

ADMINISTRATIVE PANEL DECISION

Nordic Group B.V. v. Domain Administrator, See PrivacyGuardian.org /
Jeremy Wolf

Case No. D2022-2565

1. The Parties

The Complainant is Nordic Group B.V., Netherlands, represented by Hogan Lovells (Paris) LLP, France.

The Respondent is Domain Administrator, See PrivacyGuardian.org, United States of America / Jeremy Wolf, United Kingdom.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 13, 2022. On July 14, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 15, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on July 18, 2022, 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 July 23, 2022.

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 July 25, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 14, 2022. On July 27, 2022, the Center received informal email communications from the Respondent claiming that the Complaint is unfounded. The Center notified the Commencement of Panel Appointment Process on August 16, 2022.

The Center appointed Tuukka Airaksinen as the sole panelist in this matter on August 22, 2022. 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 part of an international group of pharmaceutical companies trading as Nordic Pharma with presence in 17 countries. The Complainant owns the trademark NORDIC, which is registered in several jurisdictions, for example in the European Union under number 2745354 as of June 29, 2006.

The disputed domain name was registered on January 31, 2022, and it resolves to a website apparently offering hormonal products. The website suggests that the goods are offered by NordiPharma AS, based in Copenhagen, Denmark.

5. Parties' Contentions

A. Complainant

The disputed domain name incorporates the Complainant's trademark NORDIC as its leading element, altered only by the omission of the letter "c". This does not prevent a finding of confusing similarity with the Complainant's trademark. Furthermore, the addition of the word "pharma" does not prevent a finding of confusing similarity as the Complainant is a pharmaceutical company.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is not a licensee of the Complainant, nor has it been otherwise authorized by the Complainant to use its trademark.

The Respondent is purporting to operate a genuine pharmaceutical business, when in fact no such business exists. Research conducted by the Complainant revealed no evidence of any company trading under the name NordiPharma in Denmark.

The Respondent's website lists a physical address and contains an image of what are purported to be the company's premises at that address. However, this image has been copied from Google Map images of the same address. It also appears that the word "nordipharma" has been added to the premises in a graphics editor.

The Complainant also attempted to reach the representatives of "NordiPharma AS" multiple times via telephone and email listed at the website. All calls were unanswered and emails were not deliverable.

The Respondent's website suggests that it owns a registered trademark "nordipharma". However, research conducted by the Complainant revealed no evidence of any company trading under the name NordiPharma in Denmark or elsewhere and uncovered no registered rights for "nordipharma" owned by "NordiPharma AS".

Regarding the content of the Respondent's website, while numerous pages linked within the website return "page not found" errors, a product page is accessible. The Complainant's research revealed that the product image at that section of the website is in fact not a photograph but was created in a graphics editor in February 2022.

Because the Complainant's trademark rights for NORDIC predate the registration of the disputed domain name by some 20 years, the Respondent knew or should have known of the Complainant's trademark when registering the disputed domain name. The Respondent has adopted a fictitious trading name and domain name, similar to those of the Complainant, in order to lend authenticity to its illegitimate and unregulated sale

of pharmaceutical products.

B. Respondent

The Respondent's email of July 27, 2022, can be summarized as follows:

The disputed domain name does not refer to any existing product and is used solely for data analytics and personal use. There is no intention to mimic the Complainant's products or their intellectual property and hence the Complaint is unfounded.

6. Discussion and Findings

In order to obtain the transfer of a domain name, a complainant must prove the three elements of paragraph 4(a) of the Policy, regardless of whether the respondent files a response to the complaint or not. The first element is that the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights. The second element a complainant must prove is that the respondent has no rights or legitimate interests in respect of the domain name. The third element a complainant must establish is that the domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires that the Complainant establish that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights. Consequently, the Complainant must prove that it has rights to a trademark, and that the disputed domain name is identical or confusingly similar to this trademark.

According to section 1.11 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), "[t]he applicable Top Level Domain ('TLD') in a domain name (e.g., '.com', '.club', '.nyc') is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test".

Furthermore, "where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. The nature of such additional term(s) may however bear on assessment of the second and third elements". See section 1.8 of the [WIPO Overview 3.0](#).

The disputed domain name is confusingly similar to the Complainant's trademark as it includes the Complainant's trademark in its entirety altered only by the omission of the letter "c" and combined with the word "pharma", relating to the Complainant's business as a pharmaceutical company. This does not prevent confusing similarity between the Complainant's trademark and the disputed domain name.

This means that the disputed domain name is confusingly similar to the Complainant's trademark and hence the first element of the Policy has been fulfilled.

B. Rights or Legitimate Interests

Paragraph 4(a)(ii) of the Policy requires that the Complainant establish that the Respondent has no rights or legitimate interests to the disputed domain name.

It is widely accepted among UDRP panels that once a complainant has made a *prima facie* showing indicating the absence of the respondent's rights or legitimate interests in a disputed domain name, the burden of production shifts to the respondent to come forward with evidence of such rights or legitimate interests. If the respondent fails to do so, the complainant is deemed to have satisfied the second element of the Policy. See, e.g., *Document Technologies, Inc. v. International Electronic Communications Inc.*,

WIPO Case No. [D2000-0270](#), and section 2.1 of the [WIPO Overview 3.0](#).

The Complainant has credibly submitted that the Respondent is neither affiliated with the Complainant in any way nor has it been authorized by the Complainant to use and register the disputed domain name, that the Respondent has no rights or legitimate interests in the disputed domain name, and that the Respondent has not made and is not making a legitimate noncommercial or fair use of the disputed domain name and is not commonly known by the disputed domain name in accordance with paragraph 4(c)(ii) of the Policy.

Furthermore, the Complainant has put forward convincing arguments supported by evidence to demonstrate that the disputed domain name is used for promoting and selling illegal and unregulated pharmaceutical products. In his communications, the Respondent did not respond to any of the specific contentions put forward by the Complainant. The Respondent's blank denial of not having anything to do with the Complainant or any existing product is not credible. If the disputed domain name was indeed used solely for data analytics and personal use, as the Respondent contends, what is the reason for Respondent putting up a website under the disputed domain name which is confusingly similar to the Complainant's trademark, with obviously false company information, and pretending to operate in the pharmaceutical business? The Panel finds that there is no legitimate reason for this.

Accordingly, the Panel finds that the Complainant has made a *prima facie* case that has not been credibly rebutted by the Respondent. Considering the Panel's findings below, the Panel finds that there are no other circumstances that provide the Respondent with any rights or legitimate interests in the disputed domain name. Therefore, the Panel finds that the second element of the Policy is fulfilled.

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy requires that the Complainant establish that the disputed domain name has been registered and is being used in bad faith. Paragraph 4(b) of the Policy provides that the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

“(i) circumstances indicating that [the respondent has] registered or has acquired the domain name primarily for the purpose of selling, renting or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of [the respondent's] documented out-of-pocket costs directly related to the domain name; or

(ii) [the respondent has] registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that [the respondent has] engaged in a pattern of such conduct; or

(iii) [the respondent has] registered the domain name primarily for the purpose of disrupting the business or competitor; or

(iv) by using the domain name, [the respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the respondent's] website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of [the respondent's] website or location or of a product or service on [the respondent's] website or location.”

Considering that the Complainant has been using and registering its trademark for some 20 years before the disputed domain name was registered, and taking into account the nature of the website to which the disputed domain name resolves, the Respondent must have been aware of the Complainant and its trademark when registering the disputed domain name. See section 3.1.4 of the [WIPO Overview 3.0](#).

Considering that the website to which the disputed domain name resolves is obviously fraudulent, and that the disputed domain name has been found to be confusingly similar to the Complainant's trademark, the

disputed domain name has been used merely to intentionally attempt to attract, for commercial gain, Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's trademark.

Therefore, the Panel finds that the third element of the Policy is fulfilled.

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, <nordipharma.com>, be transferred to the Complainant.

/Tuukka Airaksinen/

Tuukka Airaksinen

Sole Panelist

Date: September 5, 2022