

ADMINISTRATIVE PANEL DECISION

Société des Produits Nestlé S.A. v. Great Homes, jobs-nestle.com
Case No. D2024-2911

1. The Parties

The Complainant is Société des Produits Nestlé S.A., Switzerland, represented by Studio Barbero S.p.A., Italy.

The Respondent is Great Homes, jobs-nestle.com, Gambia.

2. The Domain Name and Registrar

The disputed domain name <jobs-nestle.com> is registered with Squarespace Domains II LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 16, 2024. On July 17, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 17, 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 (Redacted for Privacy, jobs-nestle.com) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 18, 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 amendment to the Complaint on July 19, 2024.

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 July 23, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 12, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 13, 2024.

The Center appointed Moonchul Chang as the sole panelist in this matter on August 16, 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 Société des Produits Nestlé S.A. which is part of Nestlé Group, founded in 1866 by Henri Nestlé. The Nestlé Group sells products and services all over the world in various industries, primarily in the food industry, including baby foods, breakfast cereals, chocolate & confectionery, coffee & beverages, bottled water, dairy products, ice cream, prepared foods, food services as well as pet food.

The Complainant is the owner of NESTLÉ and NESTLE trademarks in a number of jurisdictions, including among the followings:

- International trademark registration NESTLÉ with registration No. 400444, registered on July 16, 1973.
- International trademark registration NESTLÉ with registration No. 490322, registered on November 27, 1984.
- European Union Trademark Registration NESTLE with registration No. 002977569, registered on May 25, 2004.
- Australian trademark registration NESTLE with registration No. 249248, registered on February 6, 1957.

The Complainant also owns several domain names incorporating NESTLE trademark. Its main domain name <nestle.com> registered on October 25, 1994, and other related domain names are redirected to it. In addition, the Complainant registered the domain name <nestlejobs.com>.

The disputed domain name <jobs-nestle.com> was registered by the Respondent on November 30, 2023, which has resolved to an inactive website.

5. Parties' Contentions

A. Complainant

The Complainant contends that: (a) the disputed domain name incorporates the Complainant's NESTLE trademarks as a whole. The addition of the nondistinctive elements "jobs" and a hyphen between "nestle" and "jobs" do not affect the confusing similarity; (b) the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant has neither authorized nor given its consent to the Respondent to register the disputed domain name, and the Respondent has no rights or legitimate interests in the NESTLE Mark and the Respondent has not used the disputed domain name in connection with a bona fide offering of goods or services or a legitimate noncommercial or fair use, given that the disputed domain name resolves to an inactive web page; and (c) the disputed domain name was registered and is being used in bad faith. Because the Complainant's trademark NESTLE is internationally well-known, it is certain that the Respondent has been aware of the reputation of the NESTLE mark when registering the disputed domain name. The Respondent has not used the disputed domain name, which currently resolves to an inactive website. The passive holding of the disputed domain name supports a finding of bad faith in this case. Further, the Respondent's use of a privacy service indicates bad faith of the registrant.

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant must demonstrate that the three elements enumerated in paragraph 4(a) of the Policy have been satisfied. These elements are that: (i) the disputed domain name is identical or confusingly similar to the Complainant's trademark or service mark; and (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and (iii) the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The disputed domain name includes the Complainant's trademark NESTLE in its entirety together with addition of the letter "jobs" and of a hyphen.

Where the complainant holds a nationally or internationally registered trademarks NESTLE, this prima facie satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.2.1.

It is also well accepted that the first element functions primarily as a standing requirement. The threshold test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. (Section 1.7 of [WIPO Overview 3.0](#)). Adding the term "jobs" and a hyphen does not prevent a finding of confusing similarity. (Section 1.8 of [WIPO Overview 3.0](#)). In addition, the generic Top-Level Domain ("gTLD") ".com" is disregarded under the confusing similarity test. (Section 1.11.1. of [WIPO Overview 3.0](#)).

Accordingly, the Panel finds that the first element under paragraph 4(a) of the Policy has been met by the Complainant.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, the overall burden of proof is on the Complainant. However, once the Complainant presents a prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name, the burden of production of evidence shifts to the Respondent. (Section 2.1. of [WIPO Overview 3.0](#)).

First, the Complainant contends that it has not authorized the Respondent to use the trademark NESTLE to register any domain names incorporating it. Nonetheless, the composition of the Respondent's disputed domain name carries a risk of implying that it was affiliated with the Complainant NESTLE.

Secondly, the Respondent has no rights or legitimate interests in the NESTLE mark and the Respondent has not used the disputed domain name in connection with a bona fide offering of goods or services or a legitimate noncommercial or fair use. The Respondent has used the disputed domain name by resolving to an inactive website. The Panel considers that the passive holding of the disputed domain name does not constitute legitimate non-commercial or fair use.

In addition, according to the evidence submitted to the Panel, the disputed domain name has been used for fraudulent purposes, since Respondent has created an email address based on <jobs-nestle.com> to impersonate Complainant and its affiliated company. The Panel considers that the use of a domain name for illegal activity such as impersonation or passing off, can never confer rights or legitimate interests on a respondent. (Section 2.13.1 of [WIPO Overview 3.0](#))

Thirdly, there is no evidence to suggest that the Respondent has been commonly known by the disputed domain name. In the consideration of the above circumstances, the Panel finds that the Complainant has made out a prima facie case and the Respondent failed to come forward with any appropriate evidence that might rebut the Complainant's prima facie case.

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.

Accordingly, the Panel concludes that the Complainant has satisfied the second element under paragraph 4(a) of the Policy in the present case.

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy requires that the disputed domain name "has been registered and is being used in bad faith". Thus, for the Complaint to succeed, a UDRP Panel must be satisfied that a domain name has been registered and is being used in bad faith. These requirements are conjunctive; each must be proven or the Complaint fails. In addition, 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. (section 3.2.1 of [WIPO Overview 3.0](#)).

First, the Complainant obtained the registration of NESTLE trademarks in numerous jurisdictions earlier than the Respondent registered the disputed domain name. Having considered that the Complainant's trademark NESTLE is well-known and the composition of the disputed domain name, it is highly probable that the Respondent has been aware of the reputation of the NESTLE mark when registering a confusingly similar domain name that incorporates the Complainant's mark plus the term "jobs-". Thus, it is also considered bad faith registration that the Respondent deliberately chose the disputed domain name to create a likelihood of confusion with the Complainant's trademark so as to create a false association or affiliation with the Complainant.

Secondly, the Respondent currently does not use the disputed domain name by resolving to an inactive website. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. The Panel considers that the passive holding of the domain name constitutes bad faith use. (Section 3.3 of [WIPO Overview 3.0](#)).

Thirdly, given the totality of the circumstances, the Respondent's use of a privacy service to mask its details on the publicly available Whois, is further evidence of bad faith.

Having reviewed the record, the Panel concludes that the Complainant has satisfied the third element under paragraph 4(a) of the Policy in the present case.

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 name <jobs-nestle.com> be transferred to the Complainant.

/Moonchul Chang/

Moonchul Chang

Sole Panelist

Date: August 28, 2024