

## ADMINISTRATIVE PANEL DECISION

Newsmax Media Inc. v. Domain Administrator, Sugarcane Internet Nigeria Limited; 钱梦聃 (Meng Dan Qian); Shi Lei; xu shuaiwei; Domain Administrator, Fundacion Privacy Services LTD; and li jiang  
Case No. D2024-4112

### 1. The Parties

The Complainant is Newsmax Media Inc., United States of America (“United States”), represented by SafeNames Ltd., United Kingdom.

The Respondents are Domain Administrator, Sugarcane Internet Nigeria Limited, Nigeria; 钱□□ (Meng Dan Qian), China; Shi Lei, China; xu shuaiwei, China; Domain Administrator, Fundacion Privacy Services LTD, Panama; and li jiang, China.

### 2. The Domain Name and Registrar

The disputed domain names <newsmaxandinvest.com>, <newsmaxinvent.com>, <newsmaxinvest.com>, <newsmax-invest.com>, <newsmaxinvesting.com>, <newsmaxinvrst.com>, <newsmaxinvest.com>, and <newsmaxonvest.com> are registered with Porkbun LLC.

The disputed domain names <newsmaxibvest.com>, <newsmaxincest.com>, <newsmaxinvest.com>, <newsmaxinvestors.com>, <newsmaxinvests.com>, <newsmaxinvst.com>, and <newsmaxinvest.com> are registered with Media Elite Holdings Limited.

The disputed domain names <newsmaxinves.com> and <newsmaxinvesto.com> are registered with Dynadot Inc.

The disputed domain names <newsmaxinvesr.com>, <newsmaxinvest.com>, <newsmaxinvest.com>, and <newsmaxinvest.com> are registered with Cosmotown, Inc.

The disputed domain name <wwwnewsmaxinvest.com> is registered with Cloud Yuqu LLC.

Porkbun LLC, Media Elite Holdings Limited, Dynadot Inc., Cosmotown, Inc. and Cloud Yuqu LLC are separately and collectively referred to below as the “Registrar”.

### **3. Procedural History**

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on October 7, 2024. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On October 8 and 9, 2024, the Registrar transmitted by email to the Center its verification responses disclosing registrant and contact information for the disputed domain names that differed from the named Respondent (Whois Privacy (Private by Design, LLC) et al.) and contact information in the Complaint.

On October 11, 2024, the Center informed the parties in Chinese and English, that the language of the registration agreement for the disputed domain name <www.newsmaxinvest.com> is Chinese. On October 13, 2024, the Center sent an email communication to the Complainant with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting the Complainant to either file separate complaints for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all domain names are under common control. The Complainant filed an amended Complaint in English on October 22, 2024, including a request that English be the language of the proceeding. The Respondents did not submit any comment on the Complainant’s submission.

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 Respondents in Chinese and English of the Complaint, and the proceedings commenced on October 25, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 14, 2024. The Respondents did not submit any formal response except for auto-reply emails from Sugarcane Internet Nigeria Limited to each email from the Center. Accordingly, the Center notified the Parties that it would proceed to Panel Appointment on November 18, 2024.

The Center appointed Matthew Kennedy as the sole panelist in this matter on November 21, 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 multimedia broadcasting and digital publishing company and operator of the “Newsmax” online newspaper. It was founded in 1998. According to web analytics data presented by the Complainant, unique visitors to the Newsmax website increased to over 12 million in January 2021. The Complainant holds multiple trademark registrations, including United States trademark registration number 3177090 for NEWSMAX, registered on November 28, 2006, specifying goods in class 16. That trademark registration is current. The Complainant also uses the domain name <newsmax.com> in connection with a website where it offers its services. In June 2024, the Complainant announced its intention to become a publicly listed company and created the subdomain “invest.newsmax.com” where it provides information on how to invest in Newsmax. It also operates social media accounts using the name “Newsmax”.

The Respondents are named as two Internet companies and four individuals.

The disputed domain names were registered on the dates and by the registrants shown in the table below:

Date of registration	Disputed domain name	Registrant
June 9, 2024	<newsmaxinves.com>	xu shuaiwei
June 9, 2024	<newsmaxandinvest.com>	Domain Administrator, Sugarcane Internet Nigeria Limited
June 9, 2024	<newsmaxinvest.com>	Domain Administrator, Sugarcane Internet Nigeria Limited
June 9, 2024	<newsmaxinvest.com>	Domain Administrator, Sugarcane Internet Nigeria Limited
June 10, 2024	<newsmaxinvestd.com>	Domain Administrator, Sugarcane Internet Nigeria Limited
June 11, 2024	<newsmaxinvest.com>	li jiang
June 11, 2024	<wwwnewsmaxinvest.com>	钱梦聃 (Meng Dan Qian)
June 11, 2024	<newsmax-invest.com>	Domain Administrator, Sugarcane Internet Nigeria Limited
June 11, 2024	<newsmaxinvest.com>	Domain Administrator, Sugarcane Internet Nigeria Limited
June 11, 2024	<newsmaxinvest.com>	Domain Administrator, Sugarcane Internet Nigeria Limited
June 12, 2024	<newsmaxinvestsr.com>	Domain Administrator, Sugarcane Internet Nigeria Limited
June 13, 2024	<newsmaxinvest.com>	Domain Administrator, Sugarcane Internet Nigeria Limited
June 13, 2024	<newsmaxinvestsr.com>	Domain Administrator, Sugarcane Internet Nigeria Limited
June 13, 2024	<newsmaxinvest.com>	Domain Administrator, Fundacion Privacy Services LTD
June 14, 2024	<newsmaxinvest.com>	Domain Administrator, Fundacion Privacy Services LTD
June 14, 2024	<newsmaxinvest.com>	Domain Administrator, Fundacion Privacy Services LTD
June 14, 2024	<newsmaxinvesting.com>	Domain Administrator, Sugarcane Internet Nigeria Limited
June 14, 2024	<newsmaxinvestors.com>	Domain Administrator, Fundacion Privacy Services LTD
June 14, 2024	<newsmaxinvest.com>	Domain Administrator, Fundacion Privacy Services LTD
June 14, 2024	<newsmaxinvesto.com>	Shi Lei
June 16, 2024	<newsmaxinvest.com>	Domain Administrator, Fundacion Privacy Services LTD
June 16, 2024	<newsmaxinvests.com>	Domain Administrator, Fundacion Privacy Services LTD

According to evidence presented by the Complainant, all disputed domain names resolve or formerly resolved to landing pages displaying Pay-Per-Click (“PPC”) links to websites related to topics such as “Invest in Newsmax”, “private securities offering”, or other topics unrelated to the Complainant. At the time of this Decision, the disputed domain names <newsmaxinvestd.com> and <newsmaxinvesting.com> do not resolve to any active website.

## 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 names.

Notably, the Complainant contends that the disputed domain names are confusingly similar to its NEWSMAX mark. The Respondents have no rights or legitimate interests in respect of the disputed domain names. The Respondents have not received any license from the Complainant to use a domain name featuring the NEWSMAX trademark. The disputed domain names were registered and are being used in bad faith. The Respondents have engaged in “typosquatting”, targeting the Complainant in hopes of catching Internet users that misspell the Complainant’s investment platform.

### B. Respondents

The Respondents did not reply to the Complainant’s contentions.

## 6. Discussion and Findings

### 6.1 Preliminary Issues

#### A. Consolidation: Multiple Domain Name Registrants

The amended Complaint was filed in relation to six nominally different domain name registrants. The Complainant alleges that the domain name registrants are the same entity or mere alter egos of each other, or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The disputed domain name registrants did not comment on the Complainant's request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or associated websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2.

As regards common control, the Panel notes that all 22 disputed domain names were registered within a very short period of time (one week) and they follow a naming pattern insofar as they all contain "newsmax", the word "invest" (or a misspelling of that word) and the generic Top-Level Domain ("gTLD") extension ".com". They have all been used in the same way (i.e., to resolve to landing pages displaying PPC links) and most, if not all, have used the same hosting provider. The registrant of 11 disputed domain names is Domain Administrator, Sugarcane Internet Nigeria Limited, and the registrant of 7 disputed domain names is Domain Administrator, Fundacion Privacy Services LTD. According to evidence presented by the Complainant, a prior UDRP panel has found that other domain names registered by these two registrants were commonly owned/controlled by a single respondent who was using multiple aliases.<sup>1</sup> Even though four other disputed domain names are held by different individuals, each of these four was registered on the same day as one or more of those registered by Sugarcane or Fundacion. Another prior UDRP panel has found that other domain names registered by two of these individuals, or the associated websites, were commonly controlled.<sup>2</sup> In view of the above circumstances, the Panel is satisfied that all 22 disputed domain names or their associated websites are under common control.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below as "the Respondent") in a single proceeding.

#### B. Language of the Proceeding

The Registrar has confirmed that the language of the Registration Agreement for the disputed domain name <www.newsmaxinvest.com> is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint and amended Complaint were filed in English. The Complainant requested that the language

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<sup>1</sup> See *United Parcel Service of America, Inc. v. Carolina Rodrigues / Fundacion Comercio Electronico / Zhichao Yang / Yabani Eze / Sugarcane Internet Nigeria Limited / Lei Shi / leed johnny / Li Jiang / shi lei / Shi Xue Miao / Yang Zhi Chao / Domain Administrator / Fundacion Privacy Services LTD*, NAF Claim No. 1952218.

<sup>2</sup> See *Newsmax Media Inc. v. 张存硕 (Cun Shuo Zhang); 石磊 (Lei Shi); and 钱梦聘 (Meng Dan Qian)*, WIPO Case No. [D2024-2482](#).

of the proceeding be English for several reasons, including that there is evidence of the Respondent's ability to understand English, such as the fact that this disputed domain name contains English terms, and translation of the Complaint would entail additional expenses and unnecessary delays.

Despite the Center having sent an email regarding the language of the proceeding, and the notification of the Complaint, in both Chinese and English, the Respondent did not make any submission with respect to the language of the proceeding or express any interest in participating in this proceeding.

The Panel has found in Section 6.1A above that all the disputed domain names, including <wwwnewsmaxinvest.com>, are under common control. The Registrar has confirmed that the Registration Agreements for the other disputed domain names are in English, indicating the Respondent's ability to communicate in that language.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs. See [WIPO Overview 3.0](#), section 4.5.1.

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

## **6.2 Substantive Issues**

Paragraph 4(a) of the Policy provides that a complainant must prove each of the following elements with respect to each disputed domain name:

- (i) the disputed domain name is identical 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; and
- (iii) the disputed 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 the Complainant's trademark and the disputed domain names. See [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of the NEWSMAX trademark for the purposes of the Policy. See [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the NEWSMAX mark is reproduced within each disputed domain name. Despite the addition of other words incorporating or misspelling the word "invest" plus, in three cases, the word "and", the prefix "www", or the letter "x", the NEWSMAX mark remains clearly recognizable within each disputed domain name. The disputed domain names also incorporate a gTLD extension ".com" which, as a standard requirement of domain name registration, may be disregarded in the assessment of confusing similarity for the purposes of the Policy. Accordingly, the disputed domain names are confusingly similar to the Complainant's NEWSMAX mark for the purposes of the Policy. See [WIPO Overview 3.0](#), sections 1.7, 1.8, and 1.11.1.

Therefore, the Panel finds 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. See [WIPO Overview 3.0](#), section 2.1.

In the present case, the disputed domain names all resolve or formerly resolved to websites displaying PPC links related to various topics, in some cases including the Complainant or the same type of services that the Complainant provides. Two disputed domain names do not resolve to any active website at the present time. This use is for the commercial gain of the Respondent, if it is paid to direct traffic to the linked websites, or the commercial gain of the operators of the linked websites, or both. In view of these circumstances, the Panel does not consider that the Respondent is using the disputed domain names in connection with a bona fide offering of goods or services for the purposes of the Policy, nor that the Respondent is making a legitimate noncommercial or fair use of the disputed domain names.

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 names. 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 names such as those enumerated in the Policy or otherwise.

Based on the record, the Panel finds 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. The fourth of these circumstances is as follows:

“(iv) by using the [disputed] domain name, [the respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the respondent’s] website or other online location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of [the respondent’s] website or location or of a product or service on [the respondent’s] web site or location.”

The disputed domain names were all registered in 2024, years after the registration of the Complainant’s NEWSMAX mark. NEWSMAX is a coined term with no apparent meaning other than as a reference to the Complainant and its products and services. The disputed domain names wholly incorporate that mark. Further, the disputed domain names all combine the NEWSMAX mark with other words incorporating or misspelling “invest”, which indicates an awareness of the Complainant and its subdomain “invest.newsmax.com” that was announced the same month as the registration of all of the disputed domain names. The Respondent provides no explanation for its choice of the disputed domain names. In view of these circumstances, the Panel finds that the Respondent registered the disputed domain names with the Complainant’s NEWSMAX mark in mind.

