

ADMINISTRATIVE PANEL DECISION

Nelson Mullins Riley & Scarborough LLP v. Off Set / Cessecurity
Case No. D2024-2339

1. The Parties

The Complainant is Nelson Mullins Riley & Scarborough LLP, United States of America (“United States”), represented by Christopher D. Casavale, United States.

The Respondent is Off Set / Cessecurity, United States.

2. The Domain Name and Registrar

The disputed domain name <nelsormullins.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 June 7, 2024. On June 10, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 10, 2024, 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 (“Off Set / Cessecurity”) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 11, 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 June 11, 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 June 13, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 3, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 8, 2024.

The Center appointed Nicolas Ulmer as the sole panelist in this matter on July 9, 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 large, diversified law firm founded more than a century ago, and currently employing more than 1,000 lawyers and other professionals in numerous offices throughout the United States.

The Complainant holds three United States trademarks as follows:

1. NELSON MULLINS RILEY & SCARBOROUGH LLP: Reg No.3757228,
Reg date: March 9, 2010, Class 45, Legal services
2. NELSON MULLINS, Reg. No. 3754391,
Reg. date: March 2, 2010, Class 45: Legal services
3. NELSON MULLINS (WITH LOGO), Reg No..5361314
Reg date: December 19, 2017, Class 45: Legal services

The Complainant has since 1997 operated and used the website <nelsonmullins.com>.

The disputed domain name was registered on May 24, 2024, and was used in connection with an email address sending communications purporting to be from the Complainant.

Little is known concerning the Respondent who appears to be behind some genre of privacy screen.

The disputed domain name currently does not resolve to any Internet site.

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 confusingly similar to its trademarks; that the Respondent has not been given and has no rights or legitimate interests in the disputed domain name; and that the disputed domain name was registered and has been used in bad faith, notably to mount a Business Email Compromise ("BEC") attack.

The allegations and evidence of the Complainant are, where necessary or appropriate, exposed in further detail in the discussion below.

The Complainant requests that the disputed domain name be transferred to it.

B. Respondent

The Respondent did not reply to the Complaint or its contentions.

5. 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.

In the instant case the disputed domain name contains the entirety of the text of two of the Complainant's trademarks, which are the first two names in the Complainant's law firm name. The only difference is that the Respondent has inserted an "r" near the end of the first name recited so that it reads "nelsorn" and not "nelson.". It is long established in UDRP jurisprudence that a misspelling does not prevent a finding of confusing similarity in the disputed domain name, particularly when the misspelling is minor and easily overlooked. See, e.g. *Neuberger Berman Inc. v. Alfred Jacobson*, WIPO Case No. [D2000-0323](#); *Estée Lauder Inc. v. estelauder.com, estelauder.net and Jeff Hanna*, WIPO Case No. [D2000-0869](#); see generally, [WIPO Overview 3.0](#), section 1.9.

This is manifestly the case here as the addition of one easily overlooked letter does not diminish the confusing similarity of the disputed domain name to the Respondent's trademarks. Accordingly, the Panel finds that the disputed domain name is confusingly similar within the meaning of the Policy.

B. Rights or Legitimate Interests

The Complainant makes clear that it has no affiliation with the Respondent and no knowledge or belief that the Respondent has any rights or legitimate interests in the disputed domain name, and that the Complainant has not authorised or granted permission to the Respondent to use its trademarks or name in the disputed domain name or otherwise.

It is furthermore obvious that the Respondent is not known by the name "nelsornmullins."

The file in this matter contains no indication that the Respondent has used the disputed domain name in connection with a bona fide offering of goods and services or that there is any legitimate noncommercial or fair use of the Complainant's trademarks, and the Complainant denies that this could be the case. To the contrary the Complainant asserts that the Respondent has used the disputed domain name for improper and illegal activity.

UDRP case law and jurisprudence establish that a complainant needs to demonstrate at least a prima facie case that the respondent has no rights or legitimate interests in respect of the disputed domain name. See *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#). Where such a prima facie case is made, the burden shifts to the respondent to demonstrate its rights or legitimate interests in the disputed domain name. If the respondent fails to do so, the complainant is generally deemed to have satisfied paragraph 4(a)(ii) of the Policy see also, *Meizu Technology Co., Ltd. v. "osama bin laden"*, WIPO Case No. [DCO2014-0002](#); *H & M Hennes & Mauritz AB v. Simon Maufe, Akinsaya Odunayo Emmanuel and Nelson Rivaldo*, WIPO Case No. [D2014-0225](#); [WIPO Overview 3.0](#), section 2.1. Furthermore, Panels have held that the use of a domain name for illegal activity (here claimed phishing and impersonation) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

In the instant case the Respondent has not answered the Complaint and the Complainant has established at least such a prima facie case; the Complainant has therefore met its burden of proof under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

As determined above the Respondent has registered a domain name that is confusingly similar to the Complainant's trademarks and name and in which the Respondent has no rights or legitimate interests. The Complainant has demonstrated that it is a large and well-known law firm, long established under its trademarked names. Under these circumstances it appears clear that the Respondent could not have registered the disputed domain name, with its slight misspelling, by chance or serendipity. It is thus difficult to see how the disputed domain name could have been registered and used for a good faith purpose.

This conclusion is sustained by the bad faith use of the disputed domain name that the Complainant has demonstrated.

The Complainant alleges and submits evidence to the effect that an email address associated with the disputed domain name was used for a dishonest phishing-type activity. Specifically, the Complainant submits and explains an email making use of the disputed domain name (comporting the Complainant's true letterhead and trademarked name and logo to impersonate the Complainant) and purporting to inform a client of the Complainant of a change in the Complainant's Automated Clearing House ("ACH") banking information. The evidence shows how the disputed domain name has been used in connection with a BEC and an attempt of financial fraud, which obviously constitutes bad faith use, see [WIPO Overview 3.0](#), section 3.4.

The Respondent's failure to disclose its identity or answer the Complaint further support the Panel's finding of bad faith.

The Panel thus finds that the Complainant has established bad faith registration and use within the meaning of the third element of the Policy.

6. 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 <nelsornmullins.com> be transferred to the Complainant.

/Nicolas Ulmer/

Nicolas Ulmer

Sole Panelist

Date: July 22, 2024