

ADMINISTRATIVE PANEL DECISION

Nerdlegame Ltd v. Ahmad Sattar
Case No. D2023-3000

1. The Parties

Complainant is Nerdlegame Ltd, United Kingdom, represented by Aaron Newell, United Kingdom.

Respondent is Ahmad Sattar, Pakistan.

2. The Domain Name and Registrar

The disputed domain name <nerdlegame.net> (the “Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 13, 2023. On July 14, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On the same day, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name, which differed from the named Respondent (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email to Complainant on July 18, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Upon Complainant’s request received on July 21, 2024, the proceedings were suspended on the same day. The suspension was further extended numerous times upon Complainant’s requests. Finally, the proceedings were reinstated on January 8, 2024. Complainant filed an amendment to the Complaint on January 14, 2024.¹

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 Respondent of the Complaint, and the proceedings commenced on January 15, 2024. In accordance with the Rules, paragraph 5, the due

¹ The Complainant removed two domain names from the Complaint upon receipt of the Center’s notice of multiple underlying registrants.

date for Response was February 4, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on February 5, 2024. Upon the Center's notification, Respondent sent two informal communication emails on February 5, and 13, 2024.

The Center appointed Robert A. Badgley as the sole panelist in this matter on February 15, 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 alleges:

"The Complainant is the entity that in 2021 created and founded the game known as 'Nerdle'. 'Nerdle' is an online mathematics-based strategy game that launched late in 2021 at the domain name nerdlegame.com. The game is based on a grid and game play requires users to input digits and determine numerical patterns. At February 2022 the game was receiving widespread media attention and enjoyed over one million daily users."

Annexed to the Complaint are various news articles from February 2022, in publications such as *CNET* (February 10, 2022), *Metro* (February 8, 2022), *UK Daily Mail* (February 8, 2022), which discuss the launch of the NERDLE game.

Complainant owns the domain name [<nerdlegame.com>](http://nerdlegame.com), and uses that domain name for its main website.

Complainant holds two United Kingdom registered trademarks for NERDLE, namely, Reg. No. UK00003751557 for NERDLE, registered on May 6, 2022 in connection with "computer games," and Reg. no. UK00003757776 for NERDLE, registered on May 13, 2022 in connection with, among other things, "Number based games and puzzles."

The Domain Name was registered on April 16, 2022. The Domain Name currently redirects to a website at the domain name [<numblee.org>](http://numblee.org), which website features number-based games similar to Complainant's NERDLE games. The [<numblee.org>](http://numblee.org) website makes repeated references to NERDLE. At the bottom of the page, the following text appears:

"NerdleGame.net © 2022 All rights reserved. Nerdlegame.net is not affiliated with 'Nerdlegame.com, Nerdle.com' in any way."

Before the Complaint in this proceeding was filed, the Domain Name resolved to a website which, according to Complainant, "contained [...] a copy of the Complainant's mathematics game, but did not contain a disclaimer." Complainant annexed to the Complaint August 8, 2022 and February 10, 2023 screenshots from the Wayback Machine (www.archive.org) to support this assertion.

By email to the Center dated February 5, 2024, Respondent stated (with punctuation added): "We are no longer user [sic] that website name."

By email to the Center dated February 13, 2024, Respondent stated (with punctuation added):

"We have down [sic] the website. But we will not transfer the domain, We will let it be expire. We can only allow you to transfer the domain for \$1000."

5. Parties' Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

B. Respondent

Respondent did not formally reply to Complainant's contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to the Domain Name:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Panel finds that Complainant holds rights in the trademark NERDLE through registration and use demonstrated in the record. The Panel finds that the Domain Name is confusingly similar to the NERDLE mark. The entire mark is incorporated into the Domain Name, and the additional word "game" does not overcome the fact that the NERDLE mark is clearly recognizable within the Domain Name.

Complainant has established Policy paragraph 4(a)(i).

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

- (i) before any notice to you [Respondent] of the dispute, your use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a bona fide offering of goods or services; or
- (ii) you [Respondent] (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; or
- (iii) you [Respondent] are making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel concludes that Respondent lacks rights or legitimate interests in respect of the Domain Name. Respondent has not come forward to dispute Complainant's allegations or articulate some bona fide basis for registering the Domain Name. On the undisputed record, the Panel concludes that Respondent targeted Complainant's mark to generate revenue through consumer confusion between the Domain Name and Complainant's mark. Such a use of the Domain Name is clearly illegitimate.

Complainant has established Policy paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that the following circumstances, “in particular but without limitation,” are evidence of the registration and use of the Domain Name in “bad faith”:

- (i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or
- (ii) that 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 Respondent has engaged in a pattern of such conduct; or
- (iii) that Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or
- (iv) that by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent’s website or other online location, by creating a likelihood of confusion with Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of Respondent’s website or location or of a product or service on Respondent’s website or location.

The Panel concludes that Respondent has registered and used the Domain Name in bad faith. The Panel incorporates here its discussion above in the “Rights or Legitimate Interests” section. The Panel finds, on this undisputed record and on a balance of probabilities, that Respondent had Complainant and its NERDLE mark in mind when registering the Domain Name. This is clear from the fact that the Domain Name includes not only the NERDLE mark but also the word “game,” which term is descriptive of Complainant’s services. The content of the websites to which the Domain Name resolved at various points in time reinforces this conclusion.

As discussed above, the Panel concludes that Respondent targeted Complainant’s mark in order to impersonate Complainant for commercial gain. This use of the Domain Name falls within the above-quoted Policy paragraph 4(b)(iv), and hence constitutes bad faith registration and use of the Domain Name.

Complainant has established Policy paragraph 4(a)(iii).

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 Domain Name <nerdlegame.net> be transferred to Complainant.

/Robert A. Badgley/

Robert A. Badgley

Sole Panelist

Date: February 21, 2024