Decision for dispute CAC-UDRP-107488

Case number	**CAC-UDRP-107488**
Time of filing	**2025-04-17 09:51:44**
Domain names	**exnessscam.com**

Case administrator

Name	**Olga Slanařová (Case admin)**

Complainant

Organization	**Exness Holdings CY Limited**

Respondent

Name	**Mr. Kashif Mukhtar**

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 is, inter alia, the owner of the following trademark registrations containing a word element "EXNESS":

EXNESS (word), International (WIPO) Trademark, registration date September 12, 2012, trademark no. 1133115, registered for services in class 36;

EXNESS (word), EU Trademark, registration date March 24, 2022, filing no. 018616417, registered for goods and services in classes 9, 36 and 42;

besides other national trademarks consisting of the "EXNESS" denomination (collectively referred to as "Complainant's trademarks").

The Complainant's trademarks are registered and used internationally in connection with financial and monetary services.

The Complainant also operates its main website at www.exness.com and has a substantial online presence through the registration and use of over 770 domain names incorporating the EXNESS name.

FACTUAL BACKGROUND

The Complainant, the EXNESS HOLDINGS CY LIMITED, was founded as a part of the Exness Group, as an online multi-asset broker in 2008. It is established and regulated in markets around the world.

The disputed domain name <exnessscam.com> was registered on 28 March 2025 and resolves to an active website.

PARTIES CONTENTIONS

CONTENTIONS OF THE COMPLAINANT

The Complainant puts forward that the EXNESS HOLDINGS CY LIMITED, was founded as a part of the Exness Group, an online multi-asset broker in 2008 which is active in numerous countries and growing fast in MENA, Africa, and Latin America. It is also argued that it complies with the highest regulatory standards which holds eight licenses from international regulatory bodies, including many in Europe (Cyprus and the UK) and is the holder of multiple registered word marks for the word EXNESS.

The Complainant asserts that the disputed domain name e is confusingly similar to a trademark in which the Complainant has rights as the disputed domain name <exnessscam.com> incorporates the Complainant's EXNESS trademark in its entirety. It is argued that the addition of the term "scam" does not prevent a finding of confusing similarity between the domain name and the Complainant's trademark as previous UDRP panels have consistently held that the addition of derogatory terms to a complainant's trademark does not prevent a finding of confusing similarity under the first element of the UDRP.

The Complainant also argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name as the Respondent has no connection with the Complainant and has not received any license or consent to use the EXNESS trademark in a domain name or in any other manner and is not commonly known by the disputed domain name. It is argued that the Respondent is using the disputed domain name for a website that contains false and defamatory content about the Complainant in order to damage the Complainant's reputation by making numerous false claims, including allegations that the Complainant engages in fraudulent activities and market manipulation.

As a result, the Complainant puts forward that the Respondent's use of the disputed domain name does not constitute a legitimate noncommercial or fair use. The Complainant argues that although the UDRP Policy recognizes that criticism sites may, in certain circumstances, constitute a legitimate noncommercial or fair use, the current use goes beyond legitimate criticism by including false allegations and defamatory content.

According to the Complainant, no response was received to a prior notification which had been sent to the website's owner who is using it to target the Complainant in a defamation campaign by publishing false information on the <exnessscam.com> website including content such as a “case study". The website is also linked to the domain name kashifmukhtar.com/exness/, which also contains false allegations against Exness written by the author and the Respondent. The Complainant alleges that the video evidence shown on the website connected to the disputed domain name <exnessscam.com> shows a demo account instead of an active Exness trading account.

Therefore, the Complainant argues that the Respondent's use of the disputed domain name does not qualify as a bona fide offering of goods or services, nor as a legitimate noncommercial or fair use of the domain name.

Additionally, the Complainant submits that the disputed domain name was registered and is being used in bad faith since the Respondent registered the disputed domain name with full knowledge of the Complainant's EXNESS trademark and business as illustrated by the content of the website linked to the disputed domain name <exnessscam.com>. Therefore it is argued that the Respondent was well aware of the Complainant's rights and deliberately incorporated the Complainant's trademark into the domain name with the addition of the derogatory term "scam" to create websites disparaging the Complainant.

Finally, it is put forward that the Respondent is using the disputed domain name to host website containing false and defamatory content about the Complainant as the website makes numerous false claims about the Complainant's business practices, including allegations that the Complainant falsely assigns fraudulent activities to Exness, harms the Complainant’s reputation in its profession, exposes the Complainant to ridicule and contempt and may manipulate and steal funds.

The Respondent’s use of a privacy service is argued to be a further indication of bad faith.

CONTENTIONS OF THE RESPONDENT:

The Respondent argues that the disputed domain name <exnessscam.com> is used as a non-commercial, public-interest platform dedicated to raising consumer awareness and reporting verified grievances related to the trading platform EXNESS without promoting any competing services, running advertisements, or generating profits.

The use of the domain name is argued to be nominative and descriptive, clearly identifying the subject of criticism without misleading users or infringing on any trademark in bad faith.

The Respondent argues that the inclusion of pejorative terms (such as “scam”) in a domain name may constitute fair use when used for legitimate criticism and not commercial gain and asserts his right to freedom of expression, especially in the context of consumer protection, where such speech is protected and encouraged for public benefit.

The Respondent claims to have thoroughly documented multiple verified user complaints and regulatory submissions that demonstrate the factual basis for the website’s content. These include complaints submitted to the FSA Seychelles, FinancialCommission.org, and the IFSC Belize. Furthermore, the Respondent claims that a false DMCA complaint (#ACC-468-41437) filed by the Complainant on April 1, 2025, was successfully countered, leading to the website’s reinstatement—further proving that the Respondent’s lawful and justified use.

According to the Respondent, the site makes it explicitly clear through disclaimers that it is not affiliated with Exness and is operated solely for educational, advocacy, and public awareness purposes. Therefore, the Respondent argues that he is acting transparently and in good faith. The Respondent further puts forward that the disputed domain name, <exnessscam.com>, is not confusingly similar to “EXNESS” alone as the addition of the word “SCAM” is an expression of opinion and transforms the disputed domain name into one of criticism and commentary, which falls under fair use and protected speech. The Respondent cites the legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain which is claimed to apply since this is a website which is a non-commercial educational and advocacy platform for consumer protection, without profits; that this is a criticism site which serves as a platform for free speech. Finally, it is argued that the disputed domain name is used solely for educational and consumer awareness purposes, with no monetization involved and operates independently, free from any commercial intent or profit-seeking activities.

According to the Respondent, the disputed domain name is used to host a platform for educating traders about ethical issues, documenting personal experiences, and providing evidence-based consumer protection information and has no commercial intent or profit-making activities.

Since the Respondent claims that the disputed domain name is being used for non-commercial purposes (consumer protection and public awareness), he concludes that Exness is attempting to hijack the disputed domain name under reverse domain name hijacking, as there’s no evidence of trademark infringement and the Complaint represents a case of reverse domain name hijacking.

Additionally, the Respondent puts forward that the disputed domain name <exnessscam.com> is a legitimate and non-commercial platform aimed solely at consumer protection and public awareness. It is stated that the Respondent does not seek to profit from the use of the Exness name, nor does it attempt to mislead users into believing it is affiliated with or endorsed by EXNESS, instead operating under the principles of fair use and freedom of speech, offering transparent insights into reported trader experiences and concerns, making this is a classic case of fair use under UDRP precedents and international freedom of expression principles.

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

PRELIMINARY REMARK:

The Respondent refers to a DMCA complaint (#ACC-468-41437) filed by the Complainant against the Respondent with regard to the content of the website reached under the disputed domain name on April 1, 2025. This DMCA complaint was apparently rejected leading to the website's reinstatement, thus showing that the Respondent's use should be considered to be lawful and justified.

It needs to be pointed out that such a DMCA complaint is directed at the content of a website, not at the disputed domain name itself. For that reason, the said complaint does not constitute legal proceedings related to the disputed domain name and has no bearing on the outcome of the case on hand. It is however, interesting to note that the email correspondence filed by the Respondent and classified as "DMCA Rejection Notification" is simply an email from the registrar with the reference "[#ACC-468-41437]: DMCA copyright complaint" which contains an apparent apology for not investigating the matter more thoroughly and the assurance to review internal standards to ensure better judgement and minimize unnecessary disruptions while requesting the recipient to take part in a customer satisfaction survey. It is not a rejection notification.

DECISION:

According to Paragraph 4(a) of the Policy, the Complainant is required to prove each of the following three elements to obtain an order that the disputed domain name should be transferred or cancelled:

(i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and

(ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and

(iii) the disputed domain name has been registered and is being used in bad faith.

The Panel has examined the evidence available to it and has come to the following conclusion concerning the satisfaction of the three elements of paragraph 4(a) of the Policy in these proceedings:

EARLIER RIGHTS

The Complainant has established rights in the name EXNESS. The disputed domain name <exnessscam.com> is found to be confusingly similar to the Complainant's trademark and company name. This finding is based on the settled practice in evaluating the existence of a likelihood of confusion of:

a) disregarding the top-level suffix in the domain names (i.e. ".com") in the comparison; and

b) finding that the simple combination of a trademark (i.e. EXNESS) and a generic term - be it derogatory or not - would by no

means be considered sufficient to distinguish a domain name from a trademark. In this case, the generic derogatory English term SCAM is not sufficient to find that the names are not confusingly similar.

The likelihood of confusion is also not eliminated by the fact that the homepage in dispute indicates that the website is not connected to the Complainant as argued by the Respondent. Such general statements do not change the fact that internet users faced with the disputed domain name may attribute the site to the Complainant when they call it up, especially in cases in which the language version of the website may not be English in markets in which English is not the first language. Nevertheless, these consumers will recognise the name EXNESS in the disputed domain name.

The disputed domain name is therefore found to be confusingly similar to the earlier rights in the name EXNESS and the Panel concludes that the Complainant has satisfied the requirement under paragraph 4(a)(i) of the Policy.

NO RIGHTS OR LEGITIMATE INTERESTS

The onus to make out a prima facie case that the Respondent lacks rights or legitimate interests is placed on the Complainant. However, once such a prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the disputed domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

The Complainant has put forward that the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant and the Respondent have never had any previous relationship, nor has the Complainant ever granted the Respondent with any rights to use the EXNESS trademark in any form, including in the registration of the disputed domain name. There is no evidence before the Panel indicating that the Respondent is commonly known by the disputed domain name. The Complainant therefore sees neither a bona fide offering of goods and services, nor other legitimate rights or interests.

The Respondent, on the other hand has argued that use of the site is non-commercial and as the site of a consumer rights advocate represents legitimate use.

To the satisfaction of the Panel, the Complainant has shown that the Respondent has no rights or legitimate interests with respect to the disputed domain name. The Respondent wishes to use the disputed domain name to evidence based criticism of the Complainant's practices. For this, the Respondent uses the disputed domain name which is confusingly similar to the Complainant’s trademarks and domain names. However, the Respondent is neither known by the name EXNESS, nor has he been in any way licensed or authorised to make use of the name in any way. These factors suffice to reach the prima facie finding that the Respondent has no rights or legitimate interests in the disputed domain name.

Faced with the burden of proof resulting from a prima facie case, the Respondent argues the existence of a legitimate interest, by relying on the concept of fair use on the basis of providing information and genuinely criticizing the Complainant’s alleged unethical practices with noncommercial intentions by publishing information about such allegedly fraudulent actions. In doing so, he relies on decisions that affirm respondents‘ legitimate interest to criticize complainants. Indeed, fair use and freedom of speech may be considered as an exceptional justifying reason for the registration of a certain domain name (see CAC-UDRP-104815, arcelormittalemployees.com, ARCELORMITTAL v. Clever Technology with further references).

This exceptional justification cannot be considered to be an automatism. Instead, all aspects need to be examined closely in order to prevent the pretext of relying on freedom of speech to justify almost any domain name registration by anybody. The Respondent only vaguely refers to the right to free speech. However, previous panels have only accepted an appeal to fair use if a considerable group of existing addresses use the domain name for the concrete exercise of freedom of speech in a specific case (CAC-UDRP-104815, arcelormittalemployees.com, ARCELORMITTAL v. Clever Technology).

Nevertheless, registering or using confusingly similar domain names can counter the fair use defense. Panels have denied fair use in cases where a domain name identical to a trademark was used on the basis of a likelihood of confusion (see e.g. Sermo, Inc. v.

CatalystMD, LLC, WIPO Case No. 2008-0647). If, on the other hand, the domain name comprised a derogatory term in addition to a trademark, legitimate interest can more easily be established (see e.g. Amylin Pharmaceuticals, Inc. v. Watts Guerra Craft LLP, WIPO Case No. D2012-0486).

In a number of UDRP decisions where respondents have argued that the domain name is being used for free speech purposes, panels have found this to be primarily a pretext for cybersquatting, commercial activity, or tarnishment (CAC-UDRP-104815, arcelormittalemployees.com, ARCELORMITTAL v. Clever Technology). Thus, fair use cannot be invoked if the Respondent has an intent to tarnish the Complainant's trade mark. The apparent criticism on the Respondent's landing page may easily suffice to tarnish the Complainant's trade mark and reputation. In addition, Commercial use may also be a consideration in deciding whether there is fair use or not. Such commercial use and gain may include the Respondent gaining or seeking reputational advantage, even where such advantage may not be readily quantified. By intending to reach the Complainant's clients and to address the Complainant's "alleged unethical practices", the Respondent is seeking such an advantage.

Most compellingly however, for fair use to serve as a justification for the Respondent's use of the disputed domain name, it is necessary that the Respondent´s criticism must be genuine. It is not the case whenthe Respondent is using the disputed domain name to post content about the Complainant in a manner clearly commercially disparaging of the Complainant's business. This has been verified by the Panel who has visited the websites at the disputed domain name several times during these proceedings. Disparaging the Complainant or his business with unsubstantiated claims cannot constitute rights or legitimate interests in the disputed domain name (see WIPO Case No. D2017-0091 farmaciabernardellicaione.com et al., Bernadelli Cesarina v. Paola Ferrario, Ferrario Photography). In the case on hand, the absence of evidence for the allegations leads to the conclusion that the content of the website operated by the Respondent and consequentially of the criticism levelled by the Respondent against the Complainant is at least doubtful. This is not only, but also, confirmed by the rather extraordinary claim contained on the website operated under the disputed domain name, which reads as follows:

Key Highlights: UDRP Defense Win (CAC-UDRP-107488) Exness's attempt to seize ExnessScam.com via domain arbitration failed on April 24, 2025. The Czech Arbitration Court ruled in favour of the domain owner.

The Panel was quite astonished to read that its decision had already been pre-empted and has drawn its conclusions about the veracity and truthfulness of the remaining contents of the website considering that this was obviously a false statement.

Under these circumstances, the Complainant has established a clear prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name which the Respondent has not succeeded in rebutting.

The Panel therefore concludes that the Respondent did not refute the Complainant's prima facie case and has not established any rights or legitimate interest in the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy). The Complainant has therefore also satisfied the requirement under paragraph 4(a)(ii) of the Policy.

BAD FAITH

The Panel finds that the Complainant has established that the disputed domain name was registered by the Respondent and is being used by the Respondent in bad faith. The name "EXNESS" is distinctive and well known in numerous countries around the world for the services provided by the Complainant. The Respondent has copied the Complainant's trademark "EXNESS" and has combined it with the generic word "SCAM". Therefore, this registration can only be viewed as an attempt to exploit the goodwill vested in the trademark by attracting Internet users and confusing them to the extent that they would believe that a website connected to the disputed domain name offers the services of an entity that is affiliated with the Complainant.

Given the content of the website, the Respondent registered and uses the disputed domain name in bad faith to create confusion with the Complainant's marks by attempting to pass off as the Complainant in order to disrupt the Complainant's business. Consequently, there appears to the Panel to be no possible good faith reason for the Respondent to have selected the disputed domain name, and there are demonstrable indications of bad faith present in this case.

The Panel found no indication of the reverse domain hijacking claimed by the Respondent.

The Panel therefore 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). The Complainant has therefore also satisfied the requirement under 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. **exnessscam.com**: Transferred

PANELLISTS

Name	**Udo Pfleghar B.A. (Melb.)**

DATE OF PANEL DECISION 2025-05-14

Publish the Decision