

ADMINISTRATIVE PANEL DECISION

ASML Netherlands B.V. v. Claude Robert Cecius
Case No. D2024-2707

1. The Parties

The Complainant is ASML Netherlands B.V., Netherlands (Kingdom of the), internally represented.

The Respondent is Claude Robert Cecius, Belgium.

2. The Domain Name and Registrar

The disputed domain name <nlasml.com> (“Domain Name”) is registered with INWX GmbH & Co. KG (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 2, 2024. On July 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On July 4, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (The full name and exact address of the respondent are unknown. Respondent appears to reside in the Netherlands as a country location) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 9, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on July 12, 2024.

The Center verified that the Complaint together with the amended 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 July 22, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 11, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 26, 2024.

The Center appointed Rodrigo Velasco Santelices as the sole panelist in this matter on August 29, 2024. 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

The Complainant is a Dutch multinational company involved in manufacturing and distributing semiconductors and related goods and services. The Complainant and its affiliates are the proprietor of multiple trademark registrations throughout the world for the word mark "ASML", including the European trademark for the word "ASML" number 001780360 registered on March 30, 2005, for goods and services in classes 7, 9, 37, 41, and 42. In addition, the Complainant and its affiliates are the owner of a number of registrations for the word "ASML" in a particular style and several composite registrations for the word ASML together with other elements.

The Complainant has trademark protection which include Belgium, France, Germany, Ireland, Israel, Italy, Netherlands (Kingdom of the), United Kingdom, China, Hong Kong, China, Japan, Malaysia, Singapore, South Korea, Taiwan Province of China and the United States of America. Through extensive and prolonged use around the world, the ASML trademarks of the Complainant and its affiliates have generated vast good will and have become well-known. These trademarks have been widely registered for various goods and services in jurisdictions where the Complainant, its affiliates and its business partners are active in the semiconductor industry.

The Domain Name was registered on December 3, 2024. The Domain Name does not resolve to an active website. The Complaint contains evidence that the Respondent has sent a series of emails from email accounts in the address format "[...]@nlasml.com" in connection with a phishing scam where the Respondent impersonates the Complainant and contacts third party companies either for the purpose of illegitimately acquiring goods or acquiring banking details. Further, the activities of the Respondent include using the Complainant's trademarks to impersonate ASML employees and sending expensive orders to buy equipment to suppliers, mimicking the Complainant's emails, using the Complainant's trademarks in the course of trade.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

Notably, the Complainant contends that: a) It is the owner of the ASML Mark, having registered the ASML Mark in the European Union. The Domain Name is confusingly similar to the ASML Mark as it reproduces the ASML in its entirety and adds the non-distinctive geographical abbreviation "nl" (short for Netherlands (Kingdom of the)).

b) There are no rights or legitimate interests held by the Respondent in respect of the Domain Name. The Complainant has not granted any license or authorization for the Respondent to use the ASML Mark. The Respondent is not commonly known by the ASML Mark, nor does it use the Domain Name for a bona fide purpose or legitimate noncommercial purpose. Rather, the Domain Name is used for emails impersonating the Complainant, which does not provide the Respondent with rights or legitimate interests in the Domain Name.

c) The Domain Name was registered and is being used in bad faith. The Domain Name is being used for emails that impersonate the Complainant in order to perpetuate fraud.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the Domain Name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1

The Panel finds the entirety of the mark is reproduced within the Domain Name. Accordingly, the Domain Name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other term, here "nl", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the Domain Name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the Domain Name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Domain Name.

The Panel considers that the record of this case reflects that:

- Before any notice to the Respondent of the dispute, the Respondent did not use, nor has it made demonstrable preparations to use, the Domain Name in connection with a bona fide offering of goods or services. Paragraph 4(c)(i) of the Policy, and [WIPO Overview 3.0](#), section 2.2.
- The Respondent (as an individual, business, or other organization) has not been commonly known by the Domain Name. Paragraph 4(c)(ii) of the Policy, and [WIPO Overview 3.0](#), section 2.3.

- The Respondent is not making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue. Paragraph 4(c)(iii) of the Policy, and [WIPO Overview 3.0](#), section 2.4.

Furthermore, the Respondent's use of the Domain Name is in connection with a phishing scheme, namely, to send emails passing itself off as the Complainant to third parties seeing to illegally acquire goods or bank information. UDRP panels have held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

Panels have held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the Domain Name constitutes bad faith under the Policy. The Domain Name has been used to create email accounts where the Respondent sends emails purporting to be emails from the Complainant in order to improperly acquire goods or bank details which amounts to the commission of a fraud.

The Panel finds that the Complainant has established the third element of the Policy.

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 Domain Name <nlasml.com> be transferred to the Complainant.

/Rodrigo Velasco Santelices/

Rodrigo Velasco Santelices

Sole Panelist

Date: September 12, 2024.