

ADMINISTRATIVE PANEL DECISION

Nipro Corporation v. Domain Admin, Privacy Protect, LLC

(PrivacyProtect.org)

Case No. D2024-3572

1. The Parties

The Complainant is Nipro Corporation, Japan, represented by Markmonitor, United States of America (“United States”).

The Respondent is Domain Admin, Privacy Protect, LLC (PrivacyProtect.org), United States.

2. The Domain Name and Registrar

The disputed domain name <niprologex.com> (the “Domain Name”) is registered with GMO Internet, Inc. d/b/a Discount-Domain.com and Onamae.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 3, 2024. On September 4, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On September 5, 2024, 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 12, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 2, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 3, 2024.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on October 9, 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 to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is a Japanese company manufacturing renal, medical-surgical, and interventional radiology products, specializing in medical, pharmaceutical, and glass products. The Complainant is publicly traded on the Tokyo Stock Exchange. The Complainant's products are sold throughout the world, with 305 sales and service centers in 61 countries around the world. The Complainant employs some 38,000 people.

The Complainant owns more than 100 trademarks for NIPRO in numerous jurisdictions, such as United States Registration No. 1441070 (registered on June 2, 1987). The Complainant also owns domain names that incorporate its NIPRO trademark, such as <nipro.co.jp>.

The Domain Name was registered on July 9, 2024. The Domain Name had resolved to a Chinese-language webpage inviting Internet users to access sex pages and/or distributing malware. At the time of drafting the Decision, the Domain Name resolves to a webpage informing that further configuration is required to access the webpage.

5. Parties' Contentions

A. Complainant

The Complainant provides evidence of trademark registrations before the Domain Name was registered and argues that the Complainant's trademark has become well-known and famous and registered by the Japan Patent Office as a well-known trademark. The Complainant argues that the Domain Name incorporates the Complainant's trademark in combination with the meaningless term "gex". The addition does not prevent a finding of confusing similarity under the first element.

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the Domain Name. The Respondent is not affiliated with the Complainant in any way and has not been authorized by the Complainant. The Respondent is neither commonly known by the name "nipro" nor "nipro-gex", nor in any way affiliated with the Complainant. The Respondent is not making a legitimate noncommercial or fair use of the Domain Name. Use of the Domain Name for illegal activity such as distributing malware can never confer rights or legitimate interests.

The Complainant believes the Respondent knew or should have known of the Complainant's trademark as it is widely known. The Respondent use of privacy shield to prevent the Complainant from knowing the identity of the actual registrant of the Domain Name is further evidence of bad faith. The Complainant believes the Respondent deliberately chose the Domain Name and registered it in bad faith with the Complainant in mind in order to make a commercial gain and to disrupt the Complainant's activity. The Respondent's use of the Domain Name to resolve to a webpage presenting itself as a "sex matching" website, while apparently used to disseminate malware, confirms use in bad faith.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the Domain Name. Where a domain name incorporates the entirety of a trademark, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has established that it has rights in the trademark NIPRO. The Domain Name incorporates the Complainant's trademark with the addition of "gex". The addition does not prevent a finding of confusing similarity. See [WIPO Overview 3.0](#), section 1.8. For the purpose of assessing the confusing similarity under paragraph 4(a)(i) of the Policy, the Panel may ignore the generic Top-Level Domain ("gTLD") ".com"; see [WIPO Overview 3.0](#), section 1.11.1.

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. While 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 often-impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. See [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 showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Domain Name. Based on the record, the Respondent is not affiliated or related to the Complainant. There is no evidence that the Respondent has registered the Domain Name as a trademark or acquired trademark rights. There is no evidence of the Respondent's use of, or demonstrable preparations to use, the Domain Name in connection with a bona fide offering of goods or services. Rather, the Respondent's use of the Domain Name is evidence of bad faith, see below, and as such does not confer rights or legitimate interests upon the Respondent.

Based on the available record, 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.

The Respondent most likely knew of the Complainant when the Respondent registered the Domain Name. It follows from the composition and use of the Domain Name. The use of the Domain Name to resolve to a webpage featuring "sex-matching" services and disseminating malware is per se evidence of bad faith. See [WIPO Overview 3.0](#) section 3.4. Moreover, the subsequent non-use of the Domain Name does not prevent a finding of bad faith under the circumstances of the present case. [WIPO Overview 3.0](#), section 3.3.

For the reasons set out above, the Panel concludes that the Domain Name was registered and is being used in bad faith, within the meaning of paragraph 4(a)(iii) of the Policy. The third element of the Policy has been established.

7. Decision

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

/Mathias Lilleengen/

Mathias Lilleengen

Sole Panelist

Date: October 14, 2024