

ADMINISTRATIVE PANEL DECISION

UKROED Limited v. Domain Admin, TotalDomain Privacy Ltd
Case No. D2023-3855

1. The Parties

Complainant is UKROED Limited, United Kingdom (“U.K.”), represented by Colucci & Umans, U.K.

Respondent is Domain Admin, TotalDomain Privacy Ltd, Panama.

2. The Domain Name and Registrar

The disputed domain name <ndors.org> (“Domain Name”) is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 15, 2023. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On September 19, 2023, 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 (Privacy Protect, LLC) and contact information in Complaint.

The Center sent an email communication to Complainant on September 25, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on September 29, 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 Respondent of the Complaint, and the proceedings commenced on October 2, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 22, 2023. The Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on October 24, 2023.

The Center appointed Marina Perraki as the sole panelist in this matter on October 30, 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

Complainant is a not-for-profit company which was incorporated in 2013, responsible for the operation, management, administration, and development, on behalf of police forces in the U.K., of the National Driver Offender Retraining Scheme known as "NDORS". NDORS is a scheme by which courses are offered by police forces in the U.K. as an educational alternative to a driver being prosecuted for a road traffic offence.

NDORS was developed in the late 1990's and was formally established in the early 2000s by the Association of Chief Police Officers ("ACPO"). From 2009 NDORS was operated under the control of ACPO and subsequently for and on behalf of the National Police Chiefs' Council (NPCC) (ACPO being replaced by the NPCC on 1 April 2015). Complainant was appointed by the National Lead (the national lead for roads policing in England, Wales, and Northern Ireland), for the benefit of the police forces participating in NDORS, with sole responsibility to manage and administer the NDORS scheme.

An offending driver offered a course by the police registers on Complainant's offer portal on its website at "offer.ndors.org.uk". Registration enables the offending driver to view their course offer and select which relevant course they would like to attend. The courses are delivered by third party providers (private companies, local authorities, or police forces) who have been accredited by Complainant to deliver certain courses. Course providers are not able to deliver NDORS courses unless they have a license from Complainant to deliver the courses and a police force contract in place.

The number of people completing NDORS courses in 2014 was 1,355,796 and in 2015 was 1,403,555. The accounts of Complainant for the period April 2014 to September 2015 set out that (i) the overall volume of completions (number of people completing courses) was 2,009,209 in 2014/15 (18 months) and 1,120,073 in 2013/2014 and (ii) overall income received from fees was GBP 79,767,805 in 2014/15 (18 months) and GBP49,945,535 in 2013/2014.

Complainant is the owner of, inter alia, the U.K. trademark registration UK00002623223 for NDORS (word), filed on June 1, 2012, and registered on September 7, 2012 for goods and services in international classes 16 and class 41.

Per Complaint, Complainant owns, inter alia, also the following domain names: <ndors.org.uk> registered on October 21, 2008 and <ndors.co.uk> registered on October 21, 2008.

The Domain Name was registered on October 19, 2015, and as Complainant demonstrated:

- (a) On June 10, 2019 the Domain Name was being offered for sale for GBP 1,873.09.
- (b) On February 3, 2023 the Domain Name was available for sale at a price of GBP 51,532 plus GBP 19.97/year.
- (c) On February 9, 2023 the Domain Name lead to a website with pay-per-click ("PPC") links for driving related courses. These links lead to courses which were not accredited by Complainant and had no connection with Complainant.
- (d) On July 28, 2023 the Domain Name lead to a website with PPC links for "Speed Awareness Course", "Safety Awareness Course" and "Training Courses". The "Speed Awareness Course" link lead to details of courses which were not accredited by Complainant, and had no apparent connection with Complainant. It also lead to details of a U.K. driving awareness course offered by "TTC", who are one of the Claimant's accredited training providers. However, Respondent's link for "TTC" lead to a web page which was not active.
- (e) Also on July 28, 2023, Respondent's site stated that the Domain Name may be for sale. The for sale banner lead to a GoDaddy enquiry page, showing the Domain Name for sale for 61,525.16 plus GBP19.97/year.

Complainant became aware of Respondent and the Domain Name when on February 1, 2023, a third party First4Safety Limited (F4S) emailed Complainant requesting that Complainant urgently remove F4S's details and number from the website at the Domain Name. The email stated, "we keep getting calls for your courses which we DO NOT DO!!!". The website at the Domain Name gave F4S's contact details. Namely, users looking for Complainant's courses had mistakenly believed that Respondent's site was that of Complainant or connected with Complainant and had contacted F4S believing them to be one of Complainant's accredited course providers at their details on the website.

5. Parties' Contentions

A. Complainant

Complainant asserts that it has established all three elements required under paragraph 4(a) of the Policy for the transfer of the Domain Name.

B. Respondent

The Respondent did not 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

Complainant has demonstrated rights through registration and use on the NDORS trademark.

The Panel finds that the Domain Name is identical to the NDORS trademark.

The generic Top-Level Domain ("gTLD") ".org" is disregarded, as gTLDs typically do not form part of the comparison on the grounds that they are required for technical reasons only (*Rexel Developpements SAS v. Zhan Yequn*, WIPO Case No. [D2017-0275](#)).

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 Respondent of the dispute, Respondent's 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) 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) Respondent is 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 finds that Respondent lacks rights or legitimate interests in respect of the Domain Name.

Respondent has not submitted any response and has not claimed any such rights or legitimate interests with respect to the Domain Name. As per Complainant, Respondent was not authorized to register the Domain Name.

Respondent has not demonstrated any preparations to use, or has not used the Domain Name or a trademark corresponding to the Domain Name in connection with a *bona fide* offering of goods or services.

On the contrary, as Complainant demonstrated, the Domain Name resolved to the websites which contained PPC links to driving and courses, namely links relevant to Complainant's business, and also a link purportedly to one of Complainant's accredited training providers.

Respondent has not provided any explanation about the inclusion of these links. In the absence of such explanation, it appears not unlikely to the Panel that the inclusion of these links was intended to increase and monetize the traffic to the Domain Name, which would increase the attractiveness and price in the offer for sale (*Sanofi v. Privacy Hero Inc. / Honey Salt Ltd, pat honey salt*, WIPO Case No. [D2020-2836](#)).

These circumstances speak against any rights or legitimate interests held by Respondent.

Furthermore the Domain Name was being offered for sale. While prior panels have accepted that aggregating and holding domain names consisting of acronyms, dictionary words, or common phrases (for resale) can be *bona fide*, the Domain Name consists of the uncommon acronym NDORS, which at least according to the evidence presented (and which is corroborated by a Google search – the entirety of the first page of results (being several dozen links) referring to Complainant) appears to stand for nothing else except for Complainant's trademark.

This, along with the fact that the Domain Name is registered with a privacy shield service, speaks against any rights or legitimate interests held by Respondent (*Ann Summers Limited v. Domains By Proxy, LLC / Mingchun Chen*, WIPO Case No. [D2018-0625](#); *Carrefour v. WhoisGuard, Inc., WhoisGuard Protected / Robert Jurek, Katrin Kafut, Purchasing clerk, Starship Tapes & Records*, WIPO Case No. [D2017-2533](#)).

In addition, the nature of the Domain Name, being identical to Complainant's trademark – and in the absence of any contrary explanation, carries a high risk of implied affiliation ([WIPO Overview 3.0](#), section 2.5.1).

The Panel finds that

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. Complainant's NDORS mark had been used – notably by almost a million and a half users in the year prior to the registration of the Domain Name – and registered before the time of the Domain Name registration by Respondent. Therefore, noting also the identity of the Domain Name with Complainant's distinctive trademark, the Panel finds it more likely than not that Respondent had Complainant's mark in mind when registering the Domain Name (*Tudor Games, Inc. v. Domain Hostmaster, Customer ID No. 09382953107339 dba Whois Privacy Services Pty Ltd / Domain Administrator, Vertical Axis Inc.*, WIPO Case No. [D2014-1754](#)).

As regards use, the Domain Name resolves to a website which contains PPC links related to driving and courses, namely Complainant's business. Accordingly, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent's website, by creating a likelihood of confusion with Complainant's mark. It has been recognized that use of another's trademark to generate revenue from Internet advertising can constitute registration and use in bad faith (*McDonald's Corporation v. ZusCom*, WIPO Case No. [D2007-1353](#); *Volkswagen Aktiengesellschaft v. Robert Brodi*, WIPO Case No. [D2015-0299](#); *SAP SE v. Domains by Proxy, LLC / Kamal Karmakar*, WIPO Case No. [D2016-2497](#); [WIPO Overview 3.0](#), section 3.5).

Furthermore, the Domain Name is being offered for sale for an amount that apparently exceeds the acquisition price paid by Respondent, and there was no attempt from Respondent to contest that.

The Panel considers also the apparent concealment of the Domain Name holder's identity through use of a privacy shield, to be further indicative of bad faith (*BHP Billiton Innovation Pty Ltd v. Domains By Proxy LLC / Douglass Johnson*, WIPO Case No. [D2016-0364](#)).

Under these circumstances and on this record, the Panel finds that Respondent has registered and used the Domain Name in bad faith.

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 disputed domain name, <ndors.org> be transferred to Complainant.

/Marina Perraki/

Marina Perraki

Sole Panelist

Date: November 13, 2023