

## **ADMINISTRATIVE PANEL DECISION**

Netflix, Inc. v. Shawn Cooper, Vertical Events Inc.  
Case No. D2024-3939

### **1. The Parties**

Complainant is Netflix, Inc., United States of America (“United States”), represented by Coates IP, United States.

Respondent is Shawn Cooper, Vertical Events Inc., United States.

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

The disputed domain name <netflixandchills.com> (the “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 September 25, 2024. On September 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On September 26, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (UNKNOWN RESPONDENT) and contact information in the Complaint. The Center sent an email to Complainant on October 3, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. The Center sent reminders on October 11, 2024, and October 15, 2024. Complainant filed an amended Complaint on November 26, 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 Respondent of the Complaint, and the proceedings commenced on October 16, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 5, 2024. The Response was filed with the Center on November 5, 2024. Accordingly, the Center notified the Parties of the Commencement of Panel Appointment on November 7, 2024.

The Center appointed Robert A. Badgley as the sole panelist in this matter on November 12, 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**

Complainant alleges as follows:

“Complainant is one of the world’s leading entertainment services with over 278 million paid memberships in over 190 countries enjoying TV series, films and games across a wide variety of genres and languages. Members can play, pause and resume watching, as much as they want, anytime, anywhere, and can change their plans at any time.”

“Complainant is a pioneer in the delivery of streaming entertainment, launching its streaming service in 2007 under the NETFLIX brand. Since this launch, Complainant has developed an ecosystem for Internet-connected screens and has added increasing amounts of content that enable customers to enjoy entertainment directly on their Internet-connected screens. As a result of these efforts, Complainant has experienced growing consumer acceptance of, and interest in, the delivery of streaming entertainment.”

“Over the past 27 years, Complainant has redefined not only media distribution but the entertainment industry itself. [...] Then, in 2007, soon after delivering its billionth DVD, Complainant launched its content streaming platform, offering its members unlimited access to a library of licensed TV shows and films. Complainant’s streaming services were wildly successful, leading to international expansion to countries throughout North and South America in 2010-2011, and then to Europe (the UK, Ireland, Denmark, Finland, Norway, and Sweden) in 2012. In 2014, Complainant expanded further into EU member countries Austria, Belgium, France, and Germany, ultimately surpassing 50 million total members. Also, during this period of expansion, Complainant began investing in the production of original content. It released several original series and specials between 2012 and 2013, including its first flagship original series HOUSE OF CARDS. In 2016, Complainant expanded its geographic scope even further, bringing its streaming services to more than 190 countries and 30+ languages around the world, including India, Indonesia, Pakistan, Russian Federation, and Saudi Arabia. Since then, Complainant has enjoyed rapid growth and commercial success, and now offers its streaming services on a global scale.”

Complainant’s membership reached 100 worldwide in 2017.

Complainant asserts further:

“Netflix also has a series of furry characters which it refers to as NETFLIX CHILLEEZ, a play on words for “Netflix and Chill.” These monsters are throughout the Netflix streaming platform and can be chosen as avatars for user accounts. They have also been produced as plush toys and other merchandise, featuring the NETFLIX CHILLEEZ.”

Complainant owns numerous trademark registrations for NETFLIX in various jurisdictions, including: United States Patent and Trademark Office (“USPTO”) Reg. No. 2,552,950 for the word mark NETFLIX, registered on March 26, 2002 in connection with “retail store services and computerized on-line retail services featuring pre-recorded videos” with an April 14, 1998 date of first use in commerce; USPTO Reg. No. 3,299,362 for the word mark NETFLIX, registered on September 15, 2007 in connection with, among other things, video on-demand transmission services” with a January 16, 2007 date of first use in commerce; and UDPTO Reg. No. 3,194,832 for the stylized mark NETFLIX, registered on January 2, 2007 in connection with, among other things, “rental of video recordings” with an August 31, 2000 date of first use in commerce.”

The NETFLIX mark has been recognized as well-known by panels in prior UDRP decisions. See, e.g., *Netflix, Inc. v. John Paul Tano*, WIPO Case No. [D2024-1149](#); *Netflix, Inc. v. Siddharth Sethi*, WIPO Case No. [D2020-3321](#).

Complainant owns the domain name <netflix.com> and uses that domain name to host its commercial website.

According to Complainant:

“Netflix has used the phrase and similar phrase(s) to NETFLIX AND CHILL in the marketing of its service and in licensing deals. Netflix licensed use of NETFLIX AND CHILL'D to Ben & Jerry's since January 2020 for a flavor of ice cream, which is still in production today. Netflix also has a series of furry characters which it refers to as NETFLIX CHILLEEZ, a play on words for 'Netflix and Chill.' These monsters are throughout the Netflix streaming platform and can be chosen as avatars for user accounts. They have also been produced as plush toys and other merchandise, featuring the NETFLIX CHILLEEZ.”

Complainant holds a registered trademark for the mark NETFLIX AND CHILLEEZ in several jurisdictions, including: USPTO Reg. No. 7,287,958 for the stylized mark NETFLIZ AND CHILLEEZ, registered on January 23, 2024 In connection with “dolls, plush toys, toy figures, collectible toy figures” with a November 2021 date of first use in commerce.

The Domain Name was registered on July 15, 2017. The Domain Name redirects to <verticalevent.com>, the website of Respondent's event-management business Vertical Events, Inc.

The site describes Respondent's business as follows:

“As a Vertically-Integrated Event Management, Production, and Operations Agency, we specialize in creating unique experiences in extraordinary settings. Our diverse team brings years of experience in a myriad of industries together to ensure proper execution of event experiences for some of the top brands and Fortune 500 Companies Nationally. We are event production professionals based in New York and serving New York, Miami and Chicago.”

In his Response, Respondent states:

“[T]he phrase 'Netflix and Chill' is a commonly used euphemism for hooking up (i.e., casual sex). I bought the domain with the intention of building out a website to connect people who wanted to be straightforward about hooking up. I envisioned it as a different approach to 'dating' sites than those that currently exist, where users could be up front about seeking short term arrangements (i.e., 'Chills'). Most dating sites, from my understanding, seem to focus on long term dating and marriage.”

“The phrase 'Netflix and Chill' so well known that there are thousands of articles that have been written on the topic, it has been discussed in nationally televised talk and new shows, and is written about in social media, dating sights, and elsewhere with almost a singular meaning – for people to meet for 'casual sex'.”

Respondent furnishes several examples of the term “Netflix and Chill” being used in connection with the colloquial meaning he describes, including a September 29, 2015 article in the British newspaper *The Guardian* entitled “How 'Netflix and chill' became code for casual sex.” Respondent also cites a Wikipedia entry for the term “Netflix and chill.” The Wikipedia entry begins with a photo of a sign bearing the red stylized NETFLIX trademark plus the spray-painted words “AND CHILL.”

## **5. Parties' Contentions**

### **A. Complainant**

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

### **B. Respondent**

Respondent's chief contentions are reflected above in the "Factual Background" section. He disputes Complainant's claims under each of the three elements of the Policy.

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to the Domain Name:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

### **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 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 Panel finds that Complainant has rights in the mark NETFLIX through registration and use demonstrated in the record. The Panel also finds that the Domain Name is confusingly similar to the NETFLIX mark. Notwithstanding the additional words "and chills", the NETFLIX mark is clearly recognizable within the Domain Name.

Complainant has established Policy paragraph 4(a)(i).

### **B. Rights or Legitimate Interests**

Pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

- (i) before any notice to you [Respondent] of the dispute, your 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) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Domain Name, even if you have acquired no trademark or service mark rights; or
- (iii) you [Respondent] are 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.

The Panel concludes that Respondent lacks rights or legitimate interests in connection with the Domain Name. Respondent claims that he registered the Domain Name in order to develop some sort of dating website that reflects the theme "Netflix and chills", but – even assuming for argument's sake that such use of the Complainant's mark would support a claim to rights or legitimate interests – he offers no evidence of any

demonstrable preparations to make any such use of the Domain Name. The Panel notes further that more than seven years have passed since the Domain Name was registered. In addition, even if Respondent were genuinely motivated in the manner he asserts, the term “Netflix and chills” would still be, at best, a dubious use of Complainant’s famous trademark NETFLIX. As noted above, the Wikipedia page itself features a photo containing the stylized NETFLIX trademark. The Panel is not aware of NETFLIX being a dictionary term. It appears to be an invented word that refers uniquely to Complainant’s goods and services.

On this record, the Panel finds it more likely than not that Respondent’s professed motivation for registering the Domain Name is pretextual rather than genuine. His explanation is belied by the fact that the Domain Name is being redirected to Respondent’s commercial website promoting Respondent’s event planning business.

Complainant has established Policy paragraph 4(a)(ii).

### **C. Registered and Used in Bad Faith**

Paragraph 4(b) of the Policy provides that the following circumstances, “in particular but without limitation,” are evidence of the registration and use of the Domain Name in “bad faith”:

- (i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or
- (ii) that Respondent has 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 Respondent has engaged in a pattern of such conduct; or
- (iii) that Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or
- (iv) that by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent’s website or other online location, by creating a likelihood of confusion with Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of Respondent’s website or location or of a product or service on Respondent’s website or location.

The Panel concludes that Respondent registered and used the Domain Name in bad faith under the Policy. The Panel incorporates its discussion above in the “Rights or Legitimate Interests” section. The Panel finds, on the record presented and a balance of probabilities, that Respondent more likely than not targeted Complainant’s famous NETFLIX mark when registering the Domain Name and has used the Domain Names for illegitimate commercial gain by seeking to divert Internet traffic to his own commercial site. This constitutes bad faith registration and use within the meaning of the above-quoted Policy paragraph 4(b)(iv).

Complainant has established Policy paragraph 4(a)(iii).

### **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 Domain Name <netflixandchills.com> be transferred to Complainant.

*/Robert A. Badgley/*

**Robert A. Badgley**

Sole Panelist

Date: November 26, 2024