

Decision for dispute CAC-UDRP-103651

Case number CAC-UDRP-103651

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Domain names norge-mining.ltd

Case administrator

Organization Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization Norge Mining PLC

Complainant representative

Organization Fladgate LLP

Respondent

Name David Oladele

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 has utilised and traded under the trade name and unregistered trademark NORGE MINING since its incorporation on 29 November 2018, as detailed on its website at www.norgemining.com.

FACTUAL BACKGROUND

The Complainant is a Public Limited Company incorporated in England and Wales on 29 November 2018. It is a natural resources company focused on mineral exploration in Norway.

The Respondent is an individual located in Nigeria.

The disputed domain name was registered on 30 November 2020. At the time that the Complaint was filed, the disputed domain name pointed to a website purportedly offering investment opportunities related to cryptocurrencies. The website was headed:

Professional Trading On Cryptocurrency, Make Profit on Money of the Future Today” and contained a description of the company starting with the following words:

“Norge Mining is an officially registered company (...).”

The website also displayed the Complainant’s incorporation certificate as though it were the Respondent’s.

Parties' Contentions

Complainant

The Complainant asserts that it has attracted significant reputation and goodwill by virtue of its use of the Norge Mining name, and lists various examples of this, such as its purchase of 46 licences for mining activities in the Scandinavian region, its press announcement concerning the confirmation of a world-class mineral resource at Øygrei, its membership of a number of environmental sustainability initiatives, the fame of its directors and the amount of its investment over the last 15 months.

The Complainant argues that the disputed domain name is identical to a trademark or service mark in which the Complainant has rights. The Complainant submits that it has utilised and traded under the trade name and unregistered trademark NORGE MINING since its incorporation on 29 November 2018.

In the Complainant’s opinion, the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant states that the Respondent has not, as an individual, business, or other organisation been commonly known by the disputed domain name nor is he making a legitimate non-commercial or fair use of the disputed domain name.

According to the Complainant, the disputed domain name was registered and is being used in bad faith. The Complainant underlines that the disputed domain name was registered on 30 November 2020, over two years after the Complainant incorporated its company under the name Norge Mining, and after the Complainant had begun to build significant goodwill and reputation. The Complainant states that its incorporation was a matter of public record, and that a simple search engine search brings up significant results regarding the existence and activities of the Complainant.

The Complainant asserts that the Respondent’s use of a privacy service in order to mask his real identity further suggests that the disputed domain name was registered in bad faith.

Furthermore, the website associated with the disputed domain name contained the following statement:

“Norge Mining is registered in the Seychelles as Norge Mining MINING TECHNOLOGIES LTD”.

However, an official company search carried out by the Complainant revealed that that there was no such company registered in the Seychelles.

Finally, the Complainant notes that the Respondent attempted to pass the incorporation certificate of the Complainant off as his own, despite there being no connection between the Complainant and the Respondent, presumably in an attempt to allay the concerns of potential investors.

PARTIES CONTENTIONS

The Respondent did not submit an administratively compliant Response, but did send an email after the deadline for the Response had passed, asserting that he was a developer instructed by a third party and had now taken down the website.

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) of the Policy directs that a complainant must prove each of the following for a panel to order a transfer of the domain name at issue:

- (i) the domain name registered by the respondent is identical or confusingly similar to a trademark or service mark in which complainant has rights; and
- (ii) the respondent has no rights or legitimate interests in the domain name; and
- (iii) the domain name has been registered and is being used in bad faith.

Taking each of these issues in turn, the Panel decides as follows:

A. Identical or Confusingly Similar

The Panel finds that the Complainant has provided sufficient evidence of unregistered trade mark rights in NORGE MINING.

The disputed domain name incorporates the Complainant's NORGE MINING trademark in its entirety with the addition of a hyphen. The Panel finds that the presence of a hyphen instead of a space does not affect the appearance of the disputed domain name in relation to the Complainant's trademark, noting in particular that a space is not capable of representation in a domain name.

Finally, it is well established that generic Top-Level Domain suffixes, including .LTD, are disregarded in the assessment of the similarity between the disputed domain name and the Complainant's mark.

On the basis of these considerations, the Panel concludes that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights, in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets out various ways in which a respondent may demonstrate rights or legitimate interests in a domain name, as follows:

“Any of the following circumstances, in particular but without limitation, if found by the Panel to be proved based on its evaluation of all evidence presented, shall demonstrate your rights or legitimate interests to the domain name for purposes of Paragraph 4(a)(ii):

- (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 non-commercial 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 Panel has considered the evidence put forward by the Complainant and is of the view that the Complainant has presented a prima facie showing of the Respondent's lack of rights or legitimate interests in the disputed domain name. The Respondent has failed to rebut that showing.

Given the above, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name and that paragraph 4(a)(ii) of the Policy is satisfied.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy sets out various circumstances which may be treated by the Panel as evidence of the registration and use of a domain name in bad faith, as follows:

“For the purposes of Paragraph 4(a)(iii), the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or
- (ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or
- (iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location.”

On the basis of the evidence put forward by the Complainant, the Panel is satisfied that the Respondent's conduct falls within paragraph 4(b)(iv) of the Policy.

First, with regard to bad faith registration, the Panel agrees with the Complainant's assertions that the Respondent was aware of the Complainant at the time that the disputed domain name was registered in 2020 and registered it in bad faith with the Complainant in mind. Furthermore, it is clear that the disputed domain name was used in bad faith by the Respondent to intentionally attract, for commercial gain, internet users to his website by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation or endorsement of his website, in accordance

with paragraph 4(b)(iv). The Panel also finds that the Respondent's use of a privacy service to hide his identity further evidences the Respondent's bad faith.

The Panel therefore concludes that the Complainant has succeeded in proving that the disputed domain name has been registered and is being used in bad faith in accordance with paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. NORGE-MINING.LTD: Transferred

PANELLISTS

Name	Jane Seager
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DATE OF PANEL DECISION 2021-06-08

Publish the Decision