

## **ADMINISTRATIVE PANEL DECISION**

**NJ Academy of Home Inspectors, LLP v. Diana Goldstein**  
**Case No. D2023-4565**

### **1. The Parties**

Complainant is NJ Academy of Home Inspectors, LLP, United States of America (“United States”), represented by The Ingber Law Firm, United States.

Respondent is Diana Goldstein, United States.

### **2. The Domain Names and Registrars**

The disputed domain names <njahi.com>, <njahi.net>, and <njahi.org> (the “Domain Names”) are registered with GoDaddy.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 2, 2023. On November 6, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. On November 6, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Names which differed from the named Respondent (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email to Complainant on November 17, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on November 17, 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 November 21, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 11, 2023. On December 11, 2023, Respondent requested the automatic four-day extension to submit a Response. The new due date for Response was December 15, 2024. The Response was filed with the Center on December 15, 2023.

The Center appointed Robert A. Badgley as the sole panelist in this matter on December 28, 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

According to the Complaint:

“Since January 31, 2020, Complainant has been the leading New Jersey provider of educational services in the nature of home inspector schools. Complainant has a strong presence in New Jersey and on online and social media sites.”

Complainant holds a registered trademark for NJAHI with the United States Patent and Trademark Office (“USPTO”), Reg. No. 6,939,670, registered on January 3, 2023 in connection with “educational services in the nature of home inspector schools,” with a January 31, 2020 date of first use in commerce. Complainant filed this USPTO trademark application on November 30, 2021.

Complainant operates a website at the domain name <nj-ahi.com>, a domain name Complainant registered on March 15, 2019.

The Domain Names were registered on October 7, 2006. Complainant appears to assert that Respondent was not the original owner of the Domain Name. According to the Complaint:

“Upon information and belief, Registrant/Respondent NKA David Goldstein, Director, Inspector Education Institute purchased the Disputed Domain Names in or around July 11, 2021.” Complainant provides no evidence to support the assertion that the Domain Names were first acquired by Respondent in July 2021, as opposed to some earlier date. Complainant also alleges that the Domain Names “have been fraudulently used and held by Registrant [Respondent].”

Complainant alleges further that, “David Goldstein, Director, Inspector Education Institute [“IEI”] began redirecting Internet users of the Disputed Domain Names to Respondent’s competing website located at “www.inspectoreducation.com”, where they advertise their competing home inspection courses.” According to Complainant, both Complainant and Respondent are in the home inspection business, and both operate in the state of New Jersey. David Goldstein is Respondent’s husband.

Complainant alleges that it first became aware of the Domain Names and their redirection to the website “www.inspectoreducation.com” in September 2021.

On January 6, 2023, three days after Complainant’s mark was registered with the USPTO, Complainant’s counsel sent a cease-and-desist letter to IEI, asserting Complainant’s trademark rights and demanding that IEI cease redirecting the Domain Names to the IEI website and that the Domain Names be transferred to Complainant.

On January 19, 2023, IEI, through Director Goldstein, wrote to Complainant’s counsel, stating in part:

“The domain names njahi.com, njahi.net and njahi.org were properly registered many years before your client or his trademark existed. As such, we are under no obligation to transfer these domain names to your client. However, as a gesture of cooperation and without prejudice to our position, we have taken the necessary steps to discontinue having all of these directed to www.inspectoreducation.com. If your client would like to purchase the domain names, we would be happy to entertain an offer.”

On January 23, 2023, Complainant’s counsel sent a letter to IEI, stating in part:

“There is strong evidence that Inspector Education Institute, a New Jersey based entity, began using NJAHI.com, NJAHI.org, & NJAHI.net, after July of 2021, for at least the bad faith purpose of causing confusion and diverting consumers from their known existing New Jersey competitor, NJAHI® LLP.”

In this letter, Complainant’s counsel offered to pay USD 500, plus any applicable transfer fees, in exchange for the Domain Names.

On February 14, 2023, IEI’s Director Goldstein sent a letter to Complainant’s counsel, stating in part:

“The domain names njahi.com, njahi.net and njahi.org were properly registered in 2006, approximately 8 years before Mr. Bruno received his Home Inspector license on May 30, 2014 and more than 13 years before your client’s trademark is listed as having been first used on January 31, 2020. It is also our understanding that your client’s domain name, nj-ahi.com, was not registered until March 15, 2019. As such, we are under no obligation to transfer these domain names to your client. However, as indicated in our letter to you of January 19, 2023, as a gesture of cooperation and without prejudice to our position, we have taken the necessary steps to discontinue having all of these directed to www.inspectoreducation.com.”

There was no explanation in this letter of who “Mr. Bruno” was or his relationship, if any, to the Parties.

As of October 30, 2023, the Domain Names resolved to a parking page, which contained various hyperlinks, including “Beach Rentals,” “Pizza Menu,” “Property Inspectors,” and “Residential House Inspection.”

Respondent asserts that she registered the Domain Names on October 7, 2006, and that Complainant’s suggestion that she first acquired them in July 2021 is “entirely false.”

Respondent states:

“Respondent has been the sole owner of the domains since October 2006. The domains were originally purchased by Respondent in 2006 in furtherance of efforts to assist her spouse, David Goldstein, and others, to form the New Jersey Association of Home Inspectors, Inc. (“Association”), fifteen years before Complainant entered the home inspector education market. Respondent allowed the Association to use the domains while the Association was in operation. The Association ceased operations effective August 15, 2021. Respondent, still the sole owner of the domains, elected to use them rather than ‘park’ them, as was her exclusive right as the sole owner of the domains from 2006. Respondent’s ownership of the domains was established long before Complainant ever began operations.”

Annexed to the Response are various receipts from the Registrar showing Respondent’s registration and renewal of the Domain Names going back to 2006.

The Panel identified, at a website operated by the New Jersey Department of Revenue (“www.njportal.com”), a “Division of Revenue and Enterprise Services Business Records Services” entry for an entity called “New Jersey Association of Home Inspectors, Inc.,” apparently formed in September 1998 and listing as the entity’s town the same New Jersey town as Respondent.

## **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 Names.

### **B. Respondent**

Respondent’s position is reflected above in the “Factual Background” section.

## 6. Discussion and Findings

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

- (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 concludes that Complainant has rights in the mark NJAHI through registration demonstrated in the record. The Panel also finds the Domain Names to be identical to that mark.

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

### B. Rights or Legitimate Interests

For each of the Domain Names, 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 need not decide this element, given its conclusion below on the “bad faith” element.

### C. Registered and Used in Bad Faith

For each of the Domain Names, 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 Complainant has failed to prove that Respondent both registered and used the Domain Names in bad faith. The record here indicates that Complainant has been using the mark NJAHI since January 31, 2020, and registered that mark on January 3, 2023.

The record also reflects that the Parties operate in the same geographic area and in largely the same business. The record also shows that Respondent had been using the Domain Names to redirect to Respondent's own commercial website, which offers services in competition with Complainant's services.

Complainant's problem here, however, is that it has failed to provide any evidence that Respondent had Complainant's NJAHI mark in mind when Respondent first acquired the Domain Names. As noted above, the Domain Names were first registered on October 7, 2006, many years before Complainant had any trademark rights, and there is no evidence in the record to indicate that the Domain Names changed hands over time such that Respondent acquired them after Complainant began using the NJAHI mark. On the contrary, Respondent asserts that she registered the Domain Names back in 2006, and she offers evidence of having registered them back then, as well as a plausible explanation for having done so.

As such, the record is devoid of any evidence of bad faith registration by Respondent, and the Complaint must fail. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, section 3.8.1.

Complainant has not established Policy paragraph 4(a)(iii).

## **7. Decision**

For the foregoing reasons, the Complaint is denied.

*/Robert A. Badgley/*

**Robert A. Badgley**

Sole Panelist

Date: January 11, 2024