Decision for dispute CAC-UDRP-100614

Case number	CAC-UDRP-100614
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Domain names	alaexa.com, alexa2.com, amazomaws.com, ebaly.com, ebayyy.com, iebay.com, elanca.com, wwwelance.com, elnace.com, kindle6.com, kindle7.com, kindle8.com, paypalindo.com, paypaly.com, payperpal.com, paypyal.com

Case administrator

Name	Lada Válková (Case admin)

Complainants

Organization	Alexa Internet
Organization	Amazon Technologies, Inc.
Organization	eBay Inc.
Organization	Elance, Inc.
Organization	PayPal, Inc.

Complainant representative

Organization	Rodenbaugh Law

Respondent

Name	duan xiangwang

OTHER LEGAL PROCEEDINGS

None of which the Panel is aware.

IDENTIFICATION OF RIGHTS

Each Complainant has established registered trademark rights on which it can rely in the case of each of the respective disputed domain names it is seeking to have transferred. The Complainants have produced documentary evidence of each such registration and the Panel accepts this evidence.Particulars of the trademarks relied on are as follows.

The ALEXA Trademark

Since at least 1996, the ALEXA mark has been in continuous use in commerce. Alexa owns numerous registrations for the

ALEXA mark around the world, including without limitation, federal trademark registrations in the United States, such as:

ALEXA, Reg. No. 2189928, issued September 15, 1998, in Class 9; Reg. No. 2181470, issued August 11, 1998 in Class 42; and others.

These registrations listed above are incontestable pursuant to the Lanham Act, 15 U.S.C. § 1065(b), and constitute conclusive evidence of Alexa's exclusive right to the use mark for the products and services specified in those registrations pursuant to 15 U.S.C. §§ 1065 and 1115(b). Alexa.com is in the top 300 websites across multiple regions (e.g., 239 in Vietnam). Indeed, ALEXA is a well-known trademark.

The AMAZON Trademark

Since at least as early as 1995, the AMAZON mark has been in continuous use in commerce. Amazon owns numerous registrations for the AMAZON mark around the world, including without limitation, federal trademark registrations in the United States, such as:

AMAZON, U.S. Reg. No. 2832943, issued April 13, 2004, in Class 35; Reg. No. 2857590, issued June 29, 2004, in Class 9; and Reg. No. 4171964, issued July 10, 2012 with a priority filing date of September 17, 2008, in Class 9. In addition, Amazon owns numerous registrations that extend its AMAZON mark to a family of AMAZON marks, including without limitation, AMAZON.COM, Reg. No. 2157345, issued June 23, 1998, in Class 35; Reg. No. 2559936, issued April 9, 2002, in Classes 35, 36 and 42; Reg. No. 2903561, issued November 16, 2004, in Classes 18 and 28; Reg. No. 2837138, issued April 27, 2004, in Class 35; AMAZONFRESH, Reg. No. 3470761, issued July 22, 2008, in Classes 35 and 39; and many others.

These registrations evidence the wide scope of protection to which the AMAZON name and mark is entitled. Moreover, some of the registrations listed above are incontestable pursuant to the Lanham Act, 15 U.S.C. § 1065(b), and constitute evidence of Amazon's exclusive right to use the mark for the products and services specified in those registrations pursuant to 15 U.S.C. § 1065 and 1115(b). Indeed, the AMAZON trademark has been recognized as "significantly" famous. E.g., Amazon Technologies, Inc. v. Wax, Opp'n No. 91187118 (T.T.A.B. March 30, 2012) ("substantial" evidence that Amazon was a famous mark prior to March 27, 2000); see also Amazon Technologies, Inc. v. Null, Claim No. FA1303001488185 (Nat. Arb. Forum April 17, 2003) (finding Amazon "famous" and "successful" and "one of the world's largest retailers").

The EBAY Trademark

Since its online marketplace was launched in September 1995, the EBAY mark has been in continuous use in commerce. eBay owns numerous registrations for the EBAY mark around the world, including but not limited to federal trademark registrations in the United States, such as without limitation:

Reg. No. 2,218,732, issued January 19, 1999, in Class 35; Reg. No. 2,367,932, issued July 18, 2000, in Class 28; Reg. No. 2,501,043, issued October 23, 2001, in Class 13; Reg. No. 2,518,652, issued December 11, 2001, in Class 25; Reg. No. 2,522,630, issued December 25, 2001, in Class 20; Reg. No. 2,578,260, issued June 11, 2002, in Class 18; Reg. No. 2,592,515, issued July 9, 2002, in Class 38; Reg. No. 2,604,374, issued August 6, 2002, in Class 21; Reg. No. 2,666,767, issued December 24, 2002, in Class 25; Reg. No. 2,700,675, issued March 25, 2003, in Class 9; Reg. No. 2,810,863, issued February 3, 2004, in Class 16; Reg. No. 2,847,996, issued June 1, 2004, in Class 30; Reg. No. 2,913,401, issued December 21, 2004, in Class 41; and many others. In addition, eBay owns a number of registrations that extends its EBAY mark to a family of EBAY marks, including without limitation, EBAY EXPRESS (Reg. No. 3,379,500, issued February 8, 2008, in Class 35), EBAY LIVE! (Reg. No. 2,933,021, issued March 15, 2005, in Class 16), EBAY TO GO (Reg. No. 3,441,811, issued June 3, 2008, in Class 35), and many others.

These registrations also evidence the wide scope of protection to which the EBAY name and mark is entitled. Moreover, some of the registrations listed above are incontestable pursuant to the Lanham Act, 15 U.S.C. § 1065(b), and constitute evidence of eBay's exclusive right to use the mark for the products and services specified in those registrations pursuant to 15 U.S.C. § 1065 and 1115(b). Indeed, "eBay possesses a famous and widely known mark, and has expended considerable

resources attaining this status." Perfumebay.com Inc. v. eBay Inc., 506 F.3d 1165 (9th Cir. 2007) (finding, i.a., district court did not abuse its discretion in permanently enjoining internet user from using, i.a., "perfumebay.com").

The ELANCE Trademark

Elance is well known under the federally registered ELANCE trademark. The ELANCE mark has been in continuous use is in commerce since 1999. Elance owns numerous registrations for the ELANCE mark around the world, including but not limited to federal trademark registrations in the United States, such as: Reg. No. 2,772,962, first used in 1999, filed in January 2001, issued October 14, 2003, in Classes 35, 36, 38, and 42; Reg. No. 2,900,142, first used in 2002, filed in January 2001, issued in 2004, in Class 9.

These registrations also evidence the wide scope of protection to which the ELANCE name and mark is entitled. Moreover, some of the registrations listed above are incontestable pursuant to the Lanham Act, 15 U.S.C. § 1065(b), and constitute evidence of Elance's exclusive right to use the mark for the products and services specified in those registrations pursuant to 15 U.S.C. § 1065 and 1115(b). Indeed, ELANCE is a famous and well-known trademark.

The KINDLE Trademark

Since at least as early as 2007, the KINDLE mark has been in continuous use in commerce. Amazon owns numerous registrations for the KINDLE mark around the world, including without limitation, federal trademark registrations in the United States, such as: KINDLE, Reg. No. 3694267, issued October 6, 2009 with a priority application filing date of May 2, 2006, in Classes 9, 38, 41; Reg. No. 4289293, issued Feb. 12, 2013 with a priority fling date of June 26, 2009, in Class 45; Reg. No. 4290961, issued February 19, 2013 with a priority filing date of September 29, 2011, in Classes 35 and 42; and many others. Indeed, the KINDLE mark has been recognized as a famous and well-known mark entitled to a broad scope of protection for many years. E.g., Amazon Technologies, Inc. v. Yonathan Cohen, IL-DRP Panel Decision dated April 3, 2013 (finding that the KINDLE trademark was well-known at least prior to September 2011 and transferring <kindlefire.co.il> to Amazon).

The PAYPAL Trademark

Since its financial payment services were launched in October 1999, the PAYPAL mark has been in continuous use in commerce. Paypal owns numerous registrations for the PAYPAL mark around the world, including but not limited to federal trademark registrations in the United States, such as without limitation: Reg. No. 2,646,490, issued November 5, 2002, in Class 36; Reg. No. 2,879,561, issued August 31, 2004, in Class 25; Reg. No. 2,959,971, issued June 7, 2005, in Class 9; and many others.

These registrations also evidence the wide scope of protection to which the PAYPAL name and mark is entitled. Moreover, some of the registrations listed above are incontestable pursuant to the Lanham Act, 15 U.S.C. § 1065(b), and constitute evidence of Elance's exclusive right to use the mark for the products and services specified in those registrations pursuant to 15 U.S.C. § 1065 and 1115(b). Indeed, the PAYPAL mark "is well-known around the world." E.g., PayPal, Inc. v. paypalx.com, Abdulla Zaidhan, Case No. D2009-1131 (WIPO Oct. 23, 2009) (finding it is difficult to conceive of a possible use of paypalx.com that would not in some way be associated with PayPal given the fame).

The Complainants have therefore established to the satisfaction of the Panel trademark rights enabling them to bring this proceeding.

FACTUAL BACKGROUND

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

This is a Class Complaint filed on behalf of (1) Alexa Internet, (2) Amazon Technologies, Inc., (3) eBay Inc., (4) Elance, Inc., and (5) PayPal, Inc., and is filed pursuant to Paragraph 4, Art. 3 of Czech Arbitration Court's (CAC's) UDRP Supplemental Rules. The Class Complaint is hereby submitted for decision in accordance with the Uniform Domain Name Dispute Resolution Policy (UDRP), adopted by the Internet Corporation for Assigned Names and Numbers (ICANN) on August 26,

1999, and the Rules for UDRP, with an effective date of March 1, 2010, and the CAC's Supplemental Rules. UDRP Rule 3(b)(i).

There is little doubt as to the broad based international awareness of the ALEXA, AMAZON, EBAY, ELANCE, KINDLE, and PAYPAL trademarks.

Founded in 1996, Alexa Internet, a web information company, is one of the leading providers of free, global Web metrics. Today, millions of people from across the globe visit <Alexa.com> each month to access its Web analytics and other services. During May 2013, over ten million people visited <Alexa.com>. Amongst many other services, Alexa Rank is Alexa's website ranking system, which tracks over 30 million websites worldwide.

Amazon Technologies, Inc. is a subsidiary of Amazon.com Inc., and owns all of the company's trademarks and names in the United States (collectively, "Amazon"). Since 1995, Amazon's vision is to be the earth's most customer centric company; a place where people can come to find and discover anything they might want to buy online. Amazon and more than 2 million third-party sellers offer millions of unique items in a wide variety of categories.

Amazon's KINDLE device revolutionized the way consumers interact with traditional print media in an innovative new format, and enables consumers to wirelessly purchase and remotely download books, newspapers, magazines, and other electronic publications. The KINDLE device is currently among the best-selling electronic readers on the market, and millions of KINDLE devices have been sold world-wide. Amongst many other services, Amazon serves developers and enterprises of all sizes through Amazon Web Services ("AWS"), which provides access to technology infrastructures that enables virtually any type of business. Amazon has many localized websites throughout the world. Amazon.com is the seventh most popular site in the world according to the three-month Alexa traffic rankings.

With more than 110 million active users globally and more than 350 million listings globally (as of end of Q4 2012), eBay Inc. is the world's largest online marketplace, where practically anyone can buy and sell practically anything. Founded in 1995, the online marketplace located at <www.eBay.com> and its localized counterparts connects a diverse and passionate community of individual buyers and sellers, as well as many small businesses. Their collective impact on ecommerce staggering: In 2011, the total value of goods sold on eBay was $68.6 billion -- more than $2,100 every second.

A pioneer in today's freelance revolution, Elance, Inc. is the leading online work platform where people Work Differently℠. Today, over 500,000 businesses and 2 million freelancers use Elance in 170+ countries. Innovative global enterprises, small businesses and startups tap into the Elance talent pool, building teams from software engineers, application developers and web and graphic designers to copywriters, market researchers, data scientists, social media marketers, customer service agents and other business professionals. More than 1 million freelance jobs are completed through Elance annually. According to Alexa, Elance is in the top 200 websites across multiple regions (e.g., 103 in Bangladesh).

Founded in 1998, PayPal, Inc. offers a faster, safer way to pay and get paid online, via a mobile device and in store. The PayPal service gives people similar ways to send money without sharing financial information, and with the flexibility to pay using their account balances, bank accounts, credit cards or promotional financing. With 128 million active accounts in 193 markets and 25 currencies around the world, PayPal enables global commerce, processing more than 7.6 million payments every day. Because PayPal helps people transact anytime, anywhere and in any way, the company is a driving force behind the growth of mobile commerce and expects to process $20 billion in mobile payments in 2013. With its primary website located at <www.PayPal.com>, it has localized marketing websites in more than 80 markets around the world.

FACTUAL AND LEGAL GROUNDS

This Complaint is based on the following factual and legal grounds: UDRP Rule 3(b)(ix).

[a.] Complainants have established rights in their ALEXA, AMAZON, EBAY, ELANCE, KINDLE, and PAYPAL marks through registrations with the USPTO. E.g., Miller Brewing Co. v. Miller Family, FA 104177 (Nat. Arb. Forum Apr. 15, 2002) (finding that the complainant had established rights to the MILLER TIME mark through its federal U.S. trademark registrations).

From the Whois records (collecting all relevant records for all Complainants as well as relevant historical records as needed to show first registration dates by Respondent), the earliest registration date by Respondent of a disputed domain name confusingly similar to (i) the ALEXA mark is on or about November 20, 2009 (<Alaexa.com>), (ii) the AMAZON mark is on or about August 6, 2009 (<amegazon.com>), (iii) the EBAY mark is on or about December 8, 2009 (<iebay.com>), (iv) the ELANCE mark is on or about April 10, 2002 (<wwwelance.com>), (v) the KINDLE mark is on or about February 12, 2009 (all), and to (vi) the PAYPAL mark is on or about September 21, 2009 (<paypalindo.com>). These are subsequent to when Complainants first acquired their respective rights in their marks as described above. Even though the Elance registrations may have issues subsequent to the earliest registration date by Respondent, pursuant to the Lanham Act (15 U.S.C. § 1057(c), the filing date of an application for registration constitutes constructive use of the mark, conferring nationwide right of priority, contingent on registration of the mark. E.g., Urban Home v. Technology Online LLC/Whois Privacy Service Pty Ltd., Case No. D012-2437 (WIPO Feb. 18, 2013) (transferring <urbanhome.com>). The filing date of both Elance registrations precedes the creation date of the first registered Elance-confusingly similar disputed domain. Therefore, all Complainants have established priority in their respective marks.

Furthermore, all of the disputed domains are confusingly similar to the relevant mark because “[t]he practice of typosquatting has been consistently regarded in previous UDRP decisions as creating domain names confusingly similar to the relevant mark.” E.g., Tumblr, Inc. v. WhoisGuard Protected/Alex O. Balansag, WIPO Case No. D2013-0244 (April 5, 2013) (<tumlr.com>); Tumblr, Inc. v. Duan Xiang Yu, WIPO Case No. D2013-0106 (March 7, 2013) (<tumbr.com>).

More specifically, Respondent’s domains <Alaexa.com> and <Alexa2.com> are confusingly similar to the ALEXA trademark because they incorporate the entire mark and differ only adding letters or a number. The incorporation of a trademark in its entirety may be sufficient to establish that a domain name is identical or confusingly similar to Complainant's registered mark. E.g., YAHOO! Inc. v. Junlong Zheng c/o OnlineNIC, NAF Claim No. FA 1142567 (‹YAHOOtrips.com›).

For substantially the same reasons, Respondent's domains <amegazon.com> (incorporating entirety of the mark and adding two letters that have no meaning in context) and <amazomaws.com> (referring to Amazon's AWS services and introducing a deliberate error, e.g., Microsoft Corp. v. The Private Whois Privacy Service, Claim No. FA1302001484502 (Nat. Arb. Forum March 24, 2013) (holding use of term 'gold' does nothing to differentiate the domain from the XBOX mark, especially considering that same term is used to market XBOX); Dow Jones & Co., Inc. v. Powerclick, Inc., D2000-1259 (WIPO Dec. 1, 2000) (holding that the deliberate introduction of errors or changes, such as 'generic' typos do not change respondent's infringement on a core trademark held by complainant), are confusingly similar to the AMAZON trademark, <ebayy.com> and <iebay.com> are confusingly similar to the EBAY trademark, <wwwelance.com>, <elanca.com> and <elnace.com> are confusingly similar to the ELANCE trademark (differing only by introducing deliberate errors, such as adding 'www,' or substituting/ reversing letters), e.g., Neiman Marcus Group, Inc. v. S1A, FA 128683 (Nat. Arb. Forum Dec. 6, 2002) (holding confusing similarity has been established because the prefix 'www' does not sufficiently differentiate the <wwwneimanmarcus.com> domain name from the complainant's NEIMAN-MARCUS mark), <kindle6.com>, <kindle7.com>, <kindle8.com> are confusingly similar to the KINDLE trademark, <paypalindo.com> (adding the generic or descriptive term "indo"), <payperpal.com> (adding the generic or descriptive term "per"), <paypyal.com>, and <paypaly.com> are confusingly similar to the PAYPAL trademark.

The practice of typosquatting is designed to take advantage of Internet users' typographical errors, which means the typos of the ALEXA, AMAZON, EBAY, ELANCE, KINDLE, and PAYPAL names must be confusingly similar by design. E.g., Victoria's Secret v. Zuccarini, NAF Claim No. FA0010000095762 (finding that, by misspelling words and adding letters to words, a respondent does not create a distinct mark but nevertheless renders the domain name confusingly similar to the complainant's marks); Reuters Ltd. v. Global Net 2000, Inc., WIPO Case No. D2000-0441 (finding that a domain name which differs by only one letter from a trademark has a greater tendency to be confusingly similar to the trademark where the trademark is highly distinctive).

[b.] The Complainants have not authorized, licensed, or permitted the Respondent to register or use the disputed domain names or to use their respective trademarks. Respondent is not known by the disputed domain names, nor has Respondent acquired any trademark rights in respect of the domain names.

There is also no legitimate interest in typosquatting. Microsoft Corp. v. Domain Registration Philippines, FA 877979 (Nat. Arb. Forum Feb. 20, 2007) (concluding that typosquatting provides additional evidence that the respondent lacks rights and legitimate interests in the disputed domain name); Nat'l Ass'n of Prof'l Baseball Leagues, Inc. v. Zuccarini, D2002-1011 (WIPO Jan. 21, 2003) ('Typosquatting … as a means of redirecting consumers against their will to another site, does not qualify as a bona fide offering of goods or services, whatever may be the goods or services offered at that site.').

Respondent uses the disputed domain names to host commercial websites that provide competing web portal links and general advertisement links to a variety of businesses and products, none of which is a bona fide offering of goods or services under the Policy. E.g., Meyerson v. Speedy Web, FA 960409 (Nat. Arb. Forum May 25, 2007) (finding that where a respondent has failed to offer any goods or services on its website other than links to a variety of third-party websites, it was not using a domain name in connection with a bona fide offering of goods or services under Policy par. 4(c)(i) or a legitimate noncommercial or fair use pursuant to Policy par. 4(c)(iii)). In fact, on some of the disputed domains, Respondent offers highly related services that are likely to cause confusion. Id. For example, the two Alexa-typosquatted domains use a replica of the ALEXA trademark with "SEO Tools" in the Website Titles--intended to confuse users into mistakenly believing that the landing pages originate with, or are affiliated with, Alexa. They also purport to show Alexa graphs with traffic trends from Alexa. E.g., Microsoft Corp. v. lijuliang, FA0912001300266 (Nat. Arb. Forum Feb. 11, 2010) ("Respondent's attempt to pass itself off as Complainant by imitating Complainant's official website...is not a bona fide offering of goods or services pursuant to Policy par. 4(c)(i), or a legitimate noncommercial or fair use pursuant to Policy par. 4(c)(iii)"); Fred W. Gretsch Enterprises, Ltd. v. NOLDC, Inc., FA0906001270597 (Nat. Arb. Forum Aug. 5, 2009) (finding that when a respondent used the domain name with products that compete with those of the Complainant, "[t]he competitive nature of Respondent's use of [the domain name] renders this use neither bona fide offering of goods or services under Policy par. 4(c)(i) nor a legitimate noncommercial or fair use of the [domain name] under Policy par. 4(c)(iii)")).

Lastly, some of the disputed domain names are infected with viruses that trigger a high security alert from an ISP not to visit the infected website. E.g., Kindle8.com landing page. Previous panels have found that a respondent does not make a bona fide offering of goods or services by requesting Internet users to install viruses onto their devices. E.g., Ceridian Corp. v. Versata Software, Inc., FA 129927 (Nat. Arb. Forum June 23, 2009) (finding that a respondent's use of a disputed domain name to direct Internet users to a website which attempts to download computer viruses "failed to create any semblance of a bona fide offering of goods or services under Policy par. 4(c)(i) or a legitimate noncommercial or fair use pursuant to Policy par. 4(c)(iii)").

[c.] Not only are Respondent’s uses of the disputed domain names discussed in section [b] above not a bona fide offering of goods or services under the Policy, but consonant with the illustration of bad faith in paragraph 4(b)(iv) of the Policy, given the fame and distinctiveness of the Complainants’ respective marks, the Respondent intentionally sought to commercially gain by some machination or scheme from the likelihood of confusion, whether through some sort of fraud interminably intertwined with a computer virus, or through general paid advertising, or passing off the landing pages as belonging to the relevant Complainant. Furthermore, Respondent intended to disrupt the Complainants’ business either by diverting confused users to the websites of third parties from which the Respondent may gain commercially, such as through collecting click-through-fees or by creating a likelihood of confusion as to the source, sponsorship, affiliation or endorsement of Respondent’s websites.

Given the well-known trademarks at stake, which have very high recognition on a worldwide basis, it is inconceivable that Respondent registered the disputed domain names without having in mind the Complainants' respective trademarks. Given the Complainants' established rights in their respective marks and that Respondent's registered domain names are "so obviously connected" with Complainants, Respondent's actions suggest "opportunistic bad faith" in violation of the Policy. Research in Motion Limited v. Dustin Picov, WIPO Case No. D2001-0492.

“The sheer number of Domain Name registrations makes it clear that Respondent had prior knowledge of the Complainant[s] and registered the Domain Names with the Complainant[s] specifically in mind.” E.g., Yahoo! Inc. and Overture Services, Inc. v. Registrant a/k/a Gary Lam, et al., NAF Case No. D2004-0896 (Dec. 30, 2004). “Respondent's extensive registration and use of domain names incorporating misspellings of Complainant[s'] trademarks is a further evidence of bad faith, as such actions are not only trading of the goodwill pertaining to the said trademarks, but will also cause harm to the goodwill.”

Respondent is a prolific cybersquatter, which is further evidence of his bad faith in this case. Looking at his portfolio, there are literally hundreds of infringing domain names. Complainants attach one example of an infringing domain currently registered to Respondent for each letter of the alphabet. L.L. Bean, Inc. v. Cupcake Patrol, FA 96504 (Nat. Arb. Forum March 12, 2001) (finding that Respondent acted in bad faith by establishing a pattern of registering misspellings of famous trademarks). Respondent also has a record of such cybersquatting activities. E.g., Beta Et Companie, WIPO Case No. D2012-1153 (transferring viedemerde.com and finding Respondent Duan Xiang Wang engaged in typosquatting); Microsoft Corp. v. Duan Xiang Wang, Claim No. FA0906001269201 (Nat. Arb. Forum Aug. 11, 2009) (transferring microsoftranslator.com due to typosquatting by Respondent). This supports that the purpose of subject registrations was for preventing Complainants from reflecting their trademarks in corresponding domain names and that Respondent has engaged in a pattern of such conduct under paragraph 4(b)(ii) of the Policy.

Respondent's typosquatting behavior is, in and of itself, also evidence of bad faith. E.g., Computerized Sec. Sys., Inc. v. Hu, FA 157321 (Nat. Arb. Forum June 23, 2003) (finding that the respondent engaged in typosquatting, which is evidence of bad faith registration and use under Policy par. 4(a)(iii)); Microsoft Corp. v. Domain Registration Philippines, FA 877979 (Nat. Arb. Forum Feb. 20, 2007) (finding bad faith registration and use of the ‹microssoft.com› domain name as it merely misspelled the complainant's MICROSOFT mark); Canadian Tire Corp. v. domain adm'r no.valid.email @worldnic.net 1111111111, D2003-0232 (WIPO May 22, 2003) (finding typosquatting to constitute evidence of bad faith); Nat'l Ass'n of Prof'l Baseball League, Inc. v. Zuccarini, D2002-1011 (WIPO Jan. 21, 2003) ("Typosquatting is inherently parasitic and of itself evidence of bad faith.").

Respondent's registration and use of multiple domain names for each respective trademark that violate Complainants' rights in their respective marks constitutes a pattern of bad faith registration. E.g., Armstrong Holdings, Inc. v. JAZ Assocs., FA 95234 (Nat. Arb. Forum Aug. 17, 2000) (finding that the respondent violated Policy par. 4(b)(ii) by registering multiple infringing domain names); Caterpillar Inc. v. Miyar, FA 95623 (Nat. Arb. Forum Dec. 14, 2000) (finding that registering multiple domain names indicates an intention to prevent the mark holder from using its mark and provides evidence of a pattern of conduct).

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainants have, to the satisfaction of the Panel, shown the Domain Names are identical or confusingly similar to a trademark or service mark in which the Complainants have rights (within the meaning of paragraph 4(a)(i)of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainants have, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the Domain Names (within the meaning of paragraph 4(a)(ii)of the Policy).

BAD FAITH

The Complainants have, to the satisfaction of the Panel, shown the Domain Names have 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

[a.] Complainants have established rights in their ALEXA, AMAZON, EBAY, ELANCE, KINDLE, and PAYPAL marks through

registrations with the USPTO. In each case, the respective domain name is confusingly similar to the corresponding trademark.E.g., Miller Brewing Co. v. Miller Family, FA 104177 (Nat. Arb. Forum Apr. 15, 2002) (finding that the complainant had established rights to the MILLER TIME mark through its federal U.S. trademark registrations).

From the Whois records (collecting all relevant records for all Complainants as well as relevant historical records as needed to show first registration dates by Respondent), the earliest registration date by Respondent of a disputed domain name confusingly similar to (i) the ALEXA mark is on or about November 20, 2009 (<Alaexa.com>), (ii) the AMAZON mark is on or about August 6, 2009 (<amegazon.com>), (iii) the EBAY mark is on or about December 8, 2009 (<iebay.com>), (iv) the ELANCE mark is on or about April 10, 2002 (<wwwelance.com>), (v) the KINDLE mark is on or about February 12, 2009 (all), and to (vi) the PAYPAL mark is on or about September 21, 2009 (<paypalindo.com>). These are subsequent to when Complainants first acquired their respective rights in their marks as described above. Even though the Elance registrations may have issues subsequent to the earliest registration date by Respondent, pursuant to the Lanham Act (15 U.S.C. § 1057(c), the filing date of an application for registration constitutes constructive use of the mark, conferring nationwide right of priority, contingent on registration of the mark. E.g., Urban Home v. Technology Online LLC/Whois Privacy Service Pty Ltd., Case No. D012-2437 (WIPO Feb. 18, 2013) (transferring <urbanhome.com>). The filing date of both Elance registrations precedes the creation date of the first registered Elance-confusingly similar disputed domain. Therefore, all Complainants have established priority in their respective marks.

Furthermore, all of the disputed domains are confusingly similar to the relevant mark because “[t]he practice of typosquatting has been consistently regarded in previous UDRP decisions as creating domain names confusingly similar to the relevant mark.” E.g., Tumblr, Inc. v. WhoisGuard Protected/Alex O. Balansag, WIPO Case No. D2013-0244 (April 5, 2013) (<tumlr.com>); Tumblr, Inc. v. Duan Xiang Yu, WIPO Case No. D2013-0106 (March 7, 2013) (<tumbr.com>).

More specifically, Respondent’s domains <Alaexa.com> and <Alexa2.com> are confusingly similar to the ALEXA trademark because they incorporate the entire mark and differ only adding letters or a number. The incorporation of a trademark in its entirety may be sufficient to establish that a domain name is identical or confusingly similar to Complainant's registered mark. E.g., YAHOO! Inc. v. Junlong Zheng c/o OnlineNIC, NAF Claim No. FA 1142567 (‹YAHOOtrips.com›).

For substantially the same reasons, Respondent's domains <amegazon.com> (incorporating entirety of the mark and adding two letters that have no meaning in context) and <amazomaws.com> (referring to Amazon's AWS services and introducing a deliberate error, e.g., Microsoft Corp. v. The Private Whois Privacy Service, Claim No. FA1302001484502 (Nat. Arb. Forum March 24, 2013) (holding use of term 'gold' does nothing to differentiate the domain from the XBOX mark, especially considering that same term is used to market XBOX); Dow Jones & Co., Inc. v. Powerclick, Inc., D2000-1259 (WIPO Dec. 1, 2000) (holding that the deliberate introduction of errors or changes, such as 'generic' typos do not change respondent's infringement on a core trademark held by complainant), are confusingly similar to the AMAZON trademark, <ebayy.com> and <iebay.com> are confusingly similar to the EBAY trademark, <wwwelance.com>, <elanca.com> and <elnace.com> are confusingly similar to the ELANCE trademark (differing only by introducing deliberate errors, such as adding 'www,' or substituting/ reversing letters), e.g., Neiman Marcus Group, Inc. v. S1A, FA 128683 (Nat. Arb. Forum Dec. 6, 2002) (holding confusing similarity has been established because the prefix 'www' does not sufficiently differentiate the <wwwneimanmarcus.com> domain name from the complainant's NEIMAN-MARCUS mark), <kindle6.com>, <kindle7.com>, <kindle8.com> are confusingly similar to the KINDLE trademark, <paypalindo.com> (adding the generic or descriptive term "indo"), <payperpal.com> (adding the generic or descriptive term "per"), <paypyal.com>, and <paypaly.com> are confusingly similar to the PAYPAL trademark.

The practice of typosquatting is designed to take advantage of Internet users' typographical errors, which means the typos of the ALEXA, AMAZON, EBAY, ELANCE, KINDLE, and PAYPAL names must be confusingly similar by design. E.g., Victoria's Secret v. Zuccarini, NAF Claim No. FA0010000095762 (finding that, by misspelling words and adding letters to words, a respondent does not create a distinct mark but nevertheless renders the domain name confusingly similar to the complainant's marks); Reuters Ltd. v. Global Net 2000, Inc., WIPO Case No. D2000-0441 (finding that a domain name which differs by only one letter from a trademark has a greater tendency to be confusingly similar to the trademark where the trademark is highly distinctive).

[b.] The Complainants have not authorized, licensed, or permitted the Respondent to register or use the disputed domain names or to use their respective trademarks. Respondent is not known by the disputed domain names, nor has Respondent acquired any trademark rights in respect of the domain names.

There is also no legitimate interest in typosquatting. Microsoft Corp. v. Domain Registration Philippines, FA 877979 (Nat. Arb. Forum Feb. 20, 2007) (concluding that typosquatting provides additional evidence that the respondent lacks rights and legitimate interests in the disputed domain name); Nat'l Ass'n of Prof'l Baseball Leagues, Inc. v. Zuccarini, D2002-1011 (WIPO Jan. 21, 2003) ('Typosquatting … as a means of redirecting consumers against their will to another site, does not qualify as a bona fide offering of goods or services, whatever may be the goods or services offered at that site.').

Respondent uses the disputed domain names to host commercial websites that provide competing web portal links and general advertisement links to a variety of businesses and products, none of which is a bona fide offering of goods or services under the Policy. E.g., Meyerson v. Speedy Web, FA 960409 (Nat. Arb. Forum May 25, 2007) (finding that where a respondent has failed to offer any goods or services on its website other than links to a variety of third-party websites, it was not using a domain name in connection with a bona fide offering of goods or services under Policy par. 4(c)(i) or a legitimate noncommercial or fair use pursuant to Policy par. 4(c)(iii)). In fact, on some of the disputed domains, Respondent offers highly related services that are likely to cause confusion. Id. For example, the two Alexa-typosquatted domains use a replica of the ALEXA trademark with "SEO Tools" in the Website Titles--intended to confuse users into mistakenly believing that the landing pages originate with, or are affiliated with, Alexa. They also purport to show Alexa graphs with traffic trends from Alexa. E.g., Microsoft Corp. v. lijuliang, FA0912001300266 (Nat. Arb. Forum Feb. 11, 2010) ("Respondent's attempt to pass itself off as Complainant by imitating Complainant's official website...is not a bona fide offering of goods or services pursuant to Policy par. 4(c)(i), or a legitimate noncommercial or fair use pursuant to Policy par. 4(c)(iii)"); Fred W. Gretsch Enterprises, Ltd. v. NOLDC, Inc., FA0906001270597 (Nat. Arb. Forum Aug. 5, 2009) (finding that when a respondent used the domain name with products that compete with those of the Complainant, "[t]he competitive nature of Respondent's use of [the domain name] renders this use neither bona fide offering of goods or services under Policy par. 4(c)(i) nor a legitimate noncommercial or fair use of the [domain name] under Policy par. 4(c)(iii)")).

Lastly, some of the disputed domain names are infected with viruses that trigger a high security alert from an ISP not to visit the infected website. E.g., Kindle8.com landing page. Previous panels have found that a respondent does not make a bona fide offering of goods or services by requesting Internet users to install viruses onto their devices. E.g., Ceridian Corp. v. Versata Software, Inc., FA 129927 (Nat. Arb. Forum June 23, 2009) (finding that a respondent's use of a disputed domain name to direct Internet users to a website which attempts to download computer viruses "failed to create any semblance of a bona fide offering of goods or services under Policy par. 4(c)(i) or a legitimate noncommercial or fair use pursuant to Policy par. 4(c)(iii)").

[c.] Not only are Respondent’s uses of the disputed domain names discussed in section [b] above not a bona fide offering of goods or services under the Policy, but consonant with the illustration of bad faith in paragraph 4(b)(iv) of the Policy, given the fame and distinctiveness of the Complainants’ respective marks, the Respondent intentionally sought to commercially gain by some machination or scheme from the likelihood of confusion, whether through some sort of fraud interminably intertwined with a computer virus, or through general paid advertising, or passing off the landing pages as belonging to the relevant Complainant. Furthermore, Respondent intended to disrupt the Complainants’ business either by diverting confused users to the websites of third parties from which the Respondent may gain commercially, such as through collecting click-through-fees or by creating a likelihood of confusion as to the source, sponsorship, affiliation or endorsement of Respondent’s websites.

Given the well-known trademarks at stake, which have very high recognition on a worldwide basis, it is inconceivable that Respondent registered the disputed domain names without having in mind the Complainants' respective trademarks. Given the Complainants' established rights in their respective marks and that Respondent's registered domain names are "so obviously connected" with Complainants, Respondent's actions suggest "opportunistic bad faith" in violation of the Policy. Research in Motion Limited v. Dustin Picov, WIPO Case No. D2001-0492.

“The sheer number of Domain Name registrations makes it clear that Respondent had prior knowledge of the Complainant[s]

and registered the Domain Names with the Complainant[s] specifically in mind." E.g., Yahoo! Inc. and Overture Services, Inc. v. Registrant a/k/a Gary Lam, et al., NAF Case No. D2004-0896 (Dec. 30, 2004). "Respondent's extensive registration and use of domain names incorporating misspellings of Complainant[s'] trademarks is a further evidence of bad faith, as such actions are not only trading of the goodwill pertaining to the said trademarks, but will also cause harm to the goodwill."

Respondent is a prolific cybersquatter, which is further evidence of his bad faith in this case. Looking at his portfolio, there are literally hundreds of infringing domain names. Complainants attach one example of an infringing domain currently registered to Respondent for each letter of the alphabet. L.L. Bean, Inc. v. Cupcake Patrol, FA 96504 (Nat. Arb. Forum March 12, 2001) (finding that Respondent acted in bad faith by establishing a pattern of registering misspellings of famous trademarks). Respondent also has a record of such cybersquatting activities. E.g., Beta Et Companie, WIPO Case No. D2012-1153 (transferring viedemerde.com and finding Respondent Duan Xiang Wang engaged in typosquatting); Microsoft Corp. v. Duan Xiang Wang, Claim No. FA0906001269201 (Nat. Arb. Forum Aug. 11, 2009) (transferring microsoftranslator.com due to typosquatting by Respondent). This supports that the purpose of subject registrations was for preventing Complainants from reflecting their trademarks in corresponding domain names and that Respondent has engaged in a pattern of such conduct under paragraph 4(b)(ii) of the Policy.

Respondent's typosquatting behavior is, in and of itself, also evidence of bad faith. E.g., Computerized Sec. Sys., Inc. v. Hu, FA 157321 (Nat. Arb. Forum June 23, 2003) (finding that the respondent engaged in typosquatting, which is evidence of bad faith registration and use under Policy par. 4(a)(iii)); Microsoft Corp. v. Domain Registration Philippines, FA 877979 (Nat. Arb. Forum Feb. 20, 2007) (finding bad faith registration and use of the ‹microssoft.com› domain name as it merely misspelled the complainant's MICROSOFT mark); Canadian Tire Corp. v. domain adm'r no.valid.email @worldnic.net 1111111111, D2003-0232 (WIPO May 22, 2003) (finding typosquatting to constitute evidence of bad faith); Nat'l Ass'n of Prof'l Baseball League, Inc. v. Zuccarini, D2002-1011 (WIPO Jan. 21, 2003) ("Typosquatting is inherently parasitic and of itself evidence of bad faith.").

Respondent's registration and use of multiple domain names for each respective trademark that violate Complainants' rights in their respective marks constitutes a pattern of bad faith registration. E.g., Armstrong Holdings, Inc. v. JAZ Assocs., FA 95234 (Nat. Arb. Forum Aug. 17, 2000) (finding that the respondent violated Policy par. 4(b)(ii) by registering multiple infringing domain names); Caterpillar Inc. v. Miyar, FA 95623 (Nat. Arb. Forum Dec. 14, 2000) (finding that registering multiple domain names indicates an intention to prevent the mark holder from using its mark and provides evidence of a pattern of conduct).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ALAEXA.COM**: Transferred
2. **AMEGAZON.COM**: Transferred
3. **ALEXA2.COM**: Transferred
4. **AMAZOMAWS.COM**: Transferred
5. **EBALY.COM**: Transferred
6. **EBAYYY.COM**: Transferred
7. **IEBAY.COM**: Transferred
8. **ELANCA.COM**: Transferred
9. **WWWELANCE.COM**: Transferred
10. **ELNACE.COM**: Transferred
11. **KINDLE6.COM**: Transferred
12. **KINDLE7.COM**: Transferred
13. **KINDLE8.COM**: Transferred
14. **PAYPALINDO.COM**: Transferred
15. **PAYPALY.COM**: Transferred
16. **PAYPERPAL.COM**: Transferred

17. **PAYPYAL.COM**: Transferred

PANELLISTS

Name	**The Hon. Neil Brown, QC**

DATE OF PANEL DECISION 2013-08-01

Publish the Decision