

ADMINISTRATIVE PANEL DECISION

The Trustees for the time being of the Nelson Mandela Foundation Trust v.
Pradeep, Supreme Techno Associates PVT. LTD.
Case No. D2023-3968

1. The Parties

The Complainants are The Trustees for the time being of the Nelson Mandela Foundation Trust, South Africa, represented by Edward Nathan Sonnenbergs Inc. (trading as ENSafrica), South Africa.

The Respondent is Pradeep, Supreme Techno Associates PVT. LTD., India.

2. The Domain Name and Registrar

The disputed domain name <nelsonmandela.university> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on September 22, 2023. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 25, 2023, 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 and contact information in the Complaint. The Center sent an email communication to the Complainants on September 27, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Center received an informal email communication from the Respondent on September 27, 2023. The Complainants filed an amended Complaint on October 3, 2023.

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 October 4, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 24, 2023. The Respondent sent an informal email communication to the Center on October 11, 2023. The Complainants submitted a supplemental filing on October 11, 2023, to which the Respondent replied in a further informal email communication on October 12, 2023. The formal Response was filed with the Center on October 16, 2023.

The Center appointed Matthew Kennedy as the sole panelist in this matter on October 24, 2023. 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 Complainants are the trustees of the Nelson Mandela Foundation Trust (the "Trust"), a non-profit organization founded in 1999 by the former President of South Africa, Nelson Mandela, to contribute to the making of a just society by promoting the vision, values, and work of its founder. The Complainants hold trademark registrations in multiple jurisdictions, including the following:

- South African trade mark registrations numbers 2004/17449 and 2011/29648, both for NELSON MANDELA, registered on August 26, 2008 and July 31, 2013, respectively, specifying services in classes 35 and 14, respectively;
- South African trade mark registration number 2011/29647 for MANDELA, registered on October 25, 2013, specifying services in class 41, including education services;
- Indian trade mark registration numbers 4580176, 4580178, 4580179, and 4580180, all for MANDELA, all registered from July 22, 2020 with a journal date of August 31, 2020, specifying goods in classes 14, 25, 35 and 36, respectively; and
- United States of America ("United States") trademark registrations numbers 5677421 and 6428694, both for NELSON MANDELA, registered on February 19, 2019 and July 20, 2021, specifying goods and services in classes 14, 31, and 35. These registrations are subject to the endorsement that the name "Nelson Mandela" does not identify a living individual.

The above trademark registrations are current. The Complainants also claim common law rights in the NELSON MANDELA and MANDELA marks. The Trust holds the domain name <nelsonmandela.org> that has been used since 2002 in connection with a website that provides information about the Trust, its founder, and its projects. According to the Trust's annual reports, published on the website, the Board of Trustees provides strategic leadership and oversight to the Trust. The Trust operates programs including the "Nelson Mandela International Dialogues" and the "Nelson Mandela Annual Lecture series" and it participates in "The Mandela Initiative" launched in 2011, which is a university-led national endeavor involving research, workshops and public dialogue. The Trust has also registered "nelsonmandela" in various Top-Level Domains ("TLDs") and Secondary Level Domains ("2LDs"). According to information provided by the Respondent, these domain names are not all in active use and at least one is available for sale.

The Respondent is an authorized representative of Supreme Techno Associates Pvt. Ltd ("Supreme"), a Tamil Nadu, India corporation, incorporated in 1982, which operates its website at "www.supremechennai.com". The Respondent is also President of Nelson Mandela University, Inc., which is an alternate name registered on July 10, 2014 by PDMF University, Inc. a New Jersey, United States corporation. According to information provided by the Complainants, "PDMF" University was an acronym for "Princess Diana Memorial Fund" University.

The disputed domain name was registered on August 19, 2015. It resolves to a website for Nelson Mandela University and Supreme Techno Global UniVARSITY ("Supreme Global"), a unit of Supreme. The About Us page includes a biography of Nelson Mandela whom it describes as "our inspiration". The website offers instant bachelors, masters, and doctoral degree certificates in all disciplines with no grade sheet, instant honorary degree certificates, and instant research degree certificates. The website claims that the degrees are legally valid. Recipients can be self-nominated or nominated by a third party. The website invites Internet users to contact Supreme Global, which charges service fees ranging from USD 75 for a diploma certificate to USD 650 for integrated bachelors/masters/doctoral degree certificates. Payments can be made by PayPal or bank transfer to the Respondent.

The Respondent filed a police complaint in Chennai on November 20, 2019, regarding the alleged award of forged degrees from Nelson Mandela University in Mumbai. The Respondent attested on November 22, 2019 that Supreme was affiliated to Nelson Mandela University. The Respondent made a sworn declaration on December 23, 2019 that Supreme had entered into agreements to provide support services to Nelson Mandela University, Inc. and 10 other degree-conferring institutions in the United States.

The Complainants filed a phishing complaint with the Registrar on June 29, 2022 regarding the disputed domain name, alleging that the Respondent's website impersonated the official website of Nelson Mandela University (of Port Elizabeth, South Africa), which is associated with the domain name <mandela.ac.za>. After the Respondent provided documentation as requested by the Registrar, including a statement under letterhead that the university was legitimate, the matter was considered resolved.

5. Parties' Contentions

A. Complainants

The Complainants contend that they have satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainants contend that the disputed domain name is confusingly similar to the NELSON MANDELA and MANDELA marks.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainants have not authorized, nor in any manner been involved in the registration of the disputed domain name and use therein of the trademarks NELSON MANDELA and MANDELA. The nature, authenticity and validity of the university degrees offered at the Respondent's website are very questionable.

The disputed domain name was registered and is being used in bad faith. Given the extensive international reputation that vests in the Complainants' NELSON MANDELA and MANDELA trademarks and the Respondent's actual knowledge of such reputation, it is submitted that the Respondent deliberately adopted the name NELSON MANDELA for its university and for the disputed domain name, to unduly and unlawfully leverage off the iconic reputation attaching to the name and knowing that the disputed domain name would be confusingly similar to the Complainants' NELSON MANDELA and MANDELA trademarks.

B. Respondent

The Respondent denies that the Complainants are entitled to a transfer of the disputed domain name. He argues that the Complainants are a distinct legal entity from the Trust. While Mr. Nelson Mandela was indeed a remarkable and honorable individual who contributed to the establishment of a just society, it is imperative to highlight the opportunistic endeavors of certain individuals who have sought to exploit his name and image for financial gain. Curiously, almost all the MANDELA trademarks are not held by the Trust but, rather, by the Complainants. The domain name <nelsonmandela.us> is available for sale for USD 1,000,000.

"Mandela" is a common surname in Africa and various other regions of the world. The Companies Tribunal of South Africa has ruled that the name "Nelson Mandela" does not possess formal legal protection. ¹The Complainants' trademarks are in premium business categories, not altruistic or humanitarian endeavors. In India, trademarks have been granted for MANDELA but not NELSON MANDELA. Genuine trusts have only

¹*The Trustees for the time being of the Nelson Mandela Foundation Trust v Mandela Collective Business (Pty) Ltd and anor*, Companies Tribunal of South Africa, Case No: CT00498ADJ2020, Decision of June 18, 2021; and *The Trustees for the time being of the Nelson Mandela Foundation Trust v Mandela Metro Solutions (Pty) Ltd and anor*, Companies Tribunal of South Africa, Case No: CT01150ADJ2022, Decision of April 13, 2023.

one foundation to carry out their work for humanity, not multiple foundations. How could the disputed domain name possibly encroach upon the Complainants' rights with respect to keyrings and stationery as specified in their trademark registrations? How could conferring honorary degrees possibly tarnish Nelson Mandela's reputation when the Complainants have trademarked his name and image with respect to underwear? The Complaint is rife with virtue signaling. There is no open-source Internet information about the Complainants. Anyone can purchase an unlimited number of "nelsonmandela" domains with any available TLDs, provided they have not already been acquired. The Complainants' claims of international reputation are unsubstantiated.

Nelson Mandela University, Inc. is in good standing. Its registered legal name corresponds to the disputed domain name. On the other hand, Nelson Mandela Metropolitan University (NMMU) (of Port Elizabeth, South Africa) did not change its name to "Nelson Mandela University" until July 20, 2017, significantly later than the government chartered date of the Respondent's company and the creation of the disputed domain name. Nelson Mandela University (of Port Elizabeth) is a public institution under the governance of the South African government. It did not contact the Respondent to acquire the disputed domain name because it is of no significance for its institution.

6. Discussion and Findings

6.1 Complainant's Unsolicited Supplemental Filing and Respondent's Informal Communications

The Complainants request that the Panel accept their supplemental filing of October 11, 2023, in order to respond to "very serious defamatory, damaging and untrue statements" in the Respondent's initial informal email communication received earlier the same day. The Respondent sent another informal email communication on October 12, 2023.

Paragraph 10(c) of the Rules requires the Panel to ensure that the administrative proceeding takes place with due expedition. Paragraph 10(d) of the Rules also provides that "[t]he Panel shall determine the admissibility, relevance, materiality and weight of the evidence". Although paragraph 12 of the Rules empowers the Panel, in its sole discretion, to request further statements or documents from either of the Parties, this does not preclude the Panel from accepting unsolicited filings. See *Delikomat Betriebsverpflegung Gesellschaft m.b.H. v. Alexander Lehner*, WIPO Case No. [D2001-1447](#) and [WIPO Overview 3.0](#), section 4.6.

The Panel notes that the Complainants' supplemental filing responds to a series of allegations that could not have been anticipated in the Complaint, including a claim of impersonation that is relevant to the issue of standing. The Respondent has taken two opportunities to reply to the Complainants' supplemental filing, in its second informal email communication and in the Response. Accepting the Complainants' supplemental filing, and the Respondent's informal email communications, will not create any delay in the proceeding. Therefore, the Panel decides to accept the Complainants' supplemental filing, and the Respondent's informal email communications, as part of the record of this proceeding.

6.2 Substantive Issues

Paragraph 4(a) of the Policy provides that the Complainants must prove each of the following elements:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainants have rights; and
- (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

Based on the available record, the Panel finds that the Complainants have rights in respect of the NELSON MANDELA and MANDELA marks.

The Respondent alleges that the Complainants lack standing, that they are impersonating the “Nelson Mandela Foundation Trust” and that “The Trustees for the time being of the Nelson Mandela Foundation Trust” are a distinct legal entity.

The Complainants reply that the Respondent’s allegation is spurious. The Complainants submit that in South Africa, trusts do not have a separate juristic legal personality, unlike companies. In South Africa, legal proceedings are initiated and responded to by the trustees of a trust, in their official capacities (*nomine officio*) on behalf of the trust. Because trustees of a trust change from time to time, they are correctly cited as “the trustees for the time being of” the relevant trust, in this case, the Nelson Mandela Foundation Trust.

The Panel has reviewed the terms in which the Complainants are identified in the Complaint, as set out in section 1 of this Decision, and notes that they are identical to the name of the registered proprietors of the trademarks listed in section 3 above. Moreover, the words “The Trustees for the time being of” indicate that the Complainants act in their capacity as trustees of a trust. Those words do not form part of the name of a trust. The name of the relevant trust is the “Nelson Mandela Foundation Trust”. The Panel sees nothing deceptive in this structure. It has already been accepted in a prior proceeding under the Policy, to which the Respondent referred. See *The Trustees for the time being of the Nelson Mandela Foundation Trust v. Domains by Proxy, LLC / Rafael Trevisan, Trevis, Inc.*, WIPO Case No. D2019-0372. Accordingly, the Panel finds that the Complainants have standing to bring this proceeding and that there is no impersonation.

The disputed domain name wholly incorporates the NELSON MANDELA mark. Its only additional element is a generic TLD (“gTLD”) extension (“.university”) which, as a standard requirement of domain name registration, may be disregarded in the comparison between the disputed domain name and the NELSON MANDELA mark. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (“[WIPO Overview 3.0](#)”), section 1.11.1. In view of the Panel’s findings, it is unnecessary to compare the disputed domain name with the MANDELA mark.

Accordingly, the Panel finds that the disputed domain name is identical to the NELSON MANDELA mark for the purposes of the Policy. Therefore, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets out the following circumstances which, without limitation, if found by the Panel, shall demonstrate that the Respondent has rights to, or legitimate interests in, a disputed domain name, for the purposes of paragraph 4(a)(ii) of the Policy:

- (i) before any notice to [the Respondent] of the dispute, [the Respondent’s] use of, or demonstrable preparations to use, the [disputed] domain name or a name corresponding to the [disputed] domain name in connection with a *bona fide* offering of goods or services; or
- (ii) [the Respondent] (as an individual, business, or other organization) [has] been commonly known by the [disputed] domain name, even if [the Respondent has] acquired no trademark or service mark rights; or
- (iii) [the Respondent is] making a legitimate noncommercial or fair use of the [disputed] domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel will assess the existence of rights and legitimate interests as at the time of filing the Complaint. See [WIPO Overview 3.0](#), section 2.11.

As regards the first and third circumstances set out above, the disputed domain name resolves to a website for Nelson Mandela University, Inc. and Supreme Global. The disputed domain name is identical to the Complainant's NELSON MANDELA mark, with the addition of a gTLD extension, which creates a high risk of implied affiliation with the Complainants. That risk is compounded by the fact that the website associated with the disputed domain name prominently displays a biography of former President Nelson Mandela. The Complainants submit that they have not authorized, nor in any manner been involved in the registration of the disputed domain name and use therein of the trademarks NELSON MANDELA and MANDELA. It is clear from the record of this proceeding that there is no relationship between the Parties. Further, while Nelson Mandela University, Inc. may be a non-profit corporation, the website associated with the disputed domain name is commercial, as the Respondent charges service fees for degree certificates. Accordingly, these circumstances do not indicate that the Respondent is using the disputed domain name in connection with a *bona fide* offering of goods or services, nor that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name.

As regards the second circumstance set out above, the Registrar has verified that the Respondent's name is "Pradeep" and his company's name is "Supreme Techno Associates PVT. LTD". Although the website associated with the disputed domain name is for an institution with a name identical to the disputed domain name, the record does not show that the Respondent is commonly known by that name.

In summary, the Panel considers that the Complainants have made a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

Turning to the Respondent, he argues that the Companies Tribunal of South Africa has ruled that the name "Nelson Mandela" does not possess formal legal protection, which makes it available to third parties. The decisions that he presents show that that tribunal has taken note of the Complainants' trademark rights and a geographical region in South Africa named "Nelson Mandela Bay". However, that geographical name is not relevant to the present case because the disputed domain name does not contain the word "bay" and that geographical region has nothing to do with the Respondent or his website.

The Respondent provides evidence that he is the President of "Nelson Mandela University, Inc.". This alternate company name is identical to the disputed domain name, including the gTLD extension. However, the safe harbor of paragraph 4(c)(ii) of the Policy requires the Respondent to have been "commonly known" (as opposed to merely incidentally being known) by the corporate identifier. See [WIPO Overview 3.0](#), section 2.3. In this case, the evidence of the company's operations and its reputation is scant. There are certificates of registration and renewal of its alternate corporate name, a declaration and attestation but both by the Respondent himself, albeit witnessed, certified, notarized and apostilled by public officials. There is also a self-certification that his university is legitimate but, although Nelson Mandela University, Inc. registered its alternate name nine years ago, there is no evidence how many degree certificates it has issued since that time. Moreover, the website associated with the disputed domain name is also for Supreme Global, a unit of the Respondent's Indian company. Supreme Global provides support services and the website invites Internet users to contact Supreme Global rather than the university. There is no evidence that third parties know of the Respondent by his university company's alternate name, rather than Supreme Global's name. In view of these circumstances, the Panel is unable to conclude based on the current record that Nelson Mandela University, Inc. of New Jersey is commonly known at all, let alone that the Respondent is commonly known by the university's alternate corporate name.

The Respondent is critical of the way in which the Complainants exploit their marks and provides evidence that another "nelsonmandela" domain name held by the Complainants is for sale at a high price. However, that does not create a right or legitimate interest for third parties, such as the Respondent, to use the Complainants' marks without consent. The Respondent also claims that anyone can purchase an unlimited number of "nelsonmandela" domains with any available TLDs, provided they have not already been acquired. However, the Panel recalls that the mere fact of registration does not create rights or legitimate interests in a domain name, otherwise no claim could ever succeed under the applicable domain name dispute resolution policies.

The Parties disagree as to whether the Respondent's university is an accredited institution entitled to award degrees in the United States. While the use of a domain name for illegal activity can never confer rights or legitimate interests on a domain name holder, it is unnecessary to resolve this issue in the present proceeding because the Respondent has not rebutted the Complainants' *prima facie* case by demonstrating the existence of any rights or legitimate interests with respect to the disputed domain name.

For the above reasons, 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 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] web site or location or of a product or service on [the respondent's] website or location.

In the present case, the Panel notes that the Respondent registered the disputed domain name in 2015, years after the earliest registrations of the Complainants' NELSON MANDELA marks. The date on which Nelson Mandela University (of South Africa) adopted its current name is irrelevant to the present Complaint, which is based on the Complainants' trademark rights. The NELSON MANDELA mark is not a combination of dictionary words but, rather, was the distinctive name of a world-famous individual. The disputed domain name is an exact match of that mark, with a gTLD extension. Even though Mandela is a family name, and only the MANDELA mark was registered in the United States at the time when the disputed domain name was registered, and the NELSON MANDELA mark is not registered in India even now, the website associated with the disputed domain name explains that the inspiration for the Respondent's university company was "Dr. Nelson Mandela", leaving no room for doubt that the Respondent was well-aware of the Nelson Mandela name at the time that he chose the alternate name of his university company and the disputed domain name. The name is inherently associated with the Trust founded by Nelson Mandela, and the Complainants are the trustees of the Trust. Accordingly, the Panel finds that the Respondent had the NELSON MANDELA mark in mind when he registered the disputed domain name.

The Respondent uses the disputed domain name with a website for Nelson Mandela University, Inc. and Supreme Global that offers instant degrees, in exchange for payment of a service fee. Given the evidence of the fame of the NELSON MANDELA mark, and in view of the findings in section 6.2B above, the Panel finds that the Respondent by using the disputed domain name, has intentionally attempted to attract, for commercial gain, Internet users to his website by creating a likelihood of confusion with the Complainants' NELSON MANDELA mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or of a product on that website within the terms of paragraph 4(b)(iv) of the Policy.

The Respondent refers to differences between some of the Parties' respective goods and services. The Panel does not consider this relevant because the disputed domain name, which is identical to the NELSON MANDELA mark, operates by intentionally attracting Internet users who may mistakenly believe that the Respondent's website is affiliated with or endorsed by the Complainants. In any case, the Complainants also use the NELSON MANDELA with lectures and the MANDELA mark in relation to education.

For the above reasons, the Panel finds the third element of the Policy has been established.

D. Whether the Complaint was Brought in Bad Faith

The Respondent alleges that the Complainants are criminally liable and that, in effect, they have brought the Complaint in bad faith.

The Panel has reviewed the evidence and finds the Respondent's allegation baseless. The Panel does not find that the Complaint was brought in bad faith; on the contrary, the Panel has upheld the Complaint.

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 <nelsonmandela.university> be transferred to the Complainants.

/Matthew Kennedy/

Matthew Kennedy

Sole Panelist

Date: November 3, 2023