Decision for dispute CAC-UDRP-103125

Case number	CAC-UDRP-103125
Time of filing	2020-06-25 10:57:49
Domain names	expanscience-ingredients.com

Case administrator

Name	Šárka Glasslová (Case admin)

Complainant

Organization	EXPANSCIENCE

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Name	Jin Yun Zhou

OTHER LEGAL PROCEEDINGS

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

IDENTIFICATION OF RIGHTS

The Complainant is the owner of the trademark EXPANSCIENCE (International Registration No. 282517), in many countries including France, which was registered on April 17, 1964.

The Complainant also holds several domain name registrations which contain the EXPANSCIENCE trademark, including <expanscience.com>.

FACTUAL BACKGROUND

The Complainant, EXPANSCIENCE, is a French family-owned pharmaceutical and demo-cosmetics laboratory which has been developing its expertise for more than 70 years. It develops and manufactures innovative osteoarthritis and skincare products, including two leading brands – Piasclédine 300 and Mustela – which are sold in nearly 120 countries. The Complainant counts 16 subsidiaries all around the world and had more than 266,9 million euros of turnover in 2019. 71% of the company's turnover has been generated by international business.

The disputed domain name, <expanscience-ingredients.com>, was registered on June 7, 2020 and resolved to a

pornographic webpage.

COMPLAINANT:

The Complainant contends that the disputed domain name is confusingly similar to the EXPANSCIENCE mark on the basis that the disputed domain name wholly incorporates the Complainant's trademark and the addition of the term "INGREDIENTS" and gTLD ".com" are insufficient to avoid the finding that the disputed domain name is confusingly similar to its EXPANSCIENCE mark.

The Complainant also argues that the Respondent does not have any rights or legitimate interests in the disputed domain name. The Respondent was not identified in the WhoIs database prior to verification by the registrar. In addition, the Respondent is not affiliated with the Complainant nor did the Complainant license or authorize the Respondent to use the EXPANSCIENCE mark.

The Complainant further asserts that the disputed domain name has been registered and is being used in bad faith as the Respondent should have known of the Complainant's EXPANSCIENCE mark at the time of registration of the disputed domain name. The Complainant also asserts that redirection of disputed domain name to a pornographic website is evidence of bad faith registration and use.

RESPONDENT:
The Respondent did not reply to the Complainant's contentions.

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

Paragraph 4(a)(i) of the Policy requires a complainant to show that a domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. The Complainant has provided evidence that it owns the trademark EXPANSCIENCE.
The differences between the disputed domain name <expanscience-ingredients.com> and the Complainant's EXPANSCIENCE trademark are the addition of the term "INGREDIENTS" and a gTLD ".com".

It is well-established a domain name that wholly incorporates a Complainant's registered trademark may be sufficient to establish confusing similarity for purposes of the UDRP (see Dr. Ing. h.c. F. Porsche AG v. Vasiliy Terkin, WIPO Case No. D2003-0888). It is also established that the addition of a gTLD is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test (see WIPO Overview of WIPO Panel Views on Selected UDRP

Questions, Third Edition ("WIPO Overview 3.0"), section 1.11). It is also established that the addition of a gTLD to a disputed domain name does not avoid confusing similarity as the use of a TLD is technically required to operate a domain name (see Accor v. Noldc Inc. WIPO Case No. D2005-0016; F. Hoffmann-La Roche AG v. Macalve e-dominios S.A., WIPO Case No. D2006-0451; Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003; L'Oréal v Tina Smith, WIPO Case No. 2013-0820; Titoni AG v Runxin Wang, WIPO Case No. D2008-0820; and Alstom v. Itete Peru S.A. WIPO Case No. D2009-0877).

The disputed domain name consists of the Complainant's EXPANSCIENCE mark and the addition of the term "INGREDIENTS" and a gTLD ".com" which in the Panel's view do not avoid confusing similarity with the Complainant's trademark (see Schneider Electric S.A. v. Domain Whois Protect Service / Cyber Domain Services Pvt. Ltd., WIPO Case No. D2015-2333; WIPO Overview 3.0, section 1.9).

Therefore, the Panel finds that the disputed domain name is confusingly similar to the EXPANSCIENCE mark and the element under paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

Paragraph 4(a)(ii) of the Policy requires the complainant to show that the respondent has no rights or legitimate interests in respect of the domain name. Once the complainant establishes a prima facie case that the respondent lacks rights or legitimate interests in the domain name, the burden of production shifts to the respondent to show that it has rights or legitimate interests in respect to the domain name (see WIPO Overview 3.0, paragraph 2.1).

In the present case, the Complainant has demonstrated prima facie that the Respondent lacks rights or legitimate interests in respect of the disputed domain name and the Respondent has failed to assert any such rights or legitimate interests.

The Complainant submitted evidence that it did not authorize or license the Respondent to use the EXPANSCIENCE mark (see OSRAM GmbH. v. Mohammed Rafi/Domain Admin, Privacy Protection Service INC d/b/a PrivacyProtect.org, WIPO Case No. D2015-1149; Sanofi-Aventis v. Abigail Wallace, WIPO Case No. D2009-0735).

In addition, the evidence submitted by the Complainant shows that all the details of the registrant on the WhoIs database are blocked by a privacy shield. Thus, there is no evidence that the Respondent is commonly known by the disputed domain name.
The Respondent did not submit a response in the present case and did not provide any explanation or evidence to show rights or legitimate interests in the disputed domain name which is sufficient to rebut the Complainant's prima facie case.

The Panel is therefore of the view that the Respondent has no rights or legitimate interests in respect of the disputed domain name and accordingly, paragraph 4(a)(ii) of the Policy is satisfied.

C. Registered and Used in Bad Faith

The complainant must show that the respondent registered and is using the domain name in bad faith (paragraph 4(a)(iii) of the Policy). Paragraph 4(b) of the Policy provides circumstances that may evidence bad faith under paragraph 4(a)(iii) of the Policy.

The Complainant has submitted evidence that the disputed domain name <expanscience-ingredients.com> redirected to a webpage with pornographic content. It is categorically held that the use of a domain name for to adult-oriented sites is evidence of bad faith registrations and use under paragraph 4(a)(iii) and 4(b)(iv) of the Policy (see Molson Canada 2005 v. JEAN LUCAS / DOMCHARME GROUP, Forum Case No. FA 1596702; Microsoft Corporation v. Alexandru Negru/PPM Internet Inc., Forum Case No. FA 1748755).

It is also the Complainant's evidence that the Respondent could not have registered the disputed domain name without prior

knowledge of the Complainant's mark as the Respondent's name has no connection with the Complainant's EXPANSCIENCE mark which was registered long ago. This is another indicator of bad faith on the part of the Respondent (see Boursorama SA v. Estrade Nicolas, WIPO Case No. D2017-1463). The Complainant's evidence is also indication 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 mark.

In addition, the Respondent did not submit a Response in this proceeding and used a privacy shield to hide their identity, as shown in the WhoIs database page submitted by the Complainant. These are all further indications of the Respondent's bad faith, which were considered by the Panel.

Based on the evidence presented to the Panel, including the confusing similarity between the disputed domain name and the Complainant's mark, the fact that the disputed domain name redirects to pages containing PPC links and the fact that no Response was submitted by the Respondent, the Panel draws the inference that the disputed domain name was registered and is being used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **EXPANSCIENCE-INGREDIENTS.COM**: Transferred

PANELLISTS

Name	**Mr. Jonathan Agmon**

DATE OF PANEL DECISION 2020-08-05

Publish the Decision