

Decision for dispute CAC-UDRP-103926

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| Case number | CAC-UDRP-103926 |
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| Time of filing | 2021-07-13 10:25:33 |
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| Domain names | expansciences.com |
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Case administrator

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

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| Organization | EXPANSCIENCE |
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Complainant representative

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| Organization | Nameshield (Enora Millocheau) |
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Respondent

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| Organization | Fahima sas |
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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 submitted evidence that it is the registered owner of the international trademark registration No. 282517 for "EXPANSCIENCE", registered on 17 April 1964 for classes 1, 3, 5, 10 and 21 and designated for several countries.

Moreover, the Complainant is also the owner of the domain name <expanscience.com> which was created on 4 April 1997.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

The Complainant is a 100 % French family-owned pharmaceutical and dermo-cosmetics laboratory, who has been developing its expertise for more than 70 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 14 subsidiaries all around the world and had more than 250.2 million euros of turnover in 2020. 75 % of the company's turnover has been generated by international business.

The disputed domain name <expansciences.com> was registered on 23 June 2021 and resolves to a parking page with commercial links.

The Registrar confirmed that the Respondent is the current registrant of the disputed domain name and that the language of the registration agreement is English.

The Respondent has not filed a Response.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

The Complainant made the following contentions:

The disputed domain name is confusingly similar to the Complainant's trademark EXPANSCIENCE. Indeed, the trademark EXPANSCIENCE is included in its entirety. The disputed domain name contains an obvious misspelling of the Complainant's trademark EXPANSCIENCE. The addition of the letter "S" to the trademark EXPANSCIENCE is not sufficient to exclude the likelihood of confusion existing, as they look highly similar. This is a clear case of "typosquatting", i.e. the disputed domain name contains an obvious misspelling of the Complainant's trademark. Previous panels have found that the slight spelling variations do not prevent a disputed domain name from being confusingly similar to the complainant's trademark.

The Complainant also contends that the addition of the generic Top-Level Domain suffix ".COM" does not change the overall impression of the designation as being connected to the Complainant's trademark and, consequently, does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademark and its domain names associated.

Lastly, the Complainant notes that past Panels confirmed the Complainant's rights over the term "EXPANSCIENCE" (for instance in CAC Case No. 102763).

Thus, the disputed domain name is confusingly similar to the Complainant's trademark EXPANSCIENCE.

The Complainant further contends that the Respondent is not known as the disputed domain name in the Whois database and has not acquired trademarks mark rights on this terms. Past Panels have held that a respondent was not commonly known by a disputed domain name if the Whois information was not similar to the disputed domain name.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name and 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. Neither licence nor authorization has been granted to the Respondent to make any use of the Complainant's trademark, or apply for registration of the disputed domain name by the Complainant.

Moreover, the Complainant also claims that the disputed domain name is a typosquatted version of the trademark EXPANSCIENCE. Typosquatting is the practice of registering a domain name in an attempt to take advantage of Internet users' typographical errors and can be evidence that a respondent lacks rights and legitimate interests in the domain name.

Furthermore, the disputed domain name resolves to a parking page with commercial links. Past panels have found it is not a bona fide offering of goods or services or legitimate non-commercial or fair use.

Accordingly, the Complainant argues that it has made a prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name.

Turning to the bad faith argument, the Complainant asserts that the disputed domain name is confusingly similar to its distinctive trademark EXPANSCIENCE. The Complainant notes that past panels have held that the Complainant's trademark is well-known (e.g. CAC Case No. 102057). Besides, a Google search on the term "EXPANSCIENCES" provides several results, all of

them being related to the Complainant. Before this registration, the Respondent could have done a simple Google search and would have found the existence of the Complainant's trademark. Thus, the Respondent, a French company, could not have ignored the Complainant's trademark EXPANSCIENCE at the moment of the registration of the disputed domain name, which cannot be a coincidence.

Moreover, the Complainant states the misspelling of the trademark EXPANSCIENCE was intentionally designed to be confusingly similar to the Complainant's trademark. Previous panels have seen such actions as evidence of bad faith.

Furthermore, the disputed domain name resolves to a parking page with commercial links. The Complainant contends the Respondent attempts to attract Internet users for commercial gain to his own website thanks to the Complainant's trademarks for its own commercial gain, which is evidence of bad faith.

On these bases, the Complainant concludes that the Respondent has registered and is using the disputed domain name in bad faith.

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

This is a proceeding pursuant to Paragraph 4 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 CAC Supplemental Rules.

Paragraph 15 of the Rules provides that the Panel shall decide the complaint on the basis of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

According to Paragraph 4(a) of the Policy, a complainant must prove each of the following: (A) the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; (B) the respondent has no rights or legitimate interests in respect of the domain name; (C) the domain name has been registered and is being used in bad faith.

A. Identical or confusingly similar domain name

The Complainant demonstrated that it owns the asserted international trademark registration for the word mark "EXPANSCIENCE", which was registered very long before the registration of the disputed domain name by the Respondent. It is well established that a nationally or regionally registered trademark confers on its owner sufficient rights to satisfy the requirement of having trademark rights for the purposes of standing to file a UDRP case. Therefore, the Panel finds that the Complainant has established such rights.

It is also well established that the generic top-level suffix .com may be disregarded when considering whether a disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights, as it is a necessary technical requirement of a domain name.

The disputed domain name incorporates the Complainant's trademark "EXPANSCIENCE" in its entirety. The additional letter "S" is clearly not sufficient to escape the finding that the disputed domain name is confusingly similar to the Complainant's trademark. Adding the letter "S" is a typical way of creating a plural form of a noun in both English and French, and it is perfectly plausible that the registering of the disputed domain name, being merely a spelling variation of the Complainant's trademark, can be considered typosquatting, as the Complainant suggests.

In any event, the Panel finds that the disputed domain name is confusingly (and highly) similar to the trademark in which the Complainant has rights.

B. Lack of rights or legitimate interests

The Respondent has not filed a Response and has neither provided any other information that would oppose the Complainant's allegations. Therefore, the Panel holds that the Complainant successfully presented its prima facie case that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

In particular, the Respondent is not in any way connected with the Complainant nor is it authorized to use the Complainant's trademark for its commercial activities. In addition, the Respondent is not commonly known by the disputed domain name pursuant to Paragraph 4(c)(ii) of the Policy. Furthermore, it was demonstrated by evidence submitted by the Complainant that the disputed domain name has not been used for a bona fide offering of goods or services or a legitimate non-commercial or fair use.

The Panel, therefore, finds that the Respondent has no rights or legitimate interest in the disputed domain name.

C. Registration and use of the disputed domain name in bad faith

With respect to the bad faith argument, the Complainant states, in summary: (a) that the disputed domain is confusingly similar to the Complainant's well-known trademark; (b) that the Respondent must have had actual knowledge of the Complainant's rights in its trademark; (c) that the disputed domain name resolve to an inactive page; and (d) that the disputed domain name was intentionally designed to be confusingly similar with the Complainant's trademark (typosquatting).

The Panel has already found that the disputed domain name is confusingly similar to the Complainant's trademark "EXPANSCIENCE". Given the long-term existence and reputation of the Complainant's trademark at least on the territory of France where the Respondent is also based, the Panel believes that the Respondent must have (and easily could have) been aware of the existence of the Complainant, its trademark and its domain name.

Furthermore, typical circumstances demonstrating a respondent's bad faith include a situation where 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 trademark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on the respondent's website or location (see Paragraph 4(b)(iv) of the Policy). The fact that the disputed domain name resolves to a parking page with commercial links is a clear and rather typical sign of such bad faith behaviour.

Consequently, the Panel finds that the disputed domain name has been registered and has been used by the Respondent in bad faith.

In conclusion, the Panel finds that all three elements required by Paragraph 4(a) of the Policy were met and makes the following decision.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. **EXPANSCIENCES.COM**: Transferred

PANELLISTS

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| Name | Mgr. Vojtěch Chloupek |
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| DATE OF PANEL DECISION | 2021-08-27 |
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Publish the Decision