

Domain Name Dispute Resolution Center (DNDRC)

Arbitration and Mediation Center

COMPLAINT PANEL DECISION

Case No. 2025-0008

Also in PDF C2025-0008

1. The Complainant

The Complainant is NEWHERE, INC, having its office at 19851 Nordhoff Place, Suite 105, Chatsworth, California 91311. The Complainant has initiated the Complaint vide their authorized representative, Nicole Rash, with her address at 605 1st Avenue, Suite 330, Seattle, Washington 98104.

2. The Domain Name and Respondent

The domain name upon which the Complaint is based is <cdbfx.com.pk>, hereinafter referred to as the Disputed Domain Name [“the DDN”].

PKNIC has informed DNDRC that the DDN is registered by Adnan Abbasi with the contact name Adnan Abbasi, with his address at Street no 2, House no 16, Ahmad Pur East, Pakistan and the email address provided at the time of registration of the DDN is dearkhanii46@gmail.com.

3. Procedural History

DNDRC was informed of the Complaint against the Respondent as per PKNIC - Internet Domain Registration Policy, by notification from the Complainant on 27 June 2024 after which DNDRC completed its compliance review.

Following the completion of DNDRC procedures by the Complainant on 19 December 2024, DNDRC requested the Respondent’s details from PKNIC. PKNIC provided the requested details on 24 December 2024.

The Respondent was issued a notification of the dispute along with a copy of the Complaint and a Response Form on 24 December 2024, informing the Respondent that if a Response was not received 10 days from the receipt of notification, the dispute would be proceeded ex parte. The

Respondent was issued a reminder to file the Response Form on 09 January 2025 and on 20 January 2025 subsequently.

Applying Paragraph 4(a) of the Rules for Uniform Domain Name Dispute Resolution Policy (the *Rules*), DNDRC appointed Mr. Willayat Ali Shah as the sole Arbitrator who has verified that the Complaint satisfies the formal requirements of the Policy and the Rules.

Factual Background

4. Parties Contentions

(a) Complainant

The Complainant's brief contentions are reproduced below:

Complainant is the owner of all rights in and to the following trademark and registration thereof (the "Mark"), among others:

Trademark	Country	Registration Number	Exhibit No.
CBDFX	USA	6458510	2
	USA	6458506	3
	USA	6641754	4

The aforementioned registration is valid, subsisting, and incontestable under U.S. Trademark Law 15 U.S.C. § 1065. The goods and services with which the Mark is used are listed in the certificates of registration particulars, attached in the Exhibits listed above.

Complainant has offered the goods and services under the word and design mark CBDFX as early as August 1, 2016, and now offers such goods and services under the mark CBDFX across a variety of industry sectors.

Complainant also owns the CBDFX.COM domain name through which the goods and services are offered. A copy of the homepage to which the domain name resolves is attached as Exhibit 5. Complainant has prominently and extensively used, promoted, and advertised the Mark and domain name for over 4 years.

By virtue of these efforts, the Mark and domain name have become well recognized by consumers as designating Complainant as the source of the goods and services so marked. Accordingly, the Mark and domain name are extremely valuable to Complainant.

Therefore, the Complainant seeks the following remedy:

The Complainant requests that the Panel issue a decision that the Domain Name CBDFX.COM.PK registration be transferred. UDRP Rule 3(b)(x); UDRP Policy ¶ 4(i).

1. Respondent

The Respondent did not make a submission.

5. Jurisdiction

The Panel's jurisdiction over this dispute between the Complainant and the Respondent is established by virtue of the Internet Domain Registration Policy version 4.4 (2019-08-19) and the Rules.

The Respondent applied for and was granted registration of the DDN on the basis of these regulations, and has submitted to, the PKNIC - Internet Domain Registration Policy version 4.4 (2019-08-19) and the Rules and correspondingly to the arbitral jurisdiction of the DNDRC and its arbitration decisions.

6. Discussion and Findings

In the landmark case of *Standard Chartered PLC v. Hosting Campus Domain* (case no. C2007-0001) available on the DNDRC website (http://www.dndrc.com/cases_resolved/pdf/c2007-0001.pdf), the Panel laid down the following four heads under which to analyze cases, under the Internet Domain Registration Policy version 4.4 (2019-08-19) and the UDRP:

- 1. Illegality, unlawfulness or otherwise invalidity of the Application & Registration (a criteria in terms of the PKNIC - Internet Domain Registration Policy June 20, 2006 version 4.1 in addition to the criteria of the UDRP)*

2. *Identical or confusing similarity to a trademark or service mark in which the Complainant has rights (a UDRP criteria)*
3. *Legitimate interest in Domain Name (a UDRP criteria)*
4. *Registration and use in bad faith (a UDRP criteria)*

The decision of the dispute shall be addressed with respect to the following aspects:

- i. *Illegality, unlawfulness or otherwise invalidity with respect to the Application & Registration (a PKNIC - Internet Domain Registration Policy version 4.4 (2019-08-19) criteria).*
- ii. *Identical or confusing similarity with a trademark or service in which the Complainant has rights (a UDRP criteria).*
- iii. *Legitimate interest in the domain name (a UDRP criteria).*
- iv. *Registration and use of the domain name in bad faith (a UDRP criteria).*

I. Illegality, unlawfulness or otherwise invalidity of the Application & Registration

The PKNIC - Internet Domain Registration Policy version 4.4 (2019-08-19) states that it creates an exception for, and thus excludes the registration of a domain name that:

- a. *infringes upon a registered tradename,*
- b. *is not bona fide as recognized by international best practice,*
- c. *in the opinion of PKNIC, a contravention of the latest version of the Pakistan Penal Code Act, 1860 (including offences of defamation & blasphemy)/ Anti-Terrorism Act, 1997/any applicable criminal law,*
- d. *has been declared by a Criminal Court of appropriate jurisdiction to have contravened the latest version of Pakistan Penal Code Act, 1860 (including offences of defamation & blasphemy)/Anti-Terrorism Act, 1997/any applicable criminal law), or*
- e. *in the opinion of PKNIC is not appropriate for registration.*

As per the PKNIC - Internet Domain Registration Policy version 4.4 (2019-08-19),

If a party claims that a domain name already registered with PKNIC violates their registered tradename, an obvious derivation of their registered company name is not bona fide as recognized by international best practice, and is a contravention in the opinion of PKNIC to be a contravention of the latest version of the Pakistan Penal Code Act, 1860 (including offences of defamation & blasphemy)/ Anti-Terrorism Act, 1997/any applicable criminal law, PKNIC reserves the right to cancel, or transfer the domain to the claiming

party as per the ICANN's Uniform Domain Name Dispute Resolution Policy [UDRP] (with PKNIC amendments) or as per the orders of a court judgment in Pakistan.

Therefore, for the purpose of assessing illegality, unlawfulness or otherwise invalidity of the Application & Registration of the DDN, the application and registration of the DDN shall be assessed in consideration of the following criteria:

- i. Whether the DDN infringes upon a registered trade name / trade mark?
- ii. Whether the application and/or registration of the DDN is bona fide?
- iii. Whether the application and/or registration of the DDN contravenes the Pakistan Penal Code, 1860 (the "Penal Code") or any applicable criminal law?

The Complainant has not contended that the DDN is illegal, unlawful or otherwise invalid.

The Respondent has not contended that the DDN is legal, lawful or valid.

The Panel notes that the Complainant has provided the proofs and evidence of its trademark rights relating to "CBDFX" in United States of America (USA). The criterion of illegality would be satisfied if the Complainant can prove a contravention of their trademark rights through the DDN.

The Panel determines that while the Complainant has provided sufficient evidence of its ownership of the trademark "CBDFX", the Complaint lacks the addressal of issue pertaining to the registration of the trademark in USA and its infringement in Pakistan.

Given the lack of submission by either Party, the Panel finds it necessary to evaluate whether each of the UDRP criteria has been fulfilled.

II. Identical or confusing similarity to a trademark or service mark in which the Complainant has rights

The Complainant has made the following submissions:

The CBDFX.COM.PK domain name is confusingly similar to the CBDFX mark in which Complainant has superior rights in CBDFX.COM.PK domain name and is a complete and exact reproduction of Complainant's CBDFX mark. Moreover, the contents of the website with the domain name CBDFX.COM.PK is an exact replication of the Complainant's products and services as sold under their domain name CBDFX.COM.

The Respondent has not submitted any contention.

The Complainant has contended that the DDN is the exact replication of the Complainant's trademark "CBDFX" and that the contents published or displayed on the DDN are identical to the Complainant's website. The Panel vide Exhibit 2 to 4 stands satisfied that the Complainant owns the said trademark.

The Panel relies on a well-known principle, used in several WIPO and DNDRC decisions where the constitution of a trademark in its entirety into the DDN is sufficient to prove confusing similarity or identity between the DDN and the trademark (See *National Council of State Boards of Nursing, Inc. v. Registration Private, Domains By Proxy, LLC / NCLEX Office Case No. D2021-0922*). Since the DDN incorporates the Complainant's trademark without any additions or modifications, the Panel finds that the DDN is identical to the Complainant's mark.

As for the .com.pk ccTLD, the Panel refers to *Manoj Nair/WhoisGuard and WIPO Case No. D2011-0775* and finds that the ccTLD such as .com or .pk are not to be taken into consideration when finding confusing similarity between the DDN and the Complainant's mark as they are necessary for registrations.

Based on the assessment above, the Panel concludes that the DDN is identical to the trademark in which the Complainant holds rights.

III. Legitimate interests in a domain name

As per paragraph 4(c), the UDRP requires the Respondent's claim to be of legitimate interest and shall be:

"proved based on all evidence presented" that "shall demonstrate" the Respondent's "rights or legitimate interests to the domain name for purposes of Paragraph 4(a)(ii)."

Paragraph 4(a)(ii) states that:

"(i) before any notice to you 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 (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 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 Complainant has made the following submissions:

Respondent registered the Domain Name on CBDFX.COM.PK on December 27, 2023, long after Complainant registered the CBDFX mark with the United States Patent and Trademark Office and long after Complainant began using the CBDFX mark. CBDFX is an arbitrary term that has no meaning outside its use as a means to identify Complainant as a source of certain products and services.

Respondent is not a licensee of Complainant nor is Respondent otherwise authorized to use Complainant's CBDFX mark for any purpose.

Upon information and belief, Respondent is not commonly known as "CBDFX.COM.PK". Thus, Respondent has not established rights or legitimate interests in the disputed domain name pursuant to Policy ¶ 4(c)(ii). See Nasdaq, Inc. v. Wang Chun Lei, FA2208002009200 (FORUM Sept. 30, 2022) (finding no rights or legitimate interest where Respondent was not commonly known by the mark and was not licensed or otherwise authorized to use it); see also Vetoquinol SA v. Super Privacy Service LTD c/o Dynadot, D2022-0134 (WIPO Mar. 7, 2022); Broadcom Corp. v. Intellifone Corp., FA0101000096356 (Nat'l Arb. Forum Feb. 5, 2001); Compagnie de Saint Gobain v. Com-Union Corp., D2000-0020 (WIPO Mar. 14, 2000).

The Domain Name currently consists of the products and services offered by Complainant under the CBDFX mark and through the CBDFX.COM domain. Such conduct serves the purpose of generating revenues, e.g., from the advertised pay-per-click products and collecting information from unknowing CBDFX customers. For these reasons, it is very probable that an internet user might be misled into thinking that the web page is related to or even operated by Complainant. See the printout of the site accessible through CBDFX.COM.PK, which is attached as Exhibit 6.

Respondent is using an identical or confusingly similar domain name to redirect internet users to sponsored listings for commercial gain. ICANN panels have consistently held that such use is not a bona fide offering of goods or services pursuant to Policy ¶ 4(c)(i) or a legitimate noncommercial or fair use pursuant to Policy ¶ 4(c)(iii). See, e.g., ITT Inc. & ITT Mfg. Enters., LLC v. Romero, FA2108001961339 (FORUM Sept. 29, 2021); Summit Grp., LLC v. LSO, Ltd., FA0607000758981 (Nat'l Arb. Forum Sept. 14, 2006); see also

Compagnie de Saint-Gobain v. Brian Feury, Saint Gobain, D2022-4940 (WIPO Feb. 9, 2023); Vapor Blast Mfg. Co. v. R & S Tech., Inc., FA0102000096577 (Nat'l Arb. Forum Feb. 27, 2001) (finding that the respondent's commercial use of a confusingly similar domain name suggests that the respondent lacks rights or a legitimate interest in the disputed domain name).

In short, there is no legitimate basis for Respondent's registration and/or use of the CBDFX.COM.PK domain name, which is confusingly similar to and includes an exact reproduction of Complainant's CBDFX mark.

The Respondent has not submitted any contention.

The Complainant contends that the Respondent is not authorized to use the Complainant's trademark in the DDN and that the Respondent is not commonly known by it. The Complainant also asserts that the Respondent is not involved in bona fide offering of goods and services which furthers the finding of lack of legitimate interests on part of the Respondent.

The Panel agrees with the contentions of the Complainant and reiterates a principle followed by previous DNDRC Panels as well as WIPO where once the Complainant contends that the Respondent lacks legitimate interest in the DDN, they have made a prima facie case against the Respondent and the burden shifts to the Respondent to demonstrate otherwise. If the Respondent fails to satisfy the burden or does not make any submission at all, they are considered to have not met that burden, satisfying the second UDRP criterion. (See *MicroBilt Corporation v. Greg J Michalko Case No. D2024-2212*)

The Panel, due to lack of any submissions by the Respondent, finds that the Respondent has not satisfied the burden of proof shifted upon them, demonstrating the lack of legitimate interest on their part.

The Panel therefore finds that the Respondent does not have any legitimate interest in the DDN.

IV. Registration and use in bad faith

The Complainant has made the following submissions:

The Policy sets forth in paragraph 4(b) four exemplary and non-exhaustive circumstances of registration and use in bad faith. Absent a rebuttal by Respondent, these circumstances may be established through the Complaint and supporting documentation attached thereto. See UDRP Policy ¶ 4(b).

Paragraphs 4(b)(iii) and (iv) of the Policy provide that a complainant may establish that the registration and use of a domain name was in bad faith by showing that by using the domain name, the respondent attempted to intentionally attract for commercial gain Internet users to its website by creating a likelihood of confusion with Complainant's marks as the source of the web site or of a product or service on that web site.

In addition to the exemplary non-exhaustive circumstances in paragraph 4(b) of the Policy, a Complainant independently may demonstrate bad faith under the general provision of paragraph 4(a)(iii) under a general notion of bad faith.

As prior Panels have stated, "[t]he overriding objective of the Policy is to curb the abusive registration of domain names in circumstances where the registrant seeks to profit from or exploit the trademark of another." See, e.g., Sullivan & Cromwell LLP v. Dye, FA2208002008452 (FORUM Sept. 22, 2022); Sleep Country Can. Holdings Inc. v. Name Redacted, D2022-4428 (WIPO Jan. 26, 2023).

Upon information and belief, Respondent registered and is using the Domain Name primarily to profit from and exploit Complainant's CBDFX mark. Upon information and belief, Respondent is using the Domain Name to misdirect internet users to its own website by mirroring Complainant's trademark, products, and website design.

Upon information and belief, Respondent is using the Domain Name in connection with a revenue generating scheme pursuant to which Respondent receives some compensation from revenues generated by searches activated through the Domain Name.

Upon information and belief, Respondent is using a proxy service or private registration service to register the Domain Name as there is virtually no information available for both CBDFX.COM.PK. See Exhibit 1.

Respondent's diversionary use of Complainant's CBDFX mark to redirect internet users to Sponsored Listings for which Respondent presumably receives click-through fees constitutes bad faith registration and use of the disputed domain name under Policy ¶ 4(b)(iv). See Spotify AB v. Rexford, FA2207002003015 (FORUM Aug. 9, 2022) (citing G.D. Searle & Co. v. Celebrex Drugstore, FA 123933 (Nat'l Arb. Forum Nov. 21, 2002) (finding bad faith registration and use pursuant to Policy ¶ 4(b)(iv) because the respondent was using the confusingly similar domain name to attract internet users to its commercial website)); see also Motul v. Ong Ho Anh Tung, D2018-0768 (WIPO June 28, 2018) (finding bad faith where respondent directed internet users seeking the complainant's website to its own

website for commercial gain). Furthermore, the very nature of Respondent's registration and use of the Domain Name evidences bad faith. Upon information and belief, Respondent knowingly registered the Domain Name containing an exact reproduction of the well-known CBDFX mark and to capitalize on consumer recognition of the CBDFX mark and its association with the categories of goods and services listed on the website at CBDFX.COM. See Exhibit 6.

Moreover, the designation CBDFX is unique and arbitrary such that it is unlikely that the Respondent devised the term CBDFX.COM.PK on its own. This factor alone weighs in favor of finding bad faith against Respondent. See Neuberger Berman, Inc., v. Jacobsen, No. D2000-0323 (WIPO June 12, 2000) (weighing the uniqueness of the trademark, and the likelihood of Respondent coming up with the domain name independently, in finding bad faith); see also Xypex Chem. Corp. v. Zou Xue Ming, No. D2020-3202 (WIPO Feb. 23, 2021).

The bad faith allegations set out in the paragraphs above, combined with the Respondent's lack of interest or rights in the Domain Name, should lead the Panelist to the inevitable conclusion that there is no plausible circumstance under which Respondent could legitimately register or use the Domain Name and that, therefore, the Domain Name was registered and is being used by Respondent in bad faith.

The Respondent has not submitted any contention.

The Complainant refers to Paragraph 4(b) of the UDRP and contends that the Respondent has registered and is using the DDN in bad faith. The Complainant has also asserted that the Respondent is exploiting the trademark of Complainant to cause confusion in the minds of customers to gain monetary advantage.

The Panel agrees with the Complainant's contentions that the Respondent has exploited their trademark to profit from consumer confusion. The Panel finds that the Respondent's use of DDN was intended to mislead customers, demonstrating bad faith, which is further reinforced by the Panel's finding of confusing similarity above. This also aligns with Paragraph 4(b)(iv) of the Policy, evidencing the registration and use of the DDN in bad faith resulting from a likelihood of confusion in the DDN with the Complainant's mark (See *WIPO Case No. D2012-1765, MasterCard International Incorporated ("MasterCard") v. Wavepass AS / Amazon.com, Inc. v. Wes Mayder, WeDirect, Inc. and Iclicks Case No. D2003-0258*)

The Panel acknowledges that the Complainant's trademark "CBDFX" is not a standard dictionary word but is inherently distinctive. Given its unique nature, it is unlikely that the Respondent used

it accidentally or without actual knowledge of its existence. This is further evidenced by the Respondent's unauthorized use of DDN to sell the Complainant's products, supporting a finding of bad faith (*See WIPO Case No. D2009-0320, Research In Motion Limited v. Privacy Locked LLC/Nat Collicot*).

The Panel has also reviewed *Neuberger Berman, Inc. v. Jacobsen, WIPO Case No. D2000-0323*, cited by the Complainant, and disagrees with the assertion that "this factor alone weighs in favor of finding bad faith." However, the Panel acknowledges that it is a contributing factor.

Moreover, the Respondent failed to ensure that its registration did not contravene the Complainant's trademark rights. The Respondent's lack of submissions in this regard further reinforces this finding (*See WIPO Case No. D2008-0226, Lancôme Parfums et Beauté & Cie, L'Oréal v. 10 Selling*).

Given the lack of submissions from the Respondent, the Panel finds that the DDN was registered and is being used in bad faith by the Respondent.

7. Decision

Upon reviewing the contentions and information provided by the Complainant above, the Panel acknowledges that the "CBDFX" mark is registered and owned by the Complainant and the Respondent has no trademark rights over it. Therefore, the continuous use of the DDN <cbdfx.com.pk> would adversely impact the exercise of the Complainant's trademark rights, despite being in a separate jurisdiction and could also jeopardize the reputation of the Complainant by amounting to confusion regarding the ownership of the DDN.

Taking all the discussion above into consideration, the Panel concludes and decides that:

1. The Respondent's registration of the DDN does not violate the PKNIC - Internet Domain Registration Policy version 4.4 (2019-08-19);
2. The DDN is identical to the registered trademark of the Complainant;
3. The Respondent has no legitimate interest in the DDN;
4. The DDN was registered and is being used in bad faith by the Respondent.

Pursuant to Section 4 of the Policy, the Panel, therefore, recommends that PKNIC transfer the registration of the DDN <cbdfx.com.pk> to the Complainant, as prayed, within 48 hours of receipt of this decision either by email or through the website where it will be uploaded,

www.dndrc.com/cases_resolved/, whichever is earlier. The Complainant shall also be at liberty to contact PKNIC for implementation of this decision.

Arbitrator: Willayat Ali Shah

Sole Panelist

Date: 25 February 2025