

## **ADMINISTRATIVE PANEL DECISION**

Freedom Group Inc. v. PC Nolan & Associates  
Case No. D2023-4615

### **1. The Parties**

The Complainant is Freedom Group Inc., United States of America (“United States” or “US”), represented internally.

The Respondent is PC Nolan & Associates, United States.

### **2. The Domain Name and Registrar**

The disputed domain name <rinstar.com> is registered with Network Solutions, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 7, 2023. On November 9, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 10, 2023, the Registrar transmitted by email to the Center its verification response, confirming that the Respondent is listed as the registrant and its contact details. In response to the Center’s invitation to rectify certain information in the Complaint, the Complainant filed an amendment to the Complaint on November 24, 2023.

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 the Respondent of the Complaint, and the proceedings commenced on November 27, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 17, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 26, 2023.

The Center appointed W. Scott Blackmer as the sole panelist in this matter on January 5, 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

According to the minimal information provided in the Complaint, the Complainant is a corporation headquartered in Reno, Nevada, United States that provides “an on-line registry for renewable fuels; providing an on-line registry used to track, record, and validate the renewable identification numbers associated with the transfer of renewable fuels in accordance with the US renewable fuel standard”. This language is exactly what is listed in the Complainant’s trademark registration for RINSTAR as a word mark, which was registered as United States Trademark Number 3484311 on August 12, 2008, in International Class 35 (business administration and management). The Complainant applied for this registration on January 8, 2008.

According to the online database of the Nevada Secretary of State, the Complainant is a Nevada corporation formed on May 4, 2001.<sup>1</sup> The Complainant furnishes no evidence concerning its business or the use of its mark other than the description of services found in its trademark registration. The Panel notes that a website at “www.rinregister.com” operated by the “Clean Fuels Clearinghouse”, also in Reno, Nevada, displays the RINSTAR mark and offers “specialized services for compliance with EPA motor fuel regulations”.

The Registrar reports that the disputed domain name was created on June 1, 2005, and is registered to the Respondent PC Nolan & Associates, listing a postal address in Clinton, New Jersey, United States, and a contact email address using the domain name <pcnolan.com>. Screen captures from the Internet Archive’s Wayback Machine show that this domain name has been associated from December 1998 through January 13, 2024, with a web page advertising the consulting services of P.C. Nolan & Associates, Inc. for construction supply chain management. The Complaint, however, attaches a screenshot showing that in December 2023 the domain name <pcnolan.com> redirected after a few moments to a Chinese gambling website, and at the time of this Decision some browsers return a “forbidden” message for that website.

At the time of this Decision, the disputed domain name resolves to a landing page advertising EarthLink web hosting services. The Panel notes that the Wayback Machine has archived screenshots showing that the disputed domain name redirected at times in 2021 to the Respondent’s website at “www.pcnolan.com”.

The Complainant states that it has attempted unsuccessfully to contact the Respondent, offering to buy the disputed domain name.

#### 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 disputed domain name is identical to its registered RINSTAR trademark and that “[t]he Complainant was unable to find any mention of rinstar.com or other similar terms in connection with PC Nolan & Associates”.

The Complainant contends that the Respondent registered the disputed domain name “primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to any future owners of the trademark or to a competitor of th[e] Complainant, for valuable consideration in excess of the Respondent’s out-of-pocket costs directly related to the domain name”. The Complainant argues that bad faith cybersquatting behavior can be inferred from the fact that the Respondent also appears to have registered a domain name, <quicktrap.com>, which is the registered trademark of a third party, as evidenced by a reverse Whois lookup.

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<sup>1</sup> The Panel notes that it has undertaken limited independent research, pursuant to paragraph 10 of the Rules (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (“[WIPO Overview 3.0](#)”), section 4.8).

Further, the Complainant cites the Respondent's "significant level of negligence" in the "mismanagement" of the domain name used for its own website, <pcnolan.com>, allowing it to be redirected to a Chinese gambling website. "The Respondent has demonstrated by the management of their own company's website that they are not a responsible domain custodian. Such mismanagement of rinstar.com would cause damages to the Complainant's Trademark."

## **B. Respondent**

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

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy provides that a complainant must demonstrate each of the following:

- (i) the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- (ii) the 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.

Under paragraph 15(a) of the Rules, "[a] Panel shall 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".

### **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 3.0](#), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). 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 available 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. The Panel found a few instances of historical screenshots showing that the disputed domain name was used briefly in 2021 to redirect to the Respondent's website, but no evidence that the Respondent was known by a corresponding name or offered products or services branded with such a name. Moreover, rights or legitimate interests under the Policy are generally assessed at the time of the Complaint. See [WIPO Overview 3.0](#), section 2.11.

Accordingly, the Panel finds the second element of the Policy has been established.

### **C. Registered and Used in Bad Faith**

The Policy requires evidence of both the registration and use of the disputed domain name in bad faith, and the Complaint is patently deficient in meeting this conjunctive requirement. The disputed domain name was created on June 1, 2005, and the record does not indicate that it was later acquired by the Respondent. The Complainant did not apply for a trademark until January 8, 2008, claiming first use in commerce in April 2007. Thus, by the Complainant's own account, it was not using the mark until nearly two years after the disputed domain name was registered. The Complainant contends that the Respondent registered the disputed domain name primarily for the purpose of selling it to "future owners of the trademark" for an excessive price, but this would require the Respondent to have prior knowledge of the Complainant's business plans and prospects, as in "anticipatory registration" cases. See [WIPO Overview 3.0](#), section 3.8.2. The Complainant does not offer such evidence here. Moreover, as per the Complainant's own account, the Respondent has not replied to the Complainant's offer to buy the disputed domain name.

Thus, on this record it cannot be shown that the Respondent had the Complainant's mark in contemplation when registering the disputed domain name. Any arguments advanced about the Respondent's putative negligence in handling its own website or alleged cybersquatting with another domain name are therefore immaterial to the bad faith issue in this proceeding.

The Panel finds the third element of the Policy has not been established.

## **7. Decision**

For the foregoing reasons, the Complaint is denied.

*/W. Scott Blackmer/*

**W. Scott Blackmer**

Sole Panelist

Date: January 22, 2024