Decision for dispute CAC-UDRP-106917

Case number	CAC-UDRP-106917
Time of filing	2025-04-16 10:38:14
Domain names	exness-scam.info

Case administrator

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

Complainant

Organization	Exness Holdings CY Limited

Respondent

Name	Mr. Ngo Quoc Truong

OTHER LEGAL PROCEEDINGS

The Panel is unaware of any other pending or concluded legal proceedings concerning the domain name <exness-scam.info> ('the disputed domain name').

IDENTIFICATION OF RIGHTS

The Complainant, Exness Holdings CY Limited, asserts rights to the following registered trade marks:

• International trade mark registration no. 1133115, registered on 12 September 2012, designating, inter alia, Viet Nam, for the word mark EXNESS, in class 36 of the Nice Classification;

• US trade mark registration no. 4953350, registered on 10 May 2016, for the word mark EXNESS, in class 36 of the Nice Classification; and

• EU trade mark registration no. 018616417, registered on 3 December 2021, for the word mark EXNESS, in classes 9, 36, and 42 of the Nice Classification.

These trade marks will be collectively referred to as 'the Complainant's trade mark' or 'the trade mark EXNESS'.

The disputed domain name was registered on 28 March 2025 and currently does not resolve to an active website. However, the Complainant has provided a screenshot of an operational website, herein referred to as 'the Respondent's website'.

FACTUAL BACKGROUND

A. Complainant's Factual Allegations

The Complainant is part of the Exness Group, a leading online multi-asset broker established in 2008, recognised for adherence to rigorous regulatory standards. The Complainant has demonstrated rapid growth across Africa, Latin America, and the MENA region, holding eight licenses from various authorities, including those in the UK and Cyprus.

B. Respondent's Factual Allegations

The Respondent has not submitted a Response in this UDRP administrative proceeding, leaving the Complainant's allegations

unchallenged.

PARTIES CONTENTIONS

A. Complainant's Submissions

A.1 Preliminary Issue - Language of the Proceeding

The Complainant submitted the Complaint in English, while the registrar's verification response indicates that the registration agreement for the disputed domain name <exness-scam.info> is in Vietnamese. As per Procedural Order No. 1 (detailed in the section Procedural Factors (1), below), the Complainant provided a Vietnamese copy of the Complaint.

A.2 Substantive grounds

The Complainant's contentions can be summarised as follows:

A.2.1 The disputed domain name is confusingly similar to a trade mark in which the Complainant has rights

The Complainant asserts that the disputed domain name <exness-scam.info> is identical or confusingly similar to the trade mark EXNESS. The inclusion of the term 'scam' and the hyphen does not diminish this confusion. UDRP precedents consistently affirm that derogatory terms do not preclude a finding of confusing similarity (as outlined in section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ('the WIPO Jurisprudential Overview 3.0'). Thus, the disputed domain name meets this criterion.

A.2.2 The Respondent has no rights or legitimate interests in respect of the disputed domain name

The Complainant argues that the Respondent has no rights or legitimate interests in the disputed domain name for several reasons:

• The Respondent has no affiliation with the Complainant and lacks consent to use the trade mark EXNESS;

• The Respondent is not commonly known by the disputed domain name;

• The Respondent's website disseminates defamatory content about the Complainant, damaging its reputation through baseless claims;

• The Respondent's actions exceed acceptable criticism, as previous notifications failed to rectify the ongoing misinformation; and

• The Respondent registered the disputed domain name with the intent to defame the Complainant, negating any claim of bona fide offering of goods or services.

A.2.3 The Respondent registered and is using the disputed domain name in bad faith

The Complainant maintains that the disputed domain name was registered and is used in bad faith as defined by paragraph 4(b) of the UDRP Policy, particularly subparagraphs 4(b)(iii) and 4(b)(iv). The Respondent registered the disputed domain name with knowledge of the trade mark EXNESS, as evidenced by the disparaging content on the Respondent’s website, which includes defamatory allegations against the Complainant, such as unfounded claims of unfair termination of partner accounts, failures to pay commissions, and fraudulent business practices.

A.2.4 Relief sought

The Complainant requests that the disputed domain name be transferred to them.

B. Respondent's Submissions

The Respondent has not provided any substantive defence in this UDRP administrative proceeding.

RIGHTS

The Complainant has satisfactorily demonstrated that the disputed domain name is identical or confusingly similar to a trade mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the UDRP Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has failed to establish a prima facie case regarding the Respondent’s lack of rights or legitimate interests in the disputed domain name under paragraph 4(a)(ii) of the UDRP Policy.

BAD FAITH

The Panel refrains from ruling on this UDRP Policy ground as it is rendered immaterial due to the findings outlined below.

PROCEDURAL FACTORS

1. Language of the Decision

The Panel issued Procedural Order No. 1 to invite comments on the language of the proceeding. The Complainant provided a Vietnamese copy of the Complaint, while the Respondent failed to respond.

Per Rule 11 of the UDRP Rules, the Panel has discretion to determine the appropriate language. In applying the Writera test from CAC Case No. 104144, the following factors were considered:

(i) the only identifiable language in the disputed domain name string is English;

(ii) the content of the Respondent's website is in English;

(iii) the Complainant is incorporated in Cyprus; the Respondent appears to reside in Viet Nam, making English a neutral choice;

(iv) the Respondent has shown no inclination to participate in this UDRP administrative proceeding;

(v) the Panel has fulfilled its obligations under Rule 10 (c) of the UDRP Rules; and

(vi) Considering the balance of convenience, the decision in English is warranted, enabling the Complainant to fully understand the case outcome without translation issues. Moreover, the decision would not disadvantage the Respondent.

Based on these factors, the Panel has decided to issue its ruling in English.

2. Parties' legal relationship

The Panel issued Procedural Order No.2 inviting the Complainant to submit a copy of the Partnership Agreement referenced in Annex 3 of the Complaint. The Complainant provided the requested document.

3. Miscellaneous

The Panel confirms that all procedural requirements under the UDRP have been met, with no grounds to prevent a decision.

PRINCIPAL REASONS FOR THE DECISION

A. Applicable Legal Framework and Burden of Proof

Pursuant to Rule 15 of the UDRP Rules, the Panel shall base its determination on the statements and documents submitted, together with the UDRP Policy, UDRP Rules, and any pertinent rules and principles of law. The Complainant must establish three essential elements under paragraph 4(a) of the UDRP Policy:

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

(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.

These elements are collectively termed 'the requirements of the UDRP Policy'. The standard of evidence in UDRP administrative proceedings is the balance of probabilities; each requirement will be assessed in sequence.

B. Identical or Confusingly Similar

The Panel finds that the Complainant possesses UDRP-relevant rights in the registered trade mark EXNESS since at least 2012. The disputed domain name <exness-scam.info> incorporates the trade mark EXNESS entirely, with the addition of the word 'scam' failing to alter recognition and potentially amplifying confusion by suggesting a negative association with the Complainant's trade mark. Therefore, the Panel concludes that the first requirement of the UDRP Policy is satisfied.

C. Rights or Legitimate Interests

The second UDRP Policy ground requires the Respondent to demonstrate rights or legitimate interests in the disputed domain name. Consequently, the burden shifts to the Complainant to counter this claim.

Paragraph 4(c) of the UDRP Policy provides a non-exhaustive list of grounds by which the Respondent can establish rights or legitimate interests

> (i) before any notice of this UDRP administrative proceeding, the Respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a bona fide offering of goods or services; or
>
> (ii) the Respondent (as an individual, business, or other organisation) has been commonly known by the disputed domain name, even if the Respondent has acquired no trade mark or service mark rights; or
>
> (iii) the Respondent is making a legitimate non-commercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark or service mark at issue.

In UDRP proceedings, a prima facie case by the Complainant shifts the burden onto the Respondent to provide evidence to the contrary. The Respondent's default in this proceeding allows the Panel to draw adverse inferences from their silence (Rule 14 (b) of the UDRP Rules).

The Panel notes that the Respondent signed a partnership agreement with the Complainant ('the Partnership Agreement'), now terminated. According to the Partnership Agreement, the Complainant did not authorise the Respondent to use the trade mark EXNESS or register the disputed domain name, and there is no evidence that the Respondent has been commonly known by the disputed domain name. Furthermore, the registration of the disputed domain name postdates the trade mark EXNESS registration.

The circumstances of this case fall outside the provisions of paragraphs 4(c)(i) and (ii) of the UDRP Policy. The Panel's attention is consequently drawn to paragraph 4(c)(iii). To assess this UDRP Policy ground, the Panel considered paragraph 2.5.2 of the WIPO Jurisprudential Overview 3.0, which outlines factors illustrative of fair use.

Paragraph 2.5.2 of the WIPO Overview 3.0 identifies eight determinative factors for assessing fair use, which the Panel will address in turn:

1) whether the disputed domain name was registered and used for legitimate purposes, not as a pretext for commercial gain

The Respondent's website aims to review and critique the Complainant's services, rather than for profit, as evidenced by the content regarding the Complainant's alleged unfair actions and practices in managing and closing client/affiliate accounts.

2) whether the Respondent reasonably believes its use is truthful and well-founded

The content of the Respondent's website seemingly reflects a genuine intent to review the Complainant's services, suggesting a critical perspective.

3) whether it is clear to Internet users that the Respondent's website is not operated by the Complainant

The Panel finds that informed Internet users would reasonably discern that the Respondent's website critiques the Complainant's services and operates independently of the Complainant. The inclusion of the term 'scam' in the disputed domain name, combined with the generic Top-Level Domain <.info>, distinctly conveys that this domain name is not associated with the Complainant. Moreover, the Panel observes that the Respondent's website is markedly different from the Complainant's official website at <exness.com>.

4) whether the Respondent refrained from registering multiple domain names corresponding to trade marks of the Complainant or third parties

There is no record of the Respondent registering multiple domain names reflective of the Complainant's trade mark or indicative of bad faith.

5) whether a prominent link to the relevant trade mark owner's website is provided

No such link seems to exists on the Respondent's website; however, this absence is not detrimental given the positive indicators for the Respondent.

6) whether senders of misdirected e-mails intended for the Complainant are alerted to the misdirection

No indication suggests the Respondent engaged in such conduct.

7) whether there is a direct connection between the Complainant's trade mark and the website's content, rather than to competitors or an entire industry

The Respondent's website appears to target the Complainant's services, not competitors.

8) whether the registration and use of the disputed domain name align with a pattern of bona fide activity

The Panel's findings affirm that the Respondent's website is designed to provide affiliate/customer reviews on the Complainant's offerings, evidenced by other affiliates/customers endorsing the Respondent's grievances.

In summary, the Panel views the disputed domain name as intended for genuine critique, not ulterior commercial purposes.

For these reasons, the Panel finds that the Complainant has not established a prima facie case regarding the Respondent's lack of rights or legitimate interests in the disputed domain name under paragraph 4(a)(ii) of the UDRP Policy.

D. Registered and Used in Bad Faith

Given the Panel's findings in section C, this UDRP Policy ground is not considered, as it would be immaterial to the decision's outcome.

E. Decision

For the reasons stated, the Complaint is denied.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Rejected

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

1. **exness-scam.info**: Remaining with the Respondent

PANELLISTS

Name	**Yana Zhou**

DATE OF PANEL DECISION 2025-06-02

Publish the Decision