Decision for dispute CAC-UDRP-106644

Case number	CAC-UDRP-106644
Time of filing	2024-06-27 09:58:26
Domain names	expanscience.net

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	EXPANSCIENCE

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	QINGRU WU

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 <expanscience.net>.

IDENTIFICATION OF RIGHTS

The Complainant owns several trademarks comprising the term “EXPANSCIENCE”, such as the international trademark EXPANSCIENCE n° 282517 registered since April 17, 1964.

The Complainant owns and communicates through various websites worldwide, its official one being <expanscience.com> registered and used since April 4, 1997.

FACTUAL BACKGROUND

LABORATOIRES EXPANSCIENCE (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. The Complainant counts 13 subsidiaries in over 100 countries. In 2023, 78% of the company’s turnover has been generated by international business.

The disputed domain name <expanscience.net> was registered on June 18, 2024 and resolves to a Dan.com page where the disputed domain name is offered for sale for 1450 USD.

PARTIES CONTENTIONS

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

COMPLAINANT:

• The disputed domain name is identical or confusingly similar to the protected mark

According to the Complainant, the disputed domain name is identical to the disputed domain name as it fully incorporates the Complainant's trademark EXPANSCIENCE without any addition or deletion.

Besides, the Complainant contends that the addition of the generic Top-Level Domain suffix ".NET" does not change the overall impression of the designation as being connected to the trademark EXPANSCIENCE. It does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademark and its domain names associated.

Therefore, the Complainant argues that the disputed domain name is identical to the Complainant's EXPANSCIENCE trademark within the meaning of Paragraph 4(a)(i) of the Policy.

• The Respondent does not have any rights or legitimate interest in the disputed domain name

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the 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 EXPANSCIENCE, or apply for registration of the disputed domain name by the Complainant.

Finally, the Complainant provides that the disputed domain name is offered for sale for 1450 USD. The Complainant contends this general offer to sell the disputed domain name is evidence of the Respondent's lack of rights or legitimate interest.

Therefore, the Complainant contends that the Respondent has no right nor legitimate interest in respect of the disputed domain name, within the meaning of the Paragraphs 4(a)(ii) and (4)(c) of the Policy.

• The disputed domain name has been registered and is being used in bad faith

The Complainant states that the disputed domain name is identical to its distinctive trademark EXPANSCIENCE. Past panels have held that the Complainant trademark is well-known. Besides, most results from a Google search on the term "EXPANSCIENCE" refer to the Complainant.

Thus, given the distinctiveness of the Complainant's trademarks and reputation, it is reasonable to infer that the Respondent has registered the domain name with full knowledge of the Complainant's trademark.

Finally, given that the disputed domain name redirects to a Dan.com page where it is offered for sale for 1450 USD, the Complainant claims that the Respondent fails to make an active use of the disputed domain name. Past panels have held that failure to actively use a domain name is evidence of bad faith registration and use.

Furthermore, the Complainant contends that the Respondent has registered the disputed domain name only in order to sell it back for out-of-pockets costs, which evinces bad faith registration and use.

Therefore, the Complainant concludes that the Respondent has registered and is using the disputed domain name in bad faith within the meaning of Paragraph 4(a)(iii) of the Policy.

In conclusion, the Complainant contends that the requirements of the Policy have been met and that the disputed domain name 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

The UNIFORM DOMAIN NAME DISPUTE RESOLUTION POLICY (UDRP) of the Internet Corporation for Assigned Names and Numbers (ICANN) (the “Policy”) provides that complainant must prove each of the following to obtain transfer or cancellation of the domain name:

1. that respondent’s domain name is identical or confusingly similar to a trademark or service mark in which complainant has rights; and

2. that respondent has no rights or legitimate interests in respect of the domain name; and

3. the domain name has been registered and is being used in bad faith.

1) The disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights

The Complainant has provided evidence and proved to be the owner of trademark EXPANSCIENCE.

The Panel finds that the disputed domain name <expanscience.net> is identical to the Complainant’s EXPANSCIENCE trademark.

Moreover, the addition of a purely generic top-level domain (“gTLD”) ".net" does not add any distinctiveness or prevent the disputed domain name from being identical to the Complainant’s trademark. Previous UDRP panels have also held that the gTLD is not to be considered when assessing whether a domain name is identical or confusingly similar to a trademark. See, e.g., Wiluna Holdings, LLC v. Edna Sherman, FA 1652781 (Forum January 22, 2016) or Red Hat Inc. v. Haecke, FA 726010 (Forum July 24, 2006) (concluding that the <redhat.org> domain name is identical to the complainant's red hat mark because the mere addition of the gTLD was insufficient to differentiate the disputed domain name from the mark).

The Panel finds that the disputed domain name is identical to the Complainant's trademark, and could confuse Internet users into thinking that the disputed domain name is associated with the Complainant or its trademarks.

In these circumstances, the Panel finds that the disputed domain name is identical to the Complainant's trademarks.

2) The Respondent lacks rights or legitimate interests in the disputed domain name

Under the Policy, a complainant is required to make out a prima facie case that a respondent lacks rights or legitimate interests. Once such prima facie case is made, the burden of production shifts to the respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such appropriate allegations or evidence, a complainant is generally deemed to have satisfied paragraph 4(a)(ii) of the Policy (see WIPO Overview 2.0, paragraph 2.1).

The Panel finds that the Respondent does not have a legal right to use the EXPANSCIENCE trademark as part of its domain name. The disputed domain name redirects to a Dan.com page where it is offered for sale. The Respondent is not in any way affiliated with the Complainant, nor is it authorized to register the disputed domain name. Past panels have found it is not a bona fide offering of goods or services or legitimate non-commercial or fair use.

In a present case, the Respondent failed to file a Response in which it could have provided evidence in support of its rights or legitimate interests. Therefore, all these circumstances are sufficient to establish a prima facie case that the Respondent lacks rights and legitimate interests in the disputed domain name.

The Panel thus takes the view that the Respondent lacks rights or legitimate interests in the disputed domain name.

3) The disputed domain name has been registered and is being used in bad faith

The Panel agrees with the Complainant that its trademark EXPANSCIENCE is distinctive and well-known. The registration of the Complainant's well-known trademark predates the registration of the disputed domain name. The Panel finds that there appears no reason why the Respondent would register the Complainant's trademark as part of the disputed domain name, other than to create the impression that it is connected to the Complainant's business. Given the distinctiveness and reputation of the Complainant's trademark, it is reasonable to infer that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademarks.

The fact that the Respondent has registered the disputed domain name that is confusingly similar to them indicates and in the absence of any evidence contrary (or any administratively compliant response at all) being put forward by the Respondent, that the Respondent, according to this Panel, had knowledge of the Complainant's trademark and that it had such knowledge before the registration and use of the disputed domain name.

Moreover, the disputed domain name redirects to a Dan.com page where it is offered for sale for 1450 USD. The Panel agrees with the Complainant that this general offer to sell the disputed domain name and failing to make an active use of the disputed domain name is evidence of bad faith registration and use. The Panel thus takes the view that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or location by creating a likelihood of confusion with the Complainant's marks. This further suggests that the Respondent's sole intention in registering the disputed domain name was to take unfair advantage of the Complainant's EXPANSCIENCE trademark and reputation, and suggests registration and use in bad faith.

Finally, the Complainant contends that the Respondent has registered the disputed domain name only in order to sell it back for out-of-pockets costs, which evinces bad faith registration and use. Out-of-pocket costs include the costs of obtaining, registering, and maintaining a domain name. This issue of "excessive" out-of-pocket costs is typically considered on a case-by-case basis. However, in the Panel's experience, the Respondent's offer is in excess of any out-of-pocket costs directly related to the disputed domain name. Therefore, the evidence shows that Respondent registered the disputed domain name primarily for the purpose of transferring it to a trademark owner or its competitor for a profit. Accordingly, the Panel finds that such behaviour is a clear indication of bad faith use of the disputed domain name under paragraph 4(b)(i) of the Policy.

For all reasons stated above, the Panel is satisfied that the Complainant has proven the third element of the Policy, which is that the Respondent's registration and use of the disputed domain name is 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.net**: Transferred

PANELLISTS

Name	**Barbora Donathová**

DATE OF PANEL DECISION 2024-07-29

Publish the Decision