

## **ADMINISTRATIVE PANEL DECISION**

Namecheap, Inc. v. fen fen  
Case No. D2024-2950

### **1. The Parties**

The Complainant is Namecheap, Inc., United States of America (“U.S.”), represented by Rome LLP, U.S.

The Respondent is fen fen, China.

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

The disputed domain name <namecheap.shop> is registered with Spaceship, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 19, 2024. On July 19, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 22, 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, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 22, 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 July 24, 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 August 6, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 26, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 27, 2024.

The Center appointed Tobias Zuberbühler as the sole panelist in this matter on September 6, 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 an ICANN-accredited domain name registrar and web hosting company based in the U.S. The company was founded in 2000 and has become one of the largest domain name registrars in the world, with over 18 million domain names under management.

The Complainant is the owner of numerous NAMECHEAP trademark registrations in the U.S., the European Union, and other jurisdictions, including the U.S. Trademark Reg. No. 3,622,358 (registered on May 19, 2009).

The Complainant's main website is located at the domain name <namecheap.com>.

The disputed domain name was registered on February 13, 2024, and currently resolves to a domain name auction site where it is offered for sale at a price of USD 200.

#### **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.

##### **B. Respondent**

The Respondent has not submitted any 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 a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

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

Moreover, the generic Top-Level Domain ("gTLD") ".shop" is viewed as a standard registration requirement in this case and is disregarded for purposes of the confusing similarity analysis under the first element. [WIPO Overview 3.0](#), section 1.11.1.

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). 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 that 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 evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise. The Panel also notes that the composition of the disputed domain name incorporating the Complainant’s trademark in its entirety together with the gTLD “.shop” carries a risk of implied affiliation. [WIPO Overview 3.0](#), section 2.5.1.

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.

Under the circumstances of this case, including the composition of the disputed domain name and reputation of the Complainant’s trademark, it can be inferred that the Respondent was aware of the Complainant’s trademark when registering the disputed domain name.

Since the disputed domain name resolves to an auction site, it must be assumed that the Respondent was engaged in an attempt to attract Internet users to its website for its own commercial gain. The Respondent therefore used the disputed domain name in bad faith.

Moreover, the Panel considers that the nature of the disputed domain name, which is identical to the Complainant’s trademark, further supports a finding of bad faith. [WIPO Overview 3.0](#), section 3.2.1.

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 name <namecheap.shop> be transferred to the Complainant.

*/Tobias Zuberbühler/*

**Tobias Zuberbühler**

Sole Panelist

Date: September 20, 2024