

ADMINISTRATIVE PANEL DECISION

Nutri-Paw Ltd v. Jean-Pierre Khoueiri

Case No. D2024-4484

1. The Parties

The Complainant is Nutri-Paw Ltd, United Kingdom, represented by Daneel Williams LLP, United Kingdom.

The Respondent is Jean-Pierre Khoueiri, United States of America (“United States”), self-represented.

2. The Domain Name and Registrar

The disputed domain name <nutripaw.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 31, 2024. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name that differed from the named Respondent (REGISTRANT UNKNOWN) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 8, 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 November 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”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on November 19, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 9, 2024. The Respondent submitted its response on November 27, 2024. The Complainant made an unsolicited supplemental filing on November 29, 2024.

The Center appointed Gordon Arnold, Ganna Prokhorova, and Matthew Kennedy as panelists in this matter on January 7, 2025. The Panel finds that it was properly constituted. Each member of 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 sells food and supplements for pets, and pet care grooming and dental care products. It was incorporated in the United Kingdom on August 18, 2020, and holds multiple trademark registrations, including the following:

- United Kingdom trademark registration number UK00003648936 for NUTRIPAW NUTRI-PAW NUTRI PAW, registered on October 15, 2021, specifying goods in class 31 including animal foodstuffs;
- United Kingdom trademark registration number UK00003766030 for a series of marks comprising NUTRIPAW and NUTRI-PAW, registered on June 10, 2022, specifying goods in class 31 including animal foodstuffs; and
- European Union trademark registration number 018913975 for NUTRIPAW, registered on November 29, 2023, specifying goods in classes 5 and 31.

The Complainant also registered the domain name <nutri-paw.com> on August 15, 2020, which it uses in connection with a website to promote and sell its products.

The Respondent is chief executive officer of ConstantClick, a digital marketing agency, and Private MD Labs.

The disputed domain name was created on August 23, 2008. According to historic Whois data presented by the Complainant, the registrant of the disputed domain name was a third party as recently as January 17, 2014. The Respondent acquired the registration at some later point in time. The disputed domain name currently redirects to a website displaying pornography.

According to evidence presented by the Complainant, the disputed domain name is listed for purchase on a domain name broker's platform. Interested parties can make an offer but no asking price is specified. On January 23, 2024, the Complainant contacted the Registrar's domain name broker service to see if it could assist with negotiating a transfer of the disputed domain name (a copy of that initial communication is not on file). The Registrar's domain name broker offered to contact the current owner. The Complainant expressed concern that the disputed domain name redirected to a pornography site, to which people misspelling the Complainant's domain name were directed. A little over an hour later, the Registrar's domain name broker responded that the disputed domain name had been purchased the year before for more than USD 20,000. The Registrar's domain name broker advised that it would need an offer "above that number" in order to get into a discussion with the owner. The Complainant later stated in an email on the record that its correspondence with the Registrar's domain name broker was short "due to the 20k price tag".

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.

The Complainant makes the following specific arguments:

- The Respondent is not the original owner of the disputed domain name but instead acquired it at some point in 2023 onwards.
- Evidence suggests that the ownership of the disputed domain name was transferred at a date subsequent to the Complainant's acquisition of rights in the trademarks NUTRIPAW, NUTRI-PAW and NUTRIPAW (logo).

- The Complainant commenced use of the NUTRIPAW trademark in 2020 in connection with food and supplements for pets, and pet care grooming and dental care products.
- As a result of extensive and significant use in the United Kingdom, the Complainant has acquired unregistered rights through use in the trademark NUTRIPAW as well as registered trademark rights.
- The disputed domain name is identical or confusingly similar to the Complainant's NUTRIPAW, NUTRI-PAW, and NUTRIPAW (logo) trademarks.
- The Respondent has no rights or legitimate interests in respect of the disputed domain name.
- The Respondent does not appear to have any interest in using the disputed domain name in connection with a bona fide offering of goods; in fact, it redirects to a pornography website.
- It appears that the redirection has been put in place to tarnish the Complainant's business and apply pressure on the Complainant to purchase the disputed domain name.
- The Complainant operates a family-friendly business offering advice, information, and products for household pets.
- There is no evidence to suggest that the Respondent is commonly known by the disputed domain name.
- The disputed domain name has been registered and is being used in bad faith.
- The Respondent purchased the disputed domain name without any legitimate interest for a significant sum of money in full knowledge of the Complainant's distinctive trademark rights at some point in 2023 onwards.
- The redirection to a pornography website is designed to apply pressure on the Complainant to purchase the disputed domain name for a significant amount of money.
- If the disputed domain name was made up of purely descriptive terms, the value would be significantly less. Given that the disputed domain name is made up of a distinctive trademark, its value is higher, which explains why the Respondent allegedly paid a high purchase price. It can be implied from the Respondent's conduct that he registered the disputed domain name to prevent the Complainant from reflecting its trademark in the corresponding domain name.
- The evidence suggests that the Respondent has engaged in a pattern of registering domain names corresponding to marks held by third parties. There are likely additional domain names owned by the Respondent where the registrant details are marked private.
- It is clear that the Respondent is seeking to take unfair advantage of the Complainant's reputation by engaging in behavior that is detrimental to the Complainant's trademark rights. Tarnishment of a trademark can also constitute evidence of bad faith.

B. Respondent

The Respondent contends that the Complainant has not satisfied the elements required under the Policy for a transfer of the disputed domain name.

The Respondent makes the following specific arguments:

- The disputed domain name was registered on August 23, 2008, well before the formation of the Complainant's company, the filing of the Complainant's trademark applications, or the registration of the Complainant's domain name.
- It is impossible for the disputed domain name to have been registered in bad faith, as the Complainant's business and trademarks did not yet exist.
- At the time of registration, there was no knowledge of, or intent to target, the Complainant's trademark or business interests.
- The Complainant should have been aware of the existence of the disputed domain name at the time when it applied for its trademarks.
- Any claim of bad faith registration of the disputed domain name is baseless and unfounded.
- The disputed domain name is not being used to compete with the Complainant's business or products.
- The way in which the Respondent chooses to use the disputed domain name is entirely its prerogative and does not interfere with or compete against the Complainant's business activities.
- While the Respondent has been testing different monetization avenues, the disputed domain name does not mislead consumers, create confusion, or attempt to exploit the Complainant's trademark in any way.
- In no way, shape, or form is the disputed domain name's use directed at, competing with, or undermining the Complainant's brand.
- The disputed domain name has been registered and used in good faith at all times.
- The Complainant cannot provide evidence to the contrary and it bears the burden of proof of both bad faith registration and bad faith use. Neither criterion applies to this case.

6. Discussion and Findings

6.1 Unsolicited Supplemental Filing

The Complainant made an unsolicited supplemental filing on November 29, 2024, after the filing of the Response and prior to the appointment of the Panel. The Respondent did not comment on the unsolicited supplemental filing.

Paragraph 10(c) of the Rules requires the Panel to ensure that the administrative proceeding takes place with due expedition. Paragraph 10(d) of the Rules also provides that "[t]he Panel shall determine the admissibility, relevance, materiality and weight of the evidence". Although paragraph 12 of the Rules empowers the Panel, in its sole discretion, to request further statements or documents from either of the Parties, this does not preclude the Panel from accepting unsolicited filings. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 4.6.

In the present case, the Complainant argues in its supplemental filing that the Response overlooks evidence and information in the Complaint. The supplemental filing recites evidence that is already on the record. The only new element is information about ways in which a party can prove longstanding ownership of a domain name, which is self-evident. Accordingly, the Panel sees no reason that would justify accepting the supplemental filing.

Therefore, in the interests of ensuring that this administrative proceeding takes place with due expedition, the Panel declines to accept the Complainant's supplemental filing as part of the record of this proceeding.

6.2 Substantive Issues

Paragraph 4(a) of the Policy provides that the Complainant must prove each of the following elements:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (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.

The Complainant bears the burden of proof of each element. Failure to demonstrate any one element will result in denial of the Complaint.

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

The Complainant has shown registered rights in respect of a NUTRIPAW trademark (without a hyphen) and a NUTRI-PAW trademark (with a hyphen), among others, for the purposes of the Policy. While the UDRP makes no specific reference to the date on which the holder of the trademark acquired its rights for the purpose of the standing requirement, such rights must be in existence at the time when the complaint was filed, as is the case here. See [WIPO Overview 3.0](#), sections 1.1.3 and 1.2.1. That being the case, it is unnecessary to consider the Complainant's claim to hold unregistered trademark rights.

Turning to the assessment of identity or confusing similarity, the Panel notes that the disputed domain name wholly incorporates the NUTRIPAW mark. The disputed domain name also incorporates the NUTRI-PAW mark, omitting all but the hyphen. The only additional element is a generic Top-Level Domain ("gTLD") extension (".com") which, as a standard requirement of domain name registration, may be disregarded in the comparison with a trademark for the purposes of the first element of paragraph 4(a) of the Policy. Accordingly, the Panel finds that the disputed domain name is identical to the NUTRIPAW mark and confusingly similar to the NUTRI-PAW mark for the purposes of the Policy. See [WIPO Overview 3.0](#), sections 1.7 and 1.11.1.

Therefore, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Given the Panel's findings regarding the third element of paragraph 4(a) of the Policy in Section 6.2C below, it is unnecessary to consider the second element.

C. Registered and Used in Bad Faith

The Panel notes that the third element of paragraph 4(a) of the Policy contains two requirements that apply conjunctively. A complainant must show both that the disputed domain name has been registered in bad faith and also that it is being used in bad faith. The former requires a demonstration that the Respondent knew, or should have known of the Complainant and/or the Complainant's trademark at the time when it registered or acquired the disputed domain name and that it registered the disputed domain name with a bad faith intention targeting the Complainant and/or its mark.

The Registrar has verified that the creation date of the disputed domain name was August 23, 2008. However, the Respondent cannot have been the original registrant because a historic Whois record provided by the Complainant shows that the disputed domain name was held by a third party on January 17, 2014. There is no suggestion that the Respondent is related to that prior registrant. The name and contact details of the Respondent differ from those of the prior registrant, the Respondent is not listed by the California Secretary of State as an officer of the prior registrant, and the Respondent does not claim to be related to the prior registrant.

Where a respondent is not the original registrant of a disputed domain name, as here, the date that panels will consider when assessing bad faith is the date on which the current registrant acquired the disputed domain name. See [WIPO Overview 3.0](#), section 3.9. In the present case, that date is unclear. The Panel has seen no Whois record later than 2014 showing a registrant name for the disputed domain name. The Complainant's enquiries of a prior registrant did not yield a date of transfer. While the Complainant provides a copy of an email conversation with the Registrar's domain name broker from January 2024 in which it was alleged that the disputed domain name was transferred the year before, that allegation is unverified. The Respondent did not dispute that allegation but nor did he consider that date relevant. The disputed domain name was apparently redirecting to a pornography site already by January 2024. The Panel has considered the possibility of issuing a procedural order to seek the date on which the Respondent acquired the disputed domain name but, in view of the findings below, such an order is not necessary. Rather, the Panel will assume *arguendo* that the Respondent acquired the disputed domain name in 2023, subsequent to the Complainant's acquisition of trademark rights.

If the Respondent acquired the disputed domain name in 2023, this would have been after the registration of the Complainant's NUTRIPAW and NUTRI-PAW marks in the United Kingdom, and possibly after the registration of the Complainant's NUTRIPAW mark in the European Union as well. Yet the Panel does not consider that the Respondent should be deemed to have constructive notice of the contents of the United Kingdom and European Union trademark registers. The Complainant alleges that it made extensive and significant use of its NUTRIPAW trademark in the United Kingdom prior to the registration of these trademarks, since 2020. However, it provides no evidence to substantiate this allegation. In fact, the record of this proceeding does not show which versions of its mark the Complainant uses other than in its domain name (i.e., as one word or two, with or without a hyphen, or in a logo). The Complainant does not assert that it has used its mark outside the United Kingdom, such as in the United States, where the Respondent is based. While the Complainant does refer to its website, it provides no evidence of use of its mark online or its reputation, such as its website content, the results of an Internet search, or website traffic data.

The Panel takes note that the disputed domain name is an exact match with one version of the Complainant's mark, i.e. NUTRIPAW. The Complainant evidently derived this mark from a combination of a dictionary word ("paw") and a truncated form of another word ("nutri" as in "nutrition") that together suggest nutrition for animals, which is the nature of the Complainant's business. Clearly, it is possible to derive this term independently, as the original registrant did so 12 years before the Complainant ever began business. The Respondent provides no explanation for his choice to acquire the disputed domain name but, given its composition, the Panel does not consider its identity with the NUTRIPAW mark, alone, sufficient to infer an awareness of the Complainant or its mark.

Accordingly, the Complainant has failed to make a *prima facie* case that the Respondent knew, or should have known, of the Complainant and/or its rights at the time when he acquired the disputed domain name.

The other circumstances of this case do not establish that the Respondent targeted the Complainant or its mark. The disputed domain name is listed for sale on a domain name broker's platform but no price is specified for it. Although another domain name broker proposed a minimum offer, it does not appear to have consulted the Respondent first. While an approximate amount of more than USD 20,000 was mentioned as the price paid to acquire the disputed domain name (presumably by the Respondent), the primary source of that amount is not identified and, in any case, the Panel cannot conclude without more that such a price is more likely than not to reflect its value as the Complainant's trademark rather than as a combination suggestive of nutrition for animals.

The Panel is also unable to infer that the Respondent intended the redirection to a pornography website to apply pressure on the Complainant to purchase the disputed domain name, or to tarnish the Complainant's mark, as it has not been established that the Respondent was aware of the Complainant at the relevant time.

The Respondent's domain name portfolio does not indicate that he has engaged in a pattern of abusive domain name registrations, from which it could be inferred that he sought to prevent the Complainant from reflecting its NUTRIPAW mark in the ".com" gTLD or otherwise capitalize on any goodwill created by the Complainant, to cause confusion, or to disrupt the business of the Complainant. According to evidence presented by the Complainant, the Respondent's name is associated with at least 213 other domain name registrations, of which four include a trademark. However, none of these four domain names prevents an owner from reflecting its trademark in a domain as they all include other elements, and none on its face (except <mercedesbenzmiami.com>) is clearly abusive of a trademark, as these domain names are composed of dictionary words, a geographical term, or both.

Accordingly, regardless of when the Respondent acquired the disputed domain name, the evidence the Complainant presented in support of its arguments does not carry the Complainant's burden of showing that the Respondent's aim in registering the disputed domain name was to profit from or exploit the Complainant's trademark.

Therefore, the Panel finds the third element of the Policy has not been established.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Matthew Kennedy/
Matthew Kennedy
Presiding Panelist

/Ganna Prokhorova/
Ganna Prokhorova
Panelist

/Gordon Arnold/
Gordon Arnold
Panelist
Date: January 21, 2025