

Domain Name Dispute Resolution Center (DNDRC)

Arbitration and Mediation Center

COMPLAINT PANEL DECISION

Case No. C2025-0009

Also in PDF C2025-0009

1. The Parties

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, 605 1st Avenue, Suite 330, Seattle, Washington 98104.

The Respondent's name is Usman Abbaxi, with their address at Modal Town, Bahawalpur, Pakistan.

2. The Domain Name and Registrar

The domain name in dispute is <cbdfx.pk>, hereinafter referred to as the Disputed Domain Name [the "DDN"]. Vide email dated 24 December 2024, PKNIC has informed DNDRC that the DDN was registered by the Respondent.

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 14 October 2024 after which DNDRC completed its compliance review.

PKNIC provided the details of the Respondent to DNDRC 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 30 December 2024 informing the Respondent that if a Response was not received 10 days from the notification, the dispute would be proceeded ex parte.

The Respondent has since failed to submit a response within the prescribed time.

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

4. Factual Background

The DDN upon which the Complaint is based is <cbdfx.pk>.

PKNIC has confirmed via their email dated 24 December 2024 that the DDN was registered by the Respondent above-named and that the email address provided at the time of registration is usmanabbaxi92@gmail.com.

1. 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.PK registration be transferred. UDRP Rule 3(b)(x); UDRP Policy ¶ 4(i).

B. Respondent

The Respondent has not submitted any response.

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?

To prove illegality or unlawfulness, it will be deemed sufficient if the Complainant proves that they are entitled to the rights of a trademark that is wholly incorporated within the DDN. The Complainant has provided proof of the registration of their trademark “CBDFX” in multiple classes in the U.S., which has clearly been incorporated within the DDN. This establishes that the DDN is infringing upon the Complainant's rights. However, the Complainant has not explicitly contended illegality.

The Respondent has not submitted a response.

Thus, due to the lack of contentions from the Complainant and the Respondent, we cannot make a conclusion on whether the registration of the DDN is illegal or not. We will instead assess the remaining UDRP criteria.

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

The Complainant has stated:

The CBDFX.PK domain name is confusingly similar to the CBDFX mark in which Complainant has superior rights in CBDFX.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.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 response.

UDRP panels consistently hold that a domain name is considered identical when it wholly incorporates the complainant's mark without alteration.

Applying the test under paragraph 1.7 of the UDRP policy, the DDN is an exact reproduction of the Complainant's CBDFX mark. As per Section 1.11 of WIPO Overview 3.0, the inclusion of the ccTLD “.pk” is a standard registration requirement and does not affect the assessment of identity.

Given the complete incorporation of the Complainant's trademark and the identical nature of the domain name, the Panel finds that the DDN is identical to the Complainant's CBDFX trademark. The Panel therefore concludes that the first element under Paragraph 4(a)(i) of the policy is satisfied.

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 asserts that the Respondent is unable to invoke any of the circumstances set out in paragraph 4(c) of the Policy that would demonstrate its rights or legitimate interests in the Domain Name.

The Complainant has contended the following:

Respondent registered the Domain Name on CBDFX.PK on December 26, 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.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.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.PK domain name, which is confusingly similar to and includes an exact reproduction of Complainant's CBDFX mark.

The Respondent has not submitted any response:

For the purposes of this criterion, once the Complainant asserts that the Respondent lacks a legitimate interest in the DDN, the burden shifts to the Respondent to prove otherwise (MicroBilt Corporation v. Greg J Michalko, Case No. D2024-2212).

The Complainant has made a prima facie case by demonstrating that the Respondent has no authorization, license, or affiliation with the CBDFX trademark and is using the domain to promote identical products and services under the DDN. UDRP panels have consistently held that such use does not constitute a bona fide offering of goods or services and cannot establish rights or legitimate interests in a domain name (Farouk Systems, Inc. v. QYM, WIPO Case No. D2009-1572; Skechers USA, Inc. v. Client Care, Web Commerce Communications Limited, WIPO Case No. D2021-4182).

The Respondent must now provide satisfactory evidence to demonstrate otherwise, and failure to do so would result in the second element being satisfied by the Complainant. However, due to the lack of any response from the Respondent, the second element is automatically satisfied by the Complainant as the Panel is unable to ascertain whether the Respondent has a legitimate interest in the DDN.

Therefore, the Panel concludes that the Complainant has established a prima facie case that the Respondent lacks legitimate interest in the DDN. The Panel further finds that the Respondent has failed to establish any legitimate interest in the DDN.

IV. Registration and use in bad faith

The Complainant has made the following submission:

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.

6 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.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.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 response.

Regarding registration in bad faith, the Panel concludes that it is highly unlikely that the Respondent was unaware of the Complainant's CBDFX trademark at the time of registration. The Complainant has demonstrated that CBDFX is a unique, arbitrary term with no independent meaning outside its association with the Complainant's products and services. Prior UDRP decisions have consistently found that when a trademark is distinctive and well-known, a respondent cannot credibly claim ignorance of the mark when registering an identical or confusingly similar domain name.

The Panel also finds that the Respondent's selection of a domain name identical to the Complainant's mark, without any apparent rights or legitimate interests, strongly indicates opportunistic bad faith. The Respondent's use of the DDN to replicate the Complainant's website and offer identical products further supports a finding of bad faith registration and use. Prior UDRP panels have consistently held that such conduct constitutes clear evidence of bad faith (*Spotify AB v. Rexford*, FA2207002003015; *Motul v. Ong Ho Anh Tung*, D2018-0768).

Additionally, a simple online search would have revealed the Complainant's rights in the CBDFX mark. Previous UDRP decisions have determined that failure to conduct such due diligence or, alternatively, a deliberate decision to register a well-known mark despite its established reputation, supports a finding of bad faith.

As for use in bad faith, the Respondent's operation of a website that mirrors the Complainant's official site and promotes identical products is likely to create confusion among consumers. The information submitted by the Complainant demonstrates that the Respondent is misleading internet users into believing that the DDN and the products offered therein are affiliated with or authorized by the Complainant, constituting bad faith use under Paragraph 4(b)(iv) of the Policy.

Moreover, the Respondent has not disclosed any relationship with the Complainant, nor has the Complainant granted any authorization for the use of its trademark. The Panel further notes that the registration of the DDN prevents the Complainant from reflecting its trademark in the ".pk" ccTLD, which prior UDRP decisions have held to be indicative of bad faith.

Based on the facts and evidence presented, the Panel concludes that the Respondent registered and used the DDN in bad faith, fulfilling the requirements of Paragraph 4(a)(iii) of the Policy.

7. Decision

The Panel, upon reviewing the information provided, finds that the DDN incorporates the Complainant's "CBDFX" trademark in its entirety, and the Respondent does not possess legitimate rights over it. The use of the DDN could seriously hinder the Complainant's exercise of its trademark rights and jeopardize its reputation by causing confusion regarding the ownership of the DDN. The Respondent has registered and used the DDN in bad faith, likely aware of the Complainant's well-known mark, and its use of the DDN for commercial gain, including redirecting users to sponsored listings and mirroring the Complainant's website, further suggests

bad faith. Therefore, the Panel concludes that the Respondent has both registered and used the DDN in bad faith.

Keeping in consideration the aforementioned discussion, the Panel finds that:

1. The DDN is identical to the registered trademark of the Complainant;
2. The Respondent has no legitimate interest in the DDN;
3. The DDN was registered and is being used in bad faith.

Pursuant to Section 4 of the Policy, the Panel, therefore, recommends that PKNIC transfer the registration of the domain name in dispute <cbdfx.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: Rayyan Altaf

Sole Panelist

Date: 25 February 2025