

ADMINISTRATIVE PANEL DECISION

Nordic Group B.V. v. Hiring Desk
Case No. D2024-0163

1. The Parties

The Complainant is Nordic Group B.V., Netherlands (Kingdom of the), represented by Hogan Lovells (Paris) LLP, France.

The Respondent is Hiring Desk, United States of America (“United States”).

2. The Domain Names and Registrar

The disputed domain names <nordicpharmabv.com> and <nordicpharmabv.online> are registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 16, 2024, regarding initially the disputed domain name <nordicpharmabv.com>. On January 16, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name <nordicpharmabv.com>. On the same date, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 17, 2024, 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 January 26, 2024, also requesting the addition of the disputed domain name <nordicpharmabv.online> to the proceeding. On January 29, 2024, the Center transmitted by email to the Registrar a new request for registrar verification in connection with the disputed domain name <nordicpharmabv.online>. On the same date, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

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 January 30, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 19, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on February 20, 2024.

The Center appointed Torsten Bettinger as the sole panelist in this matter on February 22, 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

The Complainant is part of an international group of pharmaceutical companies trading as Nordic Pharma with presence in 17 countries. The Complainant owns the trademark NORDIC, which is registered in several jurisdictions, for example in the European Union under number 2745354 as of June 29, 2006.

The disputed domain name <nordicpharmabv.com> was registered on December 11, 2023. The disputed domain name <nordicpharmabv.online> was registered on January 1, 2024.

The disputed domain names previously resolved to pay-per-click ("PPC") websites generated by the Registrar, and there is evidence that the disputed domain name <nordicpharmabv.com> was also used in connection to a fraudulent email scheme.

The Complainant sent a suspension request regarding the disputed domain name <nordicpharmabv.com> to the Registrar. The Registrar agreed to suspend the disputed domain name <nordicpharmabv.com> on December 21, 2023, and therefore the disputed domain name <nordicpharmabv.com>, at the time of filing the Complaint, resolved to an active web page.

The disputed domain name <nordicpharmabv.online>, at the time of filing the Complaint, also did not resolve as it was put on "ClientHold" by the Registrar.

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 names.

With regard to the requirement of identity or confusing similarity between the trademark and the disputed domain names pursuant to paragraph 4(a)(i) of the Policy, the Complainant asserts that:

- The disputed domain names incorporate the Complainant's NORDIC trademark as its leading element;
- the addition of the elements "pharma" and "bv" does not prevent a finding of confusing similarity as the terms "pharma" and "bv" refer to the Complainant's trade name, as well as to the full corporate name of one of its affiliates;
- the generic Top-Level Domains ("gTLDs") ".com" and "online" are viewed as a standard registration requirement and as such are typically disregarded under the first element confusing similarity test.

With regard to the Respondent having no rights or legitimate interests in the disputed domain names, the Complainant submitted that:

- the Respondent is unable to invoke any of the circumstances set out in paragraph 4(c) of the Policy in order to demonstrate rights or legitimate interests in the disputed domain names;

- the Respondent is not using the disputed domain names in connection with any bona fide offering of goods or services;
- the Respondent cannot assert that, prior to any notice of this dispute, it was using, or had made demonstrable preparations to use, the disputed domain names in connection with a bona fide offering of goods or services in accordance with paragraph 4(c)(i) of the Policy;
- the Respondent is not a licensee of the Complainant, nor has it been otherwise authorized or allowed by the Complainant to make any use of its NORDIC trademark, in a domain name or otherwise;
- the disputed domain name <nordicpharmabv.com> was used as part of fraudulent advance-fee employment phishing scheme, targeting prospective employees and that such use can by no means be considered as a bona fide offering of goods or services under the Policy;
- the Respondent is not commonly known by the disputed domain names;
- the Respondent does not appear to have acquired any trade mark rights including the term "Nordic" that would confer any rights or legitimate interests on the Respondent pursuant to paragraph 4(c)(ii) of the Policy;
- the use of the disputed domain name <nordicpharmabv.com> in an effort to impersonate the Complainant in the furtherance of a fraudulent advance-fee employment phishing scheme or similar cannot give rise to any reasonable claim of being commonly known by the disputed domain name;
- in light of the use of the disputed domain name <nordicpharmabv.com> for an illegal activity the Respondent can also not assert that it has made legitimate noncommercial or fair use of this disputed domain name, without intent for commercial gain to misleadingly divert consumers pursuant to paragraph 4(c)(iii) of the Policy;
- the fact that the disputed domain name <nordicpharmabv.online> was merely parked before it was put on ClientHold by the Registrar does not give rise to any rights or legitimate interests in this disputed domain name;
- the fact that the disputed domain names used to resolve to PPC pages before they were suspended by the Registrar does not support a claim that they have been used in connection with a bona fide offering of goods and services.

Finally, with regard to the disputed domain names having been registered and being used in bad faith, the Complainant provided evidence that the Respondent used the disputed domain name <nordicpharmabv.com> for a criminal scheme utilizing a Nigerian/419 advanced-fee scam, attempting to collect personal identifying information, and to persuade victims to send money to the Respondent in connection with a fake employment scheme. The Complainant infers from the composition of the disputed domain name <nordicpharmabv.online> that it was registered and intended to be used to engage in similar fraudulent online activity.

Further, the Complainant argues that:

- the Complainant's NORDIC trademark has acquired considerable renown and goodwill throughout the world as a result of its continuous and extensive use for over 20 years in the pharmaceutical industry;
- the Complainant's trademark rights for NORDIC predate the Respondent's registration of the disputed domain names by some 21 years;
- in light of this extensive and long standing use, the Respondent knew or should have known of the Complainant's NORDIC trademark and Nordic Pharma trade name at the time of registration of the disputed domain names in December 2023 and January 2024;
- the Respondent registered the disputed domain names with a view to engaging in an advance-fee employment phishing scheme;
- the Respondent's registration of the disputed domain names behind a privacy service further evidences the Respondent's bad faith;
- the disputed domain name <nordicpharmabv.com> was used by the Respondent to send emails impersonating the Complainant in order to engage in an advance-fee employment phishing scheme;
- the use of a domain name for per se illegitimate activity such as impersonation or phishing can never confer rights or legitimate interests on a respondent, and is manifestly considered evidence of bad faith;
- by using the disputed domain name <nordicpharmabv.com> in such manner, the Respondent intentionally attempted to attract, for commercial gain, Internet users to its website or other online

location by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website or location or of a product or service on its website or location, in bad faith pursuant to paragraph 4(b)(iv) of the Policy;

- the use of the disputed domain name <nordicpharmabv.com> for a scam demonstrates bad faith registration and use under the Policy;
- the fact that the disputed domain names no longer resolve to active web pages, following the Complainant's requests for suspension of the disputed domain names to the Registrar, does not prevent a finding of bad faith use of the disputed domain names;
- the mere use of the disputed domain names to resolve to parking pages provided by the Registrar does not prevent a finding of bad faith as there is no plausible good-faith use to which the disputed domain names could be put that would not have the effect of misleading consumers as to the source or affiliation of the disputed domain names.

B. Respondent

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

6. Discussion and Findings

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 trade mark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[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 names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here "pharma" and "bv" may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain names and the mark for the purposes of the Policy (see [WIPO Overview 3.0](#), section 1.8).

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 names. 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 names such as those enumerated in the Policy or otherwise.

In the absence of a response and on the basis of the record before it, the Panel agrees with the Complainant that the disputed domain name <nordicpharmabv.com> was used to send emails impersonating the Complainant in order to engage in an advance-fee employment phishing scheme. Panels have held that the use of a domain name for illegal activity can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Further, there is no (i) use of the disputed domain names (or demonstrable plans for such use) with a bona fide offering of goods or services; (ii) the Respondent is not commonly known by the disputed domain names; and (iii) there is no legitimate noncommercial or fair use of the disputed domain names.

The fact that the disputed domain names used to resolve to PPC pages before they were suspended by the Registrar does not support a claim that they have been used in connection with a bona fide offering of goods and services. [WIPO Overview 3.0](#), section 2.9.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

The Complainant's trademark is well known and the composition of the disputed domain names, reproducing the Complainant's mark in its entirety added by the terms "pharma" and "bv" directly referring to the Complainant's name and activity, indicates to the Panel that the Respondent registered the disputed domain name with the Complainant in mind and thus, that the registration of the disputed domain names was in bad faith.

Panels have held that the use of a domain name for illegal activity, here, the use of the disputed domain name <nordicpharmabv.com> as part of fraudulent advance-fee employment phishing scheme, targeting prospective employees constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. The fact that the disputed domain name <nordicpharmabv.online> was registered about 10 days after the suspension of the disputed domain name <nordicpharmabv.com> by the Registrar, also indicates that the former was registered and would be possibly used for the same illegal activity.

Furthermore, the previous use of the disputed domain names for PPC websites constitutes bad faith under paragraph 4(b)(iv) of the Policy. Currently, they no longer resolve to an active website. Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain names does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available

record, the Panel notes the distinctiveness and reputation of the Complainant's trademark, and the composition of the disputed domain names, and finds that in the circumstances of this case the passive holding of the disputed domain names does not prevent a finding of bad faith under the Policy.

The Panel finds that the Complainant has established the third element 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 names <nordicpharmabv.com> and <nordicpharmabv.online> be transferred to the Complainant.

/Torsten Bettinger/

Torsten Bettinger

Sole Panelist

Date: March 7, 2024