Decision for dispute CAC-UDRP-102763

Case number	CAC-UDRP-102763
Time of filing	2019-11-11 11:58:09
Domain names	expanscience.store

Case administrator

Name	Šárka Glasslová (Case admin)

Complainant

Organization	EXPANSCIENCE

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Name	Ali Amin-Javaheri

OTHER LEGAL PROCEEDINGS

The Panel is not aware of other pending or decided legal proceedings, which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant bases its Complaint on the International trademark registration international trademark EXPANSCIENCE, no. 282517, registered since April 17th, 1964, protected for goods in classes 01, 03, 05, 10 and 21, designating several countries for protection.

FACTUAL BACKGROUND

The Complainant is a 100% French family-owned pharmaceutical and dermo-cosmetics laboratory, who has been developing its expertise for more than 60 years.

The Complainant develops and manufactures innovative osteoarthritis and skincare products, including two leading brands – Piasclédine 300 and Mustela – sold in nearly 120 countries.

The Complainant counts 16 subsidiaries all around the world and had more than 260,9 million euros of turnover in 2018. 66,8% of the company's turnover has been generated by international business, and 3,64% of turnover has been invested in innovation, research and development.

The Complainant owns several trademarks comprising the terms “EXPANSCIENCE”, such as the international trademark EXPANSCIENCE, no. 282517, registered since April 17th, 1964.

The Complainant owns and communicates through various websites worldwide, its official one being <www.expanscience.com> registered and used since April 4th, 1997.

The disputed domain name <expanscience.store> was registered on October 23rd, 2019 and it points to a registrar parking page with commercial links related to the Complainant and its products.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

The Complainant's contentions are the following:

The disputed domain name <expanscience.store> is identical to the Complainant's earlier trademark EXPANSCIENCE since it incorporates its earlier trademark EXPANSCIENCE in its entirety, without any addition or deletion.

Furthermore, the Complainant contends that the addition of the TLD “.STORE” is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. Thus, the Complainant sustains that the disputed domain name is identical to the Complainant’s trademark EXPANSCIENCE.

The Complainant further contends that the Respondent lacks rights or legitimate interests in the disputed domain name for a number of reasons.

First, the Complainant asserts that the Respondent is not known as the disputed domain name, but as “Ali Amin-Javaheri”.

The Complainant further asserts that the Respondent is not related in any way with the Complainant. The Complainant does not carry out any activity for, nor has any business with the Respondent.

The Respondent is not a Complainant’s licensee, nor has ever been authorised to make use of the Complainant’s trademark or to apply for the registration of the disputed domain name.

Lastly, the Complainant points out that the disputed domain name redirects to a parking page with commercial links, related to the Complainant and its products, which is further evidence of the Respondent’s lack of rights or legitimate interests.

The Complainant further argues that the disputed domain name has been registered, and is been used in bad faith for several reasons.

The Complainant’s maintains that at the disputed domain name <expanscience.store > is identical to its distinctive trademark EXPANSCIENCE and that Google search on the term “EXPANSCIENCE” provide several results, all of them being related to the Complainant. Before the registration of the domain name <expanscience.store >, the Respondent could have done a simple Google search and would have found the existence of the Complainant's trademark.

Thus, the Complainant asserts that the Respondent could not have ignored the Complainant’s trademark EXPANSCIENCE at the moment of the registration of the disputed domain name <expanscience.store >, which cannot be a coincidence.

Furthermore, the Complainant asserts that the disputed domain name redirects to a parking page with commercial links related to the Complainant and its products. The Complainant contends the Respondent has attempt to attract Internet users for commercial gain to his own website thanks to the Complainant’s trademark, which is an evidence of bad faith.

The Complainant asserts that the constructive knowledge/prior knowledge of potential rights, the domain parking and attracting internet users for commercial gain by creating a likelihood of confusion with the Complainant, may be evidence of bad faith registration and use.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

I. Identity

The Panel agrees that the domain name <expanscience.store> is identical to the Complainant's earlier trademark EXPANSCIENCE since it incorporates its earlier trademark EXPANSCIENCE in its entirety, without any addition or deletion.

Moreover, the extension ".store" is not to be taken into consideration when examining the identity/confusingly similarity between the Complainant's trademarks and the disputed domain name (WIPO Case No. D2005-0016, Accor v. Noldc Inc.). The mere adjunction of a TLD such as ".store" is irrelevant as it is well established that the generic Top Level Domain is insufficient to avoid a finding of identity/confusingly similarity (WIPO Case No. 2013-0820, L'Oréal v Tina Smith, WIPO Case No. D2008-0820 Titoni AG v Runxin Wang and WIPO Case No. D2009-0877, Alstom v. Itete Peru S.A.).

Therefore, the Panel is satisfied that the first condition under the Policy is met.

II. Lack of Respondent's rights or legitimate interests

The Complainant is required to make out a prima facie case that the respondent lacks rights or legitimate interests. Once such prima facie case is made, the burden of proof shifts to the respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such appropriate allegations or evidence, a complainant is generally deemed to have satisfied paragraph 4(a)(ii) of the UDRP.

Based on the available evidence, the Respondent does not appear to be known by the disputed domain name. The Respondent is not a licensee of, nor has any kind of relationship with, the Complainant. The Complainant has never authorised the Respondent to make use of its trademark, nor of an identical trademark in the disputed domain name.

Finally, the disputed domain name redirects to a parking page with commercial links, related to the Complainant and its products. Such use does not amount to a bona fide offering of goods or services, or to a legitimate noncommercial or fair use of the disputed domain name.

The Panel notes that the Respondent had an opportunity to comment on the Complaint's allegations by filing a Response,

which the Respondent failed to do.

Thus, the Panel is satisfied that the Complainant has at least established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. Accordingly, the Panel takes the view that also the second requirement under the Policy is met.

III. Bad Faith

The disputed domain name <expanscience.store> is identical to Complainant's earlier EXPANSCIENCE trademark. Indeed, a Google search on the term "EXPANSCIENCE" provide several results, all of them related to the Complainant. Before the registration of the domain name <expanscience.store >, the Respondent could have done a simple Google search and would have found the existence of the Complainant's trademark.

The Respondent could not have ignored the Complainant's trademark EXPANSCIENCE at the moment of the registration of the disputed domain name <expanscience.store >, which cannot be a coincidence.

The disputed domain name redirects to a parking page with commercial links related to the Complainant and its products. In this latter case, previous Panels have considered that this behavior was a proof of bad faith (WIPO Case No. D2018-0497, StudioCanal v. Registration Private, Domains By Proxy, LLC / Sudjam Admin, Sudjam LLC).

In light of the foregoing, the Panel concludes that the Respondent has registered and has been using the disputed domain name in bad faith. Thus, also the third and last condition under the Policy is satisfied.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **EXPANSCIENCE.STORE**: Transferred

PANELLISTS

Name	**Delia-Mihaela Belciu**

DATE OF PANEL DECISION 2019-12-26

Publish the Decision