

ADMINISTRATIVE PANEL DECISION

Nipro Corporation v. Brock Jake

Case No. D2024-1673

1. The Parties

The Complainant is Nipro Corporation, Japan, represented by Markmonitor, United States of America (“U.S.”).

The Respondent is Brock Jake, Afghanistan.

2. The Domain Name and Registrar

The disputed domain name <niprodiabetes.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 19, 2024. On April 22, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 (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 April 23, 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 April 25, 2024.

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 April 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 16, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 17, 2024.

The Center appointed Douglas Clark as the sole panelist in this matter on May 27, 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 a Japanese company founded in 1954, a long-standing manufacturer of pharmaceutical products including medical devices and treatments for diabetes. Other products which the Complainant engages in manufacturing concern renal, medical surgical products, and interventional radiology. As of end of March 2023, the Complainant's products are sold in 61 countries with approximately 38,000 employees worldwide, using its registered trademark NIPRO.

The Complainant is the owner of over 100 trademarks in the mark NIPRO which have been registered in various jurisdictions, earliest of which registration dates back to 1975. Examples of these trademark registrations are:

Trademark	Jurisdiction	Registration Number	Registration Date	IC Class
ニプロ (which transliterates to "Nipro")	Japan	1105815	February 10, 1975	11
NIPRO	U.S.	1441070	June 2, 1987	10
NIPRO	United Kingdom	UK00001584255	February 16, 1996	10
NIPRO (figurative)	European Union	003205838	August 23, 2004	10

The Complainant is also the registrant of a number of domain names incorporating the trademark NIPRO. Its principal website is by the domain name of <nipro.co.jp>. Meanwhile, the Complainant's wholly-owned subsidiary, Nipro Medical Corporation, is the registrant of the domain name <nipro.com>.

The Respondent purports to be based in "Makati Manila, Afghanistan". Makati is a city in the Manila Metropolitan Area in the Philippines.

The Respondent registered the disputed domain name on January 19, 2024. The disputed domain name in turn directs to a website with some gambling-related contents in simplified Chinese.

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.

The Complainant contends that:

- a) The disputed domain name is identical or confusingly similar to the Complainant's trademarks or service mark in which the Complainant has rights.
- b) The Respondent has no right or legitimate interest in respect of the disputed domain Name.
- c) The disputed domain name was registered and is being used in bad faith.

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 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.)

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

The entirety of the mark NIPRO is reproduced within the disputed domain name. The addition of the word "diabetes" does not prevent a finding of confusing similarity with the Complainant's trademark.

Accordingly, the Panel finds that 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).

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.

First, the Complainant's registrations for the trademark NIPRO across multiple jurisdictions constitute prima facie evidence of its rights to the trademark. Whereas the Respondent is not in any way affiliated with the Complainant.

Second, the Respondent is not commonly known by the terms "nipro", or "niprodiabetes", which suggests a lack of rights or legitimate interest in the disputed domain name.

Third, the Respondent's registration on January 19, 2024 of the disputed domain name came significantly after the Complainant's registration of its trademark NIPRO. Prior to the Respondent's registration, the Complainant's trademarks had long enjoyed (and still does) high degree of reputation which the Respondent sought to abuse by creating the disputed domain name for the purpose of gambling activity.

Forth, the fact that the disputed domain name resolves to a gambling website in simplified Chinese, entirely unrelated to the mark NIPRO or even to the medical condition of diabetes would support the contention that the Respondent has no rights or legitimate interest in the disputed domain name.

Fifth, the composition of the disputed domain name, wholly incorporating the Complainant's trademark with the term "diabetes" referring to a medical condition that falls within the Complainant's business activity, cannot constitute fair use in these circumstances as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. ([WIPO Overview 3.0](#), section 2.5.1).

In any event, as the Respondent has failed to 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 Complainant is deemed to have satisfied the second element. ([WIPO Overview 3.0](#), section 2.1.)

In the premises, the Panel finds that 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.)

As above stated, the Panel notes that the disputed domain name was only registered decades after the Complainant's registration of the NIPRO trademark. The very fact that the Respondent added to the disputed domain name the word "diabetes", being a word directly related to the Complainant's field of trade, goes to show that the Respondent was well aware of the existence of the Complainant's business at the time of registration of the disputed domain name. With this in mind, by associating the Complainant's mark of NIPRO with a gambling site, the Respondent intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the website associated with the disputed domain name. Such use may also be considered as damaging to the Complainant's goodwill and integrity in the eyes of its customers. The Panel considers this to be a clear instance of bad faith.

For the above reasons, the Panel finds that the Complainant has established the third element of the Policy.

7. Decision

For the foregoing reasons, the Complainant has satisfied the three elements under paragraph 4(a) of the Policy. In accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <niprodiabetes.com> be transferred to the Complainant.

/Douglas Clark/

Douglas Clark

Sole Panelist

Date: June 5, 2024