

Decision for dispute CAC-UDRP-105833

Case number	CAC-UDRP-105833
-------------	-----------------

Time of filing	2023-10-23 12:33:41
----------------	---------------------

Domain names	xn--yonexespaa-19a.com, xn--yonexmagyarorszg-tmb.com, xn--yonextrkiye-yhb.com, yonexargentina.com, yonexaustralia.net, yonexbelgie.com, yonexbelgique.com, yonexbrasil.com, yonexbulgaria.com, yonexcanada.net, yonexchile.com, yonexcolombia.net, yonexdanmark.com, yonexeesti.com, yonexgreece.com, yonexhrvatska.com, yonexireland.com, yonexisrael.com, yonexjapan.com, yonexkuwait.com, yonexlietuva.com, yonexlv.com, yonexmexico.com, yonexnederland.net, yonexnorge.org, yonexperu.com, yonexportugal.com, yonexromania.com, yonexslovenija.com, yonexsouthafrica.com, yonexsrbija.com, yonexsuisse.com, yonexsuomi.org, yonexuaeonline.com, yonexukshop.com, yonexuruguay.com
--------------	--

Case administrator

Name	Olga Dvořáková (Case admin)
------	-----------------------------

Complainant

Organization	YONEX KABUSHII KAISHA
--------------	-----------------------

Complainant representative

Organization	Coöperatie SNB-REACT U.A.
--------------	---------------------------

Respondent

Name	Qiu Xiaofeng
------	--------------

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 names.

IDENTIFICATION OF RIGHTS

The Complainant has evidenced to be the owner of numerous trademark registrations relating to its company name and brand YONEX, including:

- word mark YONEX, United States Patent and Trademark Office (USPTO), registration No.: 1050157, registration date: October 12, 1976, status: active;

- word/device mark YONEX, European Union Intellectual Property Office (EUIPO), registration No.: 000089870, registration date: December 17, 1998November 13, 2006, status: active.

Also, the Complainant has substantiated to own since 1995 the domain name <yonex.com> which resolves to the Complainant's official website at "www.yonex.com", promoting the Complainant's sports and fashion products worldwide.

PARTIES CONTENTIONS

Complainant:

The Complainant contends that the requirements of the Policy have been met and that all disputed domain names should be transferred to it.

Respondent:

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

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

First, the Panel has accepted this single Complaint relating to a total of 36 disputed domain names given that they were all registered by the Respondent as the same domain name holder on the same day, namely April 4, 2023, through the same Registrar (paragraph 3(c) of the Rules).

Second, the Panel finds that all 36 disputed domain names:

<xn--yonexespaa-19a.com>, <xn--yonexmagyarorszg-tmb.com>, <xn--yonextrkiye-yhb.com>, <yonexargentina.com>, <yonexaustralia.net>, <yonexbelgie.com>, <yonexbelgique.com>, <yonexbrasil.com>, <yonexbulgaria.com>, <yonexcanada.net>, <yonexchile.com>, <yonexcolombia.net>, <yonexdanmark.com>, <yonexeesti.com>, <yonexgreece.com>, <yonexhrvatska.com>, <yonexireland.com>, <yonexisrael.com>, <yonexjapan.com>, <yonexkuwait.com>, <yonexlietuva.com>, <yonexlv.com>, <yonexmexico.com>, <yonexnederland.net>, <yonexnorge.org>, <yonexperu.com>, <yonexportugal.com>, <yonexromania.com>, <yonexslovenija.com>, <yonexsouthafrica.com>, <yonexsrbija.com>, <yonexsuisse.com>, <yonexsuomi.org>, <yonexuaeonline.com>, <yonexukshop.com>, as well as <yonexuruguay.com>

are confusingly similar to the Complainant's YONEX trademark, as they are all set up in a very similar way by incorporating the YONEX trademark in its entirety, followed by a country name such as "argentina" or a country code such as "lv" (for Latvia), and in some cases on top added by a descriptive term such as "online" or "sale". Numerous UDRP panels have recognized that incorporating a trademark in its entirety can be sufficient to establish that the disputed domain name is at least confusingly similar to a registered trademark. Moreover, it has also been held in many UDRP decisions and has meanwhile become a consensus view among UDRP panels that the mere addition of descriptive, geographic or other terms (such as e.g. a country name or a country code) is not capable to dispel the confusing similarity arising from such entire incorporation of the Complainant's YONEX trademark in the 36 disputed domain names.

Therefore, the Complainant has established the first element under the Policy as set forth by paragraph 4(a)(i).

Third, the Complainant contends, and the Respondent has not objected to these contentions, that the Respondent has neither made use of, or demonstrable preparations to use, the disputed domain names in connection with a *bona fide* offering of goods or services, nor is the Respondent commonly known under the disputed domain names, nor is the Respondent making a legitimate noncommercial or fair use of the disputed domain names without intent for commercial gain.

The Respondent has not been authorized to use the Complainant's YONEX trademark, either as a domain name or in any other way. Also, there is no reason to believe that the Respondent's name somehow corresponds with the disputed domain names and the Respondent does not appear to have any trademark rights associated with the term "Yonex" on its own. Finally, all 36 disputed domain names resolve to live websites which are set up in a similar way, prominently displaying the Complainant's official YONEX logo, while allegedly offering Complainant's YONEX sporting goods for online sale without any authorization by the Complainant to do so. Such making use of the disputed domain names, obviously in a fraudulent manner, neither qualifies as a *bona fide* nor as a legitimate noncommercial of fair use under the UDRP.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain names, and that, therefore, the Complainant has also satisfied paragraph 4(a)(ii) and, thus, the second element of the Policy.

Finally, the Panel holds that the disputed domain names were registered and are being used by the Respondent in bad faith.

It is obvious from the circumstances to this case that the Respondent was well aware of the Complainant's rights in the YONEX trademark when registering the 36 disputed domain names, and that they all are directly targeting the Complainant and its YONEX trademark. Moreover, resolving the disputed domain names to live websites prominently displaying the Complainant's official YONEX logo, while allegedly offering Complainant's YONEX sporting goods for online sale without any authorization by the Complainant to do so, leaves no doubts that the Respondent, by registering and making use of the 36 disputed domain names, had the intention to somehow unjustifiably profit from the undisputed worldwide reputation attached to the Complainant's YONEX trademark, and, thus, the Respondent intentionally attempted to attract, for commercial gain, Internet users to its own websites by creating a likelihood of confusion with the Complainant's YONEX trademark as to the source, sponsorship, affiliation or endorsement of the Respondent's websites. Such circumstances are evidence of registration and use of those 36 disputed domain names in bad faith within the meaning of paragraph 4(b)(iv) of the Policy. In addition, the registration and making use of a total of 36 disputed domain names qualifies as a pattern of conduct by the Respondent preventing the Complainant as the owner of the YONEX trademark from reflecting such trademark in the corresponding domain names which, in turn, is evidence of registration and use of those 36 domain names in bad faith within the meaning of paragraph 4(b)(ii) of the Policy.

Therefore, the Complainant has also satisfied the third element under the Policy as set forth by paragraph 4(a)(iii).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **xn--yonexespaa-19a.com**: Transferred
2. **xn--yonexmagyarorszg-tmb.com**: Transferred
3. **xn--yonextrkiye-yhb.com**: Transferred
4. **yonexargentina.com**: Transferred
5. **yonexaustralia.net**: Transferred
6. **yonexbelgie.com**: Transferred
7. **yonexbelgique.com**: Transferred
8. **yonexbrasil.com**: Transferred
9. **yonexbulgaria.com**: Transferred
10. **yonexcanada.net**: Transferred
11. **yonexchile.com**: Transferred
12. **yonexcolombia.net**: Transferred
13. **yonexdanmark.com**: Transferred
14. **yonexeesti.com**: Transferred
15. **yonexgreece.com**: Transferred
16. **yonexhrvatska.com**: Transferred
17. **yonexireland.com**: Transferred
18. **yonexisrael.com**: Transferred
19. **yonexjapan.com**: Transferred
20. **yonexkuwait.com**: Transferred

- 21. **yonexlietuva.com**: Transferred
- 22. **yonexlv.com**: Transferred
- 23. **yonexmexico.com**: Transferred
- 24. **yonexnederland.net**: Transferred
- 25. **yonexnorge.org**: Transferred
- 26. **yonexperu.com**: Transferred
- 27. **yonexportugal.com**: Transferred
- 28. **yonexromania.com**: Transferred
- 29. **yonexslovenija.com**: Transferred
- 30. **yonexsouthafrica.com**: Transferred
- 31. **yonexsrbija.com**: Transferred
- 32. **yonexsuisse.com**: Transferred
- 33. **yonexsuomi.org**: Transferred
- 34. **yonexuaeonline.com**: Transferred
- 35. **yonexukshop.com**: Transferred
- 36. **yonexuruguay.com**: Transferred

PANELLISTS

Name	Stephanie Hartung
------	-------------------

DATE OF PANEL DECISION	2023-12-04
------------------------	------------

Publish the Decision
