. The Respondent submitted that she registered the disputed domain name in connection with a new business, providing outsourced financial services, and intended to use the disputed domain name initially for email purposes.

While the submissions above were stated by the Respondent to be "for settlement purposes only", proceedings under the UDRP are flexible in nature and are intended to result in a just and equitable outcome. Moreover, as observed in section 3.10 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), "panels tend to view settlement discussions between the parties as "admissible", particularly insofar as such discussions may be relevant to assessing the parties' respective motivations." In addition, paragraph 10(a) of the Rules provides that the panel shall conduct the administrative proceeding in such manner as it considers appropriate in accordance with the Policy and the Rules, and paragraph 10(b) requires the Panel to ensure that the parties are treated with equality and that each party is given a fair opportunity to present its case.

Bearing the above provisions in mind, the Panel determines that the Respondent's above statements, albeit made in the context of settlement negotiations, shall be admitted in the proceeding by way of response to the Complainant's contentions.

## **6. Discussion and Findings**

In order to succeed in the Complaint, the Complainant is required to show that all three of the elements set out under paragraph 4(a) of the Policy are present. Those elements are that:

- (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.

### **A. Identical or Confusingly Similar**

The Complainant has established that it is the owner of registered trademark rights in respect of the mark NALLI. The disputed domain name wholly incorporates that trademark, together with the term "financial services", being a description of services in common commercial usage, which does not prevent the Complainant's trademark from being recognizable within the disputed domain name. The Panel therefore finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

## **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. Paragraph 4(c)(ii) includes in those circumstances: that “you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights.”

Even without the Respondent’s informal submissions in this case, the Panel would have harboured misgivings as to whether the Complainant had established the second element under the Policy. While being registered by the Complainant in connection with clothing, textiles and related products, the term “Nalli” is a personal name, and one which appears to be the surname of the Respondent (as was confirmed by the Registrar). Furthermore, the use of that name in connection with financial services would not have suggested to the Panel that the Respondent was, or was more likely than not to have been, necessarily aware of the Complainant’s NALLI trademark, and that she registered the disputed domain name in order to target the goodwill attaching to that trademark.

The Panel’s initial impressions in this regard are only reinforced by the Respondent’s submissions, to the effect that “Nalli” is the surname of the Respondent, that the Respondent has been engaged in providing financial services, and that she registered the disputed domain name in connection with an intended business in that area. The Panel finds in the circumstances that the Respondent has rights or legitimate interests in the disputed domain name, by virtue of having been commonly known by the name “Nalli” and operating in the financial services sector, and that there is no evidence to indicate that she registered the disputed domain name in order to target the Complainant’s trademark rights.

The Complainant has not therefore succeeded in establishing the second element under the Policy, and the Complaint must necessarily fail.

## **C. Registered and Used in Bad Faith**

While the Panel’s findings in respect of the second element, above, are sufficient to dispose of this matter, the Panel adds for the record that it finds no basis upon which to conclude that the Respondent registered or has used the disputed domain name in bad faith. The Panel does not accept that the Respondent was “definitely” aware of the Complainant’s trademark and business when she registered the disputed domain name, and even if that were the case, the Panel finds that the Respondent registered and has used the disputed domain name in connection with her own name and legitimate business, and not in an attempt to take unfair advantage of the Complainant’s trademark rights.

## **D. Reverse Domain Name Hijacking**

Paragraph 15(e) of the Rules provides that, if after considering the submissions, the Panel finds that the Complaint was brought in bad faith, for example in an attempt at Reverse Domain Name Hijacking or to harass the domain-name holder, the Panel shall declare in its decision that the Complaint was brought in bad faith and constitutes an abuse of the administrative proceeding. The mere lack of success of the complaint is not, on its own, sufficient to constitute reverse domain name hijacking. [WIPO Overview 3.0](#), section 4.16.

In this case, the identity of the Respondent, including her surname “Nalli”, became apparent to the Complainant on September 11, 2024, being the date that the registrant information provided by the Registrar was provided to the Complainant. Furthermore, the correspondence between the Parties referred to above, the Panel has seen no evidence of the Complainant disputing, or in any manner responding, to the Respondent’s submissions that “Nalli” was her surname and that she was legitimately engaged in business in the financial services sector.

The Complainant in this matter is professionally represented and should in the view of the Panel have become aware by virtue of these matters that its claim was misconceived and had no reasonable prospect of succeeding. The Panel finds in the circumstances that the Complaint was brought (or at any rate continued) in bad faith and constitutes an abuse of the administrative proceeding.

## **7. Decision**

For the foregoing reasons, the Complaint is denied. Moreover, the Panel finds that the Complaint has been brought in bad faith and constitutes an attempt at Reverse Domain Name Hijacking.

*/Steven A. Maier/*

**Steven A. Maier**

Sole Panelist

Date: January 7, 2025