

ADMINISTRATIVE PANEL DECISION

Pye-Barker Fire & Safety, LLC v. Frank Roque Case No. D2024-4297

1. The Parties

The Complainant is Pye-Barker Fire & Safety, LLC, United States of America (“United States”), represented by Nelson Mullins Riley & Scarborough, L.L.P., United States.

The Respondent is Frank Roque, United States.

2. The Domain Name and Registrar

The disputed domain name <nardinifre.com> is registered with Hostinger Operations, UAB (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 17, 2024. On October 18, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 21, 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 (Domain Admin / Privacy Protect, LLC (PrivacyProtect.org)) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 28, 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 October 31, 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 November 8, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 28, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 10, 2024.

The Center appointed Evan D. Brown as the sole panelist in this matter on December 13, 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 in the fire equipment business, offering solutions for fire protection, detection, and suppression. It asserts common law rights in the mark NARDINI based on use in commerce since at least as early as 1949. The Complainant has used the domain name <nardinifire.com> since 1999. The Complainant claims it has made extensive, continuous, and substantial investment in and use of its mark and thereby has acquired a substantial amount of reputation and goodwill in the marketplace.

According to the Whois records, the disputed domain name was registered on October 11, 2024. The Respondent has used the disputed domain name only in connection with a registrar-provided landing page for newly registered domain names. The Complainant included evidence showing that the Respondent has set up mail servers associated with the disputed domain name.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is identical or confusingly similar to the Complainant's NARDINI mark; that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and that the disputed domain name was registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (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. The Panel finds that all three of these elements have been met in this case.

A. Identical or Confusingly Similar

This first element functions primarily as a standing requirement. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7. 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. *Id.* This element requires the Panel to consider two issues: first, whether the Complainant has rights in a relevant mark; and second, whether the disputed domain name is identical or confusingly similar to that mark.

The Complainant asserts common law rights in the NARDINI mark, established through continuous use in commerce since at least 1949 and supported by its use of the domain name <nardinifire.com> since 1999. The Respondent has not provided evidence to rebut the Complainant's assertion of rights. The Panel finds that the Complainant has rights in its NARDINI mark.

The disputed domain name incorporates the NARDINI mark in its entirety, together with the term “flre”, an apparent attempt at typosquatting – seeking to resemble the word “fire”. This is a classic example of typosquatting. The incorporation of the mark NARDINI in its entirety into the disputed domain name is sufficient for a finding of confusing similarity under the Policy. The term “flre” does not prevent a finding of confusing similarity. See [WIPO Overview 3.0](#), section 1.9. The NARDINI mark remains recognizable within the disputed domain name.

It is standard practice when comparing a disputed domain name to a complainant’s trademark to disregard the extension (e.g., “.com”) as a standard registration requirement. See [WIPO Overview 3.0](#), section 1.11.1.

For these reasons, the Panel finds that the Complainant has established this first element under the Policy.

B. Rights or Legitimate Interests

The Panel evaluates this element by first determining whether the Complainant has made a prima facie showing that the Respondent lacks rights or legitimate interests in respect of the disputed domain name. Upon such a showing, the burden shifts to the Respondent to rebut this claim. See [WIPO Overview 3.0](#), section 2.1.

The Complainant asserts, among other things, that: (1) the Respondent is not commonly known by the disputed domain name; (2) the Respondent has not been authorized to use the NARDINI mark; and (3) the disputed domain name has not been used in connection with a bona fide offering of goods or services. Instead, the disputed domain name resolves only to a registrar-provided landing page.

On this record, the Panel agrees with the Complainant’s assertion that the most likely purpose in registering the disputed domain name has been to engage in phishing or another similar fraudulent scheme. The Complainant’s evidence indicates that the Respondent has configured mail servers for the disputed domain name. Such conduct does not demonstrate a legitimate interest, and its potential for misuse heightens the concern.

The Panel finds that the Complainant has made the required prima facie showing. The Respondent has not presented evidence to rebut this showing, and there is nothing in the record that tilts the balance in the Respondent’s favor.

Accordingly, the Panel finds that the Complainant has established this second element under the Policy.

C. Bad Faith

The Policy requires the Complainant to establish that the disputed domain name was registered and is being used in bad faith. See paragraph 4(a)(iii) of the Policy.

The Panel notes that when registering the disputed domain name, it chose to use the Complainant’s distinctive NARDINI mark together with a typo that appears to resemble the word “fire” – a key reflection of the Complainant’s business. This evidence demonstrates that the Respondent knew of and indeed targeted the Complainant and its well-established NARDINI mark. This targeting supports a finding that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the complainant’s NARDINI mark. See [WIPO Overview 3.0](#), section 3.1.4.

Passive holding of a domain name can amount to bad faith under certain circumstances. See *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#). The Panel finds that the Respondent has used the disputed domain name in bad faith despite its passive holding. The Complainant has demonstrated that the NARDINI mark is highly distinctive and has been used in commerce continuously since at least 1949 in connection with fire protection, detection, and suppression services. The strong

reputation of the NARDINI mark supports the conclusion that the Respondent targeted the Complainant's mark when registering and using the disputed domain name.

The Respondent used a privacy service to obscure its identity, a factor that weighs against it, particularly in light of the other evidence of bad faith. Such concealment, coupled with the absence of any plausible legitimate use for the disputed domain name, suggests bad faith. The Respondent did not file a response to rebut the Complainant's contentions or provide any evidence to suggest a legitimate use of the disputed domain name. This lack of response allows the Panel to draw an adverse inference about the Respondent's intent.

The presence of configured mail servers associated with the disputed domain name raises the likelihood of harmful activities such as phishing or impersonation, reinforcing the conclusion of bad faith registration and use.

Considering the totality of these factors, the Panel finds that the Respondent has engaged in bad faith conduct by registering and passively holding the disputed domain name. Accordingly, the Complainant has satisfied the third element under 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 <nardinifre.com> be transferred to the Complainant.

/Evan D. Brown/

Evan D. Brown

Sole Panelist

Date: December 19, 2024