

ADMINISTRATIVE PANEL DECISION

Nalli Chinnasami Chetty v. Saivishal Goud
Case No. D2023-3099

1. The Parties

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

The Respondent is Saivishal Goud, India.

2. The Domain Name and Registrar

The disputed domain name <nallitrading.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 July 19, 2023. On July 19, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 19, 2023, 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 (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 20, 2023 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 25, 2023.

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 August 3, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 23, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 25, 2023.

The Center appointed Meera Chature Sankhari as the sole panelist in this matter on September 1, 2023. 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 registered partnership firm established in the year 1928. Mr. Nalli Kuppuswami Chetty and Mr. Nalli Ramanathan aka N.K. Ramanathan are the partners of the said firm. The Complainant is the proprietor of the trademark NALLI (collectively referred to as the "NALLI mark") in several countries including India under Registration No. 472754 in class 24 filed on May 27, 1987 and United States Trademark Registration No. 2444608 registered on April 17, 2001. The Complainant also owns several domain name registrations, including "www.nalli.com" from April 28, 1998, "www.mynalli.com", "www.nalli.uk.com", "www.nalli.us.com" "www.nallsilk.com" and many more.

The Respondent registered the disputed domain name on March 12, 2023 and resolves to an inactive page.

5. Parties' Contentions

A. Complainant

The Complainant claims that it is the first adopter and the original proprietor of the trademark NALLI. It claims to have expended considerable time and money and concerted efforts in building the brand value associated with the trademark NALLI. Owing to such long, continuous and extensive use, the Complainant claims to be the exclusive proprietor of the said well-known trademark in India and several countries.

The Complainant asserts that the disputed domain name "www.nallitrading.com" is confusingly similar to the well-known trademark of the Complainant NALLI. The Complainant further states that it has not licensed or otherwise permitted the Respondent to register the disputed domain name using the Complainant's trademark.

The Complainant contends that the Respondent has registered the disputed domain name in bad faith for the following reasons:

- i) The Respondent is from India and hence must have abundant knowledge of the reputation commanded by the Complainant within India and internationally and that registration despite such knowledge indicates bad faith;
- ii) That the Respondent is trying to usurp the goodwill and reputation of the Complainant's trademark NALLI through the disputed domain name particularly since there is no connection with the Complainant.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

To transfer the disputed domain name from the Respondent, the Complainant must prove the following elements as per paragraph 4(a) of the Policy:

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

- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

Paragraph 15(a) of the Rules instructs the Panel to decide a complaint “on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”.

Further, since the Respondent has not submitted its reply in the case at hand, this Panel finds it appropriate case to “decide the dispute based upon the complaint” as per paragraph 5(f) of the Rules read with paragraphs 14(a) and 14 (b) of the Rules.

Having considered the Complainant’s case and the evidence available, the Panel finds as follows.

A. Identical or Confusingly Similar

The Complainant owns registered trademarks for its NALLI mark for which due evidence has been furnished by it. It also has numerous domain names which include the NALLI mark. The disputed domain name consists of the trademark NALLI in its entirety.

Per section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), “where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing”.

The addition of the terms “trading” does not prevent a finding of confusing similarity, per section 1.8 of the [WIPO Overview 3.0](#).

Given the above, the Panel finds that the disputed domain name is confusingly similar to the Complainant’s well-known trademark NALLI and with that the Complainant has satisfied the elements required in paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant has established statutory as well as common law rights in and to its trademark NALLI, and has supported the same through documentary evidence.

The Panel finds that a *prima facie* case is made by the Complainant, pursuant to which, the burden shifts to the Respondent to come forward with an appropriate allegations and relevant evidence demonstrating rights or legitimate interests in the disputed domain name.

The Complainant has submitted that it has no affiliation with the Respondent and that it has neither permitted nor licensed the use of its NALLI mark to the Respondent.

As the Respondent has failed to put forth any evidence stating its rights over the word ‘Nalli’ or the disputed domain name. Further, there is nothing on the record to show that the Respondent is known as the disputed domain name.

Since the Respondent in the case at hand failed to come forward with any allegations or evidence in this regard to rebut the Complainant’s *prima facie* case, this Panel finds that the Complainant has established that the Respondent has no rights or legitimate interests in the disputed domain name (see *Deutsche Lufthansa AG v. Mustermann Max, Muster AG*, WIPO Case No. [D2015-1320](#); *<Edmunds.com>, Inc v. Triple E Holdings Limited*, WIPO Case No. [D2006-1095](#); *Legacy Health System v. Nijat Hassanov*, WIPO Case No. [D2008-1708](#)). The Complainant is therefore deemed to have satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

[WIPO Overview 3.0](#), section 3.1.4 states that “Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely known trademark by an unaffiliated entity can by itself create a presumption of bad faith”.

The Complainant contends to have been using its NALLI mark since 1935 and has provided evidence of registration since at least 1987. The Complainant contends that considering the well spread reputation and goodwill, incessant use and registration of the Complainant’s trademark NALLI in India and foreign jurisdictions, the Respondent ought to have had constructive notice of the Complainant’s rights in the trademark NALLI. The Panel concurs with the Complainant’s allegations and finds *bad faith* on the ground that it is inconceivable that the Respondent, who resides in India, could not have known of the Complainant’s well-known trademark NALLI.

Given this and as previously found in similar cases, this Panel holds that the Respondent, who is also based in India, ought to have had knowledge of the Complainant’s trademark NALLI prior to the registration of the disputed domain name, which is a clear indication of bad faith. See *The Gap, Inc. v. Deng Youqian*, WIPO Case No. [D2009-0113](#); *Caesar World, Inc. v. Forum LLC*, WIPO Case No. [D2005-0517](#).

Furthermore, the passive holding of the disputed domain name does not prevent a finding of bad faith use. See section 3.3 of the [WIPO Overview 3.0](#).

The Complainant is therefore deemed to have satisfied paragraph 4(a)(iii) 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, <nallitrading.com>, be transferred to the Complainant.

/Meera Chature Sankhari/

Meera Chature Sankhari

Sole Panelist

Date: September 18, 2023