

ADMINISTRATIVE PANEL DECISION

Nalli Chinnasami Chetty v. Natalie Diaz
Case No. D2023-3775

1. The Parties

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

The Respondent is Natalie Diaz, Nalie, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <nalie.shop> 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 September 11, 2023. On September 11, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 12, 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 (Registration Private, Domain By Proxy LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 13, 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 September 14, 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 September 21, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 11, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 13, 2023.

The Center appointed Reyes Campello Estebaranz as the sole panelist in this matter on October 26, 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 operates in the clothing industry, manufacturing and commercializing since 1928 silk sarees as well as other clothing, readymade garments, fashion accessories, textile goods etc. under the brand NALLI. The Complainant runs an international business from its headquarters in India, and currently serves a global market through various showrooms and shops in different jurisdictions (including India, United States, United Arab Emirates, Australia, Singapore, Canada, and United Kingdom), and at its corporate website and online store at “www.nalli.com” that was launched in 1998.

The Complainant owns various trademark registrations for the brand NALLI including United States Trademark Registration No. 2444608, NALLI, word, registered on April 17, 2001, in classes 24 and 25; and United States Trademark Registration No. 2100656, NALLI, figurative, registered on September 30, 1997, in class 24. These trademark registrations will collectively be referred to as the “NALLI mark”.

The Complainant further owns over 300 domain names corresponding to its NALLI mark, including <nalli.com> (registered on April 28, 1998).

The disputed domain name was registered on August 13, 2023, and it resolves to a website in English language that commercializes jewelry under the brand NALIE, which is displayed at its heading in rose stylized capitals. This website offers a wide range of products (neckless, earrings, bracelets, rings, jewelry sets, and charms) displaying photographs of these products and their respective prices, to be ordered and purchased over the site. The “About Us” section indicates, “NALIE was created with the intention of allowing everyone to express themselves. We offer good quality and affordable jewelry to help set your own trends with our latest styles”. This website does not include information about its owner, and provides, as contact information only an email address and links to various social media pages.

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.

Notably, the Complainant contends that the reputation of its NALLI mark has been recognized by a prior decision under the Policy (*Nalli Chinnasami Chetty vs James H Park*, WIPO Case No. [D2017-1373](#)), and the disputed domain name is confusingly similar to its brand, being a case of typosquatting. The Respondent has no rights or legitimate interests in respect of the disputed domain name, as the Complainant has not licensed or otherwise permitted the Respondent to use a deceptively similar trademark to its brand. Taking into account the reputation, continuous use, and registration of the NALLI mark in India and foreign jurisdictions, the Respondent ought to have had constructive notice of the Complainant’s rights. The disputed domain name was registered and is being used with the intent to divert the public to the Respondent’s website by misrepresenting an association with the Complainant, and to unfairly gain by selling the disputed domain name at a premium price to third parties.

B. Respondent

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

6. Discussion and Findings

The Complainant has made the relevant assertions as required by the Policy and the dispute is properly within the scope of the Policy. The Panel has authority to decide the dispute examining the three elements in paragraph 4(a) of the Policy, taking into consideration all of the relevant evidence, annexed material and allegations, and performing some limited independent research under the general powers of the Panel articulated, *inter alia*, in paragraph 10 of the Rules.

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. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy, namely the NALLI mark. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds that the NALLI mark is recognizable within the disputed domain name, as the term "nalie" shares a similarity with the term "nalli" (the prefix "nal" being the same and the only difference being an "ie" ending versus an "li"). Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Therefore, based on the available record, the Panel finds the first element of the Policy has been established.

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.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

However, the Panel notes various circumstances and facts in the record that may confer rights or legitimate interests to the Respondent under the Policy. Particularly, the fact that the Respondent's first name, according to the Registrar's verification, is "Natalie" which may be shortened as "Nalie" and could indicate that the Respondent is commonly known by this name (the email address and Registrant Organization provided by the Registrar are also "nalie").

Additionally, the Panel notes the use of the disputed domain name in connection to an apparently legitimate business in the jewelry sector, which does not appear to suggest any connection to the Complainant or its business in the clothing industry. In this respect, the Panel particularly notes that the Respondent's website appears to be legitimate, it does not imitate the design, color combination, or general look and feel of the Complainant's website, and it does not include the Complainant's NALLI mark or any reference to the Complainant, its business, and/or its products.

Additionally, the Panel further notes that, although the Complainant has alleged that the Respondent may have an intention to unfairly gain by selling the disputed domain name at a premium price to third parties, no evidence on the record supports this allegation.

The Panel considers that these circumstances justify that the decision regarding the second element may be refer to the analysis of the third element.

C. Registered and Used in Bad Faith

The Policy, paragraph 4(a)(iii), requires that the Complainant establishes that the disputed domain name has been registered and is being used in bad faith.

The Panel notes that the Complainant's NALLI mark has a long and continuous existence in the market in India for over 90 years, and its current extensive presence over the Internet. The Panel has corroborated that, according to the Complainant's allegations, any search over the Internet for the term "nalli" reveals the Complainant and its prior rights.

The Panel has further corroborated that according to a prior decision under the Policy, alleged by the Complainant, "The Complainant's Trademark NALLI has acquired significant uniqueness and repute due to its long and continuous usage by the Complainant, particularly in India [...]".¹

However, the Panel considers that these circumstances are not sufficient to demonstrate the Respondent's bad faith, in a case like this one, in which there are other circumstances that may justify rights or legitimate interests in the Respondent.

It is not clear to what extent the NALLI mark is known globally to support an inference of awareness by the Respondent.

Taking into account all circumstances of this case, the Panel considers plausible that the Respondent registered and used the disputed domain name in good faith solely in consideration to its first name abbreviation and her apparently legitimate online business in the jewelry sector, and not in consideration or targeting the Complainant and its NALLI mark.

The Complainant has not sufficiently demonstrated that the Respondent targeted the NALLI mark in bad faith, in an effort to generate a false affiliation to increase the Respondent's website traffic, or to gain by the selling of the disputed domain at a premium price.

In a balance of probabilities, although the term "nalie" shares some similarities with the Complainant's mark, it may correspond to the Respondent's first name "Natalie" used to identify a business in the jewelry sector – and corresponds to the email address and Registrant Organization provided by the Respondent to the Registrar, and not deliberately constructed to generate an affiliation with the Complainant and its trademark.

Therefore, based on the available record, the Panel finds the third element of the Policy has not been established.

¹Decision *Nalli Chinnasami Chetty v. James H Park*, supra.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Reyes Campello Estebarez/

Reyes Campello Estebarez

Sole Panelist

Date: November 9, 2023