

ADMINISTRATIVE PANEL DECISION

Navantia, S.A., S.M.E. v. Domain Sales - (Expired domain caught by auction winner) c/o Dynadot
Case No. D2023-0031

1. The Parties

The Complainant is Navantia, S.A., S.M.E., Spain, represented by Ubilibet, Spain.

The Respondent is Domain Sales - (Expired domain caught by auction winner) c/o Dynadot, United States of America.

2. The Domain Name and Registrar

The disputed domain name <navantiaseanergies.com> is registered with Dynadot, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 4, 2023. On January 4, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 5, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (REDACTED FOR PRIVACY (DT)) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 18, 2023, 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 January 23, 2022.

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 January 24, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 13, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 22, 2023.

The Center appointed Adam Taylor as the sole panelist in this matter on March 2, 2023. 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, a Spanish state-owned company, and its predecessors, have engaged in the construction and repair of military and civilian ships for some 300 years.

The Complainant trades under the mark NAVANTIA.

The Complainant owns many trade marks for NAVANTIA including figurative European Union (“EU”) trade mark No. 004259206, filed on January 27, 2005, registered on March 28, 2006, in classes 7, 9, 12, 13, 16, 35, 37, 39, 41, 42.

The Complainant also owns figurative EU trade mark No. 018681411 for NAVANTIA SEANERGIES, filed on April 4, 2022, registered on September 7, 2022, in classes 37 and 42.

The Complainant owns several domain names which include its trade marks such as <navantia.es> and <navantiaseanergies.es>.

The disputed domain name was registered on April 4, 2022.

The disputed domain name has been used to resolve to a website offering the disputed domain name for sale for USD 4,995.

The Respondent owns other domain names that include well-known trade marks such as such as <huaweiwatchbuds.com>, <vodafoneultrahub.com>, <orange-wang.com> and <annulamex.com>.

5. Parties’ Contentions

A. Complainant

The following is a summary of the Complainant’s contentions.

The disputed domain name is identical to the Complainant’s trade mark.

The Respondent lacks rights or legitimate interests in the disputed domain name.

There is no evidence that the Respondent has used the disputed domain name for a *bona fide* offering of goods or services or that it has been commonly known by the disputed domain name.

The Complainant has not authorised the Respondent to use its trade mark.

The disputed domain name carries a high risk of implied affiliation with the Complainant’s mark.

The Respondent is not making a legitimate noncommercial or fair use of the disputed domain name.

The disputed domain name was registered and is being used in bad faith.

Mere registration of the disputed domain name of itself creates a presumption of bad faith because it comprises the Complainant’s internationally famous trade mark.

The Respondent registered the disputed domain name for sale to the Complainant for more than the Respondent's out-of-pocket costs.

The Respondent registered the disputed domain name to prevent the Complainant from reflecting its mark in a corresponding domain name and has engaged in a pattern of such conduct.

The Respondent registered the disputed domain name to disrupt the business of a competitor. The Respondent is a competitor in that it acts against the Complainant. The disputed domain name resolves to a website without content, thereby depriving the Complainant of the opportunity to reflect its own trade mark in the disputed domain name.

The Respondent knew, or must have been aware of, the Complainant's widely-known and distinctive trade mark when it registered the disputed domain name.

The disputed domain name constitutes a passive holding in bad faith.

B. Respondent

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

6. Discussion and Findings

Under the Policy, the Complainant is required to prove on the balance of probabilities that:

- the disputed domain name is identical or confusingly similar to a trade mark in which the Complainant has rights;
- the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has established registered rights in the mark NAVANTIA SEAENERGIES.

Disregarding the Top-Level Domain ("TLD") suffix, which is excluded from the comparison, the disputed domain name is identical to the Complainant's trade mark. Accordingly, the Panel finds that the Complainant has established the first element of paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

As explained in section 2.1 of [WIPO Overview 3.0](#) of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), the consensus view is that, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If not, the complainant is deemed to have satisfied the second element.

Here, the Complainant has not licensed or otherwise authorised the Respondent to use its trade mark.

Paragraph 4(c) of the Policy gives examples of circumstances which, if proved, suffice to demonstrate that a respondent possesses rights or legitimate interests.

As to paragraph 4(c)(i) of the Policy, use of the disputed domain name for a website offering the disputed domain name for sale does not constitute a *bona fide* offering in the circumstances outlined in section 6C below where the Panel has concluded that the Respondent registered the disputed domain name for the purpose of sale to the Complainant.

The Panel also notes that the disputed domain name carries a high risk of implied affiliation as it is identical to the Complainant's distinctive trade mark - see section 2.5.1 of the [WIPO Overview 3.0](#).

Nor is there any evidence that paragraphs 4(c)(ii) or (iii) of the Policy are relevant in the circumstances of this case.

The Panel finds that the Complainant has established a *prima facie* case of lack of rights or legitimate interests and there is no rebuttal by the Respondent.

For the above reasons, the Panel concludes that the Complainant has established the second element of paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

The Panel notes that the disputed domain name exactly reflects the Complainant's highly distinctive NAVANTIA SEAENERGIES trade mark and that it was registered on the same day that the Complainant applied for this trade mark.

In these circumstances, the Panel has little difficulty concluding that the Respondent's sale offer on its website was directly aimed at the Complainant and, accordingly, that the Respondent registered the disputed domain name for sale to the Complainant for an amount likely in excess of the Respondent's out-of-pocket costs.

Furthermore, the Respondent has not come forward to deny the Complainant's assertions of bad faith. It is difficult to conceive of any legitimate reason why the Respondent would wish to register the disputed domain name and the Respondent has offered no explanation.

For the above reasons, the Panel considers that the Complainant has established the third element of paragraph 4(a) 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 disputed domain name, <navantiaseanergies.com> be transferred to the Complainant.

/Adam Taylor/

Adam Taylor

Sole Panelist

Date: March 16, 2023