

ADMINISTRATIVE PANEL DECISION

Nalli Chinnasami Chetty v. Matt Nall
Case No. D2024-3283

1. The Parties

The Complainant is Nalli Chinnasami Chetty, India, represented by De Penning & De Penning, India.

The Respondent is Matt Nall, United States of America ("US").

2. The Domain Name and Registrar

The disputed domain name <nallindustries.com> (the "Disputed Domain Name") is registered with GoDaddy.com, LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on August 12, 2024. On August 12, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On August 12, 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 (Domains By Proxy, LLC, DomainsByProxy.com) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 13, 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 August 14, 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 15, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 4, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on September 6, 2024.

The Center appointed Nick J. Gardner as the sole panelist in this matter on September 10, 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 has operated as a manufacturer and retailer of clothing and other products from its base in Chennai, India since 1928. The evidence establishes that it is a substantial and successful business producing high end saris and other items of traditional Indian clothing. It has shops in various cities in India and in selected cities in other countries such as the United Kingdom, US, Canada, Australia, Singapore and Mauritius. It trades under the mark NALLI and has operated a website for its business linked to the domain name <nalli.com> since 1998. It also owns a large number of other domain names incorporating its NALLI mark. It is the proprietor of various trademark registrations for NALLI (in either word or device form) – see for example US registration 74403065 for NALLI (word) registered on April 17, 2001. These trademarks are referred to as the NALLI trademark in this decision.

The Respondent is based in the US and registered the Disputed Domain Name on June 19, 2024. The Disputed Domain Name resolves to a webpage headed “Nall Industries” which contains the text “Launching Soon”.

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.

Notably, the Complainant contends that the Disputed Domain Name wholly incorporates the NALLI trademark. It says that the NALLI trademark has gained an extensive reputation in the countries in which it operates.

The Complainant asserts that the Respondent lacks any legitimate interest. It says it has not authorised the Respondent to use its NALLI trademark or to register the Disputed Domain Name. It says “In view of the close similarity between the domain www.nallindustries.com and the Complainant’s trade/service mark NALLI, the Complainant has a strong reason to believe that the purpose of the Respondent’s registration of the disputed domain name is to misappropriate the reputation of the Complainant’s trade/service mark”.

As far as bad faith is concerned, the Complainant says “In view of the extensive reputation and goodwill of the Complainant’s mark NALLI, the Respondent would definitely be aware of the Complainant’s trade/service mark. Hence, the Complainant contends that the Respondent is only attempting to usurp the reputation and goodwill of the Complainant’s trade/service mark NALLI through the disputed domain name”.

B. Respondent

The Respondent did not reply to the Complainant’s contentions

6. Discussion and Findings

Preliminary Matters

The Panel notes that no communication has been received from the Respondent. However, given the Complaint and Written Notice were sent to the relevant addresses disclosed by the Registrar, then the Panel considers that this satisfies the requirement in paragraph 2(a) of the UDRP Rules to “employ reasonably available means calculated to achieve actual notice”. Accordingly, the Panel considers it is able to proceed to determine this Complaint and to draw inferences from the Respondent’s failure to file any Response. While the Respondent’s failure to file a Response does not automatically result in a decision in favor of the Complainant, the Panel may draw appropriate inferences from the Respondent’s default (see, e.g., *Verner Panton Design v. Fontana di Luce Corp*, WIPO Case No. [D2012-1909](#)).

Substantive Matters

To succeed, in accordance with paragraph 4(a) of the Policy, the Complainant must satisfy the Panel that:

- (i) the Disputed Domain Name is identical with or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name;
- (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 character string “nalli” which corresponds to the Complainant’s NALLI trademark. Arguably therefore the trademark is sufficiently recognisable in the Disputed Domain Name for purposes of this assessment. However a natural reading of the Disputed Domain Name seems to the Panel to be a conjunction of the term “nall” with the word “industries”. If read in that way it seems to the Panel that the issue of confusing similarity becomes less clear cut. However given the Panel’s findings below in relation to bad faith the Panel does not need to reach a conclusion on this issue.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances any of which is sufficient to demonstrate that a respondent has rights or legitimate interests in a domain name:

- (i) before any notice to the respondent of the dispute, use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or
- (ii) the respondent has been commonly known by the domain name, even if the respondent has acquired no trademark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

It seems to the Panel that the Disputed Domain Name may well have been registered by the Respondent because it combines his surname with the dictionary word “industries” (see discussion below). As such there is at least a possibility that 4(c)(ii) above may apply. If that were the case then the Respondent would have a legitimate interest in the Disputed Domain Name. This issue needs to be supported by appropriate evidence – see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”) at section 2.3. However given that no Response has been filed there is no evidence before the Panel on this issue. In any event, given the Panel’s findings on bad faith (below) the Panel does not need to reach a conclusion on this issue.

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 paragraph 4(b) of the Policy a non-exhaustive list of factors evidencing registration and use in bad faith comprises:

(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location.

The difficulty the Complainant faces in the present case is that on the face of it the Respondent's name is Matt Nall. The Panel appreciates this only became apparent to the Complainant in the course of these proceedings once Registrar verification occurred, and this information is not authenticated in any way by the Registrar. Following Registrar verification the Complainant amended the Complaint to identify Matt Nall as the named Respondent but made no further changes to the Complaint. It appears it did not consider it necessary to revise its arguments having learnt that the Respondent's surname was Nall. It is also appropriate to note that a simple search for example at "www.peoplesearch.com" corroborates the Respondent's name and address as provided by the Registrar.

There is no evidence of the Respondent having targeted the Complainant in any way. Indeed there is no evidence to suggest the Respondent will even have been aware of the Complainant. The Panel accepts that the Complainant operates a substantial and successful international business including in the US and the Panel can readily infer that persons with an interest in high quality traditional Indian clothing may well be aware of the Complainant. There is nothing however to suggest the general public will have any awareness of the Complainant.

Taking all of the above into account and noting the Disputed Domain Name was registered only a few months ago supporting the use of a "coming soon" page, the Panel considers it is likely that the Respondent registered the Disputed Domain Name because it combined his apparent surname with the word "industries" and that he did so for some project of his own which has nothing to do with the Complainant. That does not amount to registration and use in bad faith. In these circumstances the Panel does not consider the Complainant has established on the balance of probabilities that the Disputed Domain Name was registered and used in bad faith.

Accordingly based on the record in this proceeding the Panel finds the third element of the Policy has not been established.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Nick J. Gardner/

Nick J. Gardner

Sole Panelist

Date: September 24, 2024