

ADMINISTRATIVE PANEL DECISION

NEXANS v. Huseyin Yeter

Case No. D2022-3240

1. The Parties

The Complainant is NEXANS, France, represented by Cabinet Lhermet & Lefranc-Bozmarov, France.

The Respondent is Huseyin Yeter, Türkiye.

2. The Domain Name and Registrar

The disputed domain name <nexans.tech> (the “Disputed Domain Name”) is registered with Hostinger, UAB (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 31, 2022. On September 1, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On September 2, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on September 6, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 26, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 28, 2022.

The Center appointed Gabriela Kennedy as the sole panelist in this matter on September 30, 2022. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

Founded in 2000, the Complainant is a French company in the cable industry that offers an extensive range of cabling solutions and services worldwide under the NEXANS mark. The Complainant has around 25,000 employees in over 40 countries, including Türkiye. In 2021, the Complainant generated EUR 6.1 billion in standard sales. The Complainant is also listed on Euronext Paris (Annex 4 of the Complaint).

The Complainant is the owner of a number of trademark registrations for the NEXANS mark in various countries and classes, including, *inter alia*, (i) International Trademark Registration No. 748932 in Classes 6 and 9 registered on December 8, 2000; and (ii) International Trademark Registration No. 1448123 in Classes 35, 37, 39, 40, and 42 registered on January 15, 2018 (the “Complainant’s Trademark”). The Complainant’s Trademark is fully incorporated in more than 120 domain names owned by the Complainant and its subsidiaries, including, *inter alia*, <nexans.com>.

The Disputed Domain Name was registered by the Respondent on January 7, 2022, which is more than 20 years after the Complainant’s Trademark was first registered. The Disputed Domain Name previously resolved to a webpage which offered the Disputed Domain Name for sale for EUR 12,000. The Disputed Domain Name currently resolves to an inactive webpage.

5. Parties’ Contentions

A. Complainant

(a) The Disputed Domain Name is identical to the Complainant’s Trademark. The Complainant’s Trademark is reproduced in its entirety in the Disputed Domain Name.

(b) The Respondent has no rights or legitimate interests in the Disputed Domain Name. The Respondent has not received any license or other authorization of any kind to make use of the Complainant’s Trademark as part of a domain name or otherwise. Moreover, there is also no evidence to show that the Respondent used or has made 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 and services, or for a legitimate noncommercial or fair use.

(c) The Respondent’s registration of the Disputed Domain Name, which is identical to the Complainant’s Trademark, is in itself an act of bad faith by someone with no legal connection with the Complainant’s business. Moreover, the Respondent must have been fully aware of the existence of the Complainant’s rights in the Complainant’s Trademark when it registered the Disputed Domain Name and used the Complainant’s Trademark because of the high international reputation and widely-known character acquired by the Complainant in the Complainant’s Trademark. Furthermore, the Respondent has attempted to sell the Disputed Domain Name to the Complainant for EUR 10,000 and put the Disputed Domain Name up for sale for EUR 12,000. Therefore, given these factors, the Respondent has registered and is using the Disputed Domain Name in bad faith.

B. Respondent

The Respondent did not reply to the Complainant’s contentions.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant is required to prove each of the following three elements:

(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 by the Respondent in bad faith.

A. Identical or Confusingly Similar

The Panel accepts that the Complainant has rights in the Complainant's Trademark based on various trademark registrations listed above in Section 4.

It is well established that in making an enquiry as to whether a trademark is identical or confusingly similar to a domain name, the generic Top-Level Domain ("gTLD") extension, ".tech" in this case, may be disregarded. See section 1.11 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Disputed Domain Name incorporates the Complainant's Trademark in its entirety. UDRP panels have consistently found that a domain name that wholly incorporates a complainant's trademark is identical or confusingly similar to the complainant's trademarks (see *Société Air France v. Indra Armansyah*, WIPO Case No. [D2016-2027](#); and *Icebug AB v. Domain Administrator*, WIPO Case No. [D2013-1823](#)).

As such, the Panel finds that the Disputed Domain Name is identical to the Complainant's Trademark, and accordingly, paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interest

Once a complainant establishes a *prima facie* case in respect of the lack of rights or legitimate interests of a respondent in a disputed domain name, the respondent then carries the burden of demonstrating that it has rights or legitimate interests in the disputed domain name. Where the respondent fails to do so, a complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy. See section 2.1 of the [WIPO Overview 3.0](#).

The Panel accepts that the Complainant has not authorized the Respondent to use the Complainant's Trademark. There is no relationship between the Complainant and the Respondent which would otherwise entitle the Respondent to use the Complainant's Trademark. Accordingly, the Panel is of the view that a *prima facie* case has been established by the Complainant and it is for the Respondent to show rights or legitimate interests in the Disputed Domain Name.

The Respondent did not submit a formal Response. The fact that the Respondent did not submit a formal Response does not automatically result in a decision in favor of the Complainant. However, the Respondent's failure to file a formal Response may result in the Panel drawing appropriate inferences from such default. The Panel may also accept all reasonable and supported allegations and inferences flowing from the Complainant as true (see *Entertainment Shopping AG v. Nischal Soni, Sonik Technologies*, WIPO Case No. [D2009-1437](#); and *Charles Jourdan Holding AG v. AAIM*, WIPO Case No. [D2000-0403](#)).

Pursuant to paragraph 4(c) of the Policy, the Respondent may establish rights or legitimate interests in the Disputed Domain Name by demonstrating any of the following:

- (i) Before any notice to him of the dispute, 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 has been commonly known by the Disputed Domain Name, even if the Respondent has acquired no trademark 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 trademark or service mark at issue.

There is no evidence to suggest the Respondent used or made 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.

Moreover, there is no evidence to show that the Respondent has trademark rights corresponding to the Disputed Domain Name, or that the Respondent has become known by the Disputed Domain Name.

The Panel agrees with the Complainant that the Respondent's use of the Disputed Domain Name cannot be regarded as legitimate noncommercial or fair use since the Respondent appears to have registered the Disputed Domain Name solely for the purpose of selling the Disputed Domain Name for a sum likely to be above his out-of-pocket costs of registration.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the Disputed Domain Name and the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a widely-known trademark by an unaffiliated entity can already by itself create a presumption of bad faith. See section 3.1.4 of the [WIPO Overview 3.0](#).

After reviewing the supporting evidence submitted by the Complainant, the Panel agrees with the Complainant that the Complainant's Trademark appears to be well known globally. A quick Internet search conducted by the Panel shows that the top search results returned for the keyword "nexans" are the Complainant's websites and third party websites providing information relating to the Complainant's services. Therefore, the Panel agrees that the Respondent must have been aware of the Complainant and the Complainant's Trademark rights when registering and using the Disputed Domain Name.

In addition, the Panel finds that the following facts further support a finding that the Disputed Domain Name was registered and is being used by the Respondent in bad faith:

(i) The Respondent failed to respond to the Complainant's contentions and has provided no evidence of any actual or contemplated good faith use by it of the Disputed Domain Name.

(ii) It is difficult to conceive of any plausible use of the Disputed Domain Name that would amount to good faith use, given that the Disputed Domain Name solely contains the Complainant's Trademark in its entirety.

(iii) The Panel notes that in the email correspondence between the parties preceding the filing of this Complaint, the Respondent has attempted to sell the Disputed Domain Name to the Complainant for EUR 10,000. Further, the Respondent also offers the Disputed Domain Name to the public online for EUR 12,000. The prices are likely to be in excess of the out-of-pocket costs directly related to the Disputed Domain Name. See paragraph 4(b)(i) of the Policy.

(iv) The chosen gTLD for the Disputed Domain Name, ".tech", refers to technology, which corresponds to the Complainant's area of business activity in offering cable and complementary services. See section 3.2.1 of the [WIPO Overview 3.0](#).

In the circumstances, the Panel finds that the Respondent registered and has been using the Disputed Domain Name in bad faith, and paragraph 4(a)(iii) of the Policy has been satisfied.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the Disputed Domain Name, <nexans.tech> be transferred to the Complainant.

/Gabriela Kennedy/

Gabriela Kennedy

Sole Panelist

Date: October 12, 2022