

ADMINISTRATIVE PANEL DECISION

LANXESS Deutschland GmbH v. may hush, vanguard
Case No. D2024-0497

1. The Parties

The Complainant is LANXESS Deutschland GmbH, Germany, represented by Wolpert Rechtsanwälte, United States of America (“United States”).

The Respondent is may hush, vanguard, United States.

2. The Domain Name and Registrar

The disputed domain name <1anxess.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 2, 2024. On February 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 2, 2024, 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 (Privacy service provided by Withheld for Privacy ehf), and contact information in the Complaint. The Center sent an email communication to the Complainant on February 7, 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 amendment to the Complaint/amended Complaint on February 8, 2024.

The Center verified that the Complaint together with the amendment to 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 February 9, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 29, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 6, 2024.

The Center appointed Andrea Cappai as the sole panelist in this matter on March 18, 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 LANXESS Deutschland GmbH, a German entity specializing in the development, manufacturing, and marketing of chemical intermediates, additives, specialty chemicals, and plastics. The Complainant operates <lanxess.com>.

The Complainant is the owner of the following trademarks:

1. Mark: LANXESS

Jurisdiction: European Union

Registration Number: 003696581

Date of Registration: June 27, 2005

2. Mark: LANXESS

Jurisdiction: European Union

Registration Number: 006596514

Date of Registration: February 13, 2009

The disputed domain name was registered on December 5, 2023. According to the information provided by the Complainant, and as later verified by the Panel, the disputed domain name is currently not associated with any website, as the server could not be located.

Evidence submitted by the Complainant demonstrates a misuse of the disputed domain name, particularly in email communications. The available records indicate that the Respondent has utilized the disputed domain name to dispatch emails, fraudulently portraying themselves as an employee of a third-party agency. This agency has been engaged in conducting first debt collections on behalf of the Complainant for more than 15 years, and its employee possesses an email address that is associated with the Complainant. Such actions have resulted in a likelihood of confusion with the Complainant, deceiving third parties into transferring funds to a bank account associated with the Respondent.

The only information available about the Respondent, as disclosed by the Registrar and ascertained from the Registrar's Whois database, is Respondent's name and location provided for the registrant details of the disputed domain name.

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 disputed domain name.

Notably, the Complainant contends that the disputed domain name <1anxess.com> strikingly resembles its own LANXESS trademark and corporate identity, with the primary distinction being the replacement of the numeral "1" for the lowercase "l". This nuance is critical, given the characters' visual similarity, rendering them almost identical to a normally attentive eye.

Furthermore, the Complainant argues that the Respondent does not possess any legitimate trademark rights to 1anxess in multiple global jurisdictions, a fact corroborated by a search on the a trademark database.

Moreover, the Complainant submits evidence that shows that the Respondent has been falsely presenting themselves in communications with third parties, insinuating an affiliation with the Complainant. This alleged impersonation has reportedly led to the misdirection of payments to an alternative bank account via ACH, purportedly under the pretense of acting through a third-party agency that has a long-standing relationship with the Complainant. This conduct is deemed by the Complainant as indicative of bad faith, effectively duping third parties into believing they are fulfilling financial obligations directly to the Complainant.

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 disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

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 mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

According to [WIPO Overview 3.0](#), section 1.9, domain names created by altering trademarks through common typos (typosquatting) are inherently similar to the original marks. This similarity arises because such domain names capture the trademark's identifiable components. Moreover, the act of misspelling usually suggests the respondent's deliberate attempt to divert users by mimicking the complainant. Typosquatting techniques include minor alterations like keyboard errors, character substitutions to mimic visual similarities, or the strategic inclusion of additional letters or numbers to exploit font-related ambiguities or user oversight.

The disputed domain name and the LANXESS trademark share similarities, predominantly because the only difference between them lies in the interchange of the letter "l" with the numeral "1." This subtle alteration is barely noticeable, as the visual distinction between these two characters is minimal, especially in certain fonts and contexts, making them nearly indistinguishable to the average observer. .

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 available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed 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 disputed domain name such as those enumerated in the Policy or otherwise.

The Panel observes that the Respondent appears to lack any rights or legitimate interests in the contested domain names, notably being unknown any trademark rights to the sign 1anxess in the Respondent's name, as evidenced by trademark database searches submitted by the Complainant.

Moreover, evidence indicates that the Respondent has misrepresented themselves in communications with third parties, falsely suggesting an association with the Complainant. The Respondent utilized the disputed domain name for email communications, instructing third parties to make payments to a bank account not affiliated with the Complainant. This deceit was facilitated by assuming the identity of an actual employee from a third-party agency engaged with the Complainant, thus exploiting established trust for financial gain by misdirecting payments meant for the Complainant to an unrelated account.

UDRP panels have held that the use of a domain name for illegal activity, such as impersonation/passing off 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.

The Panel notes the composition of the disputed domain name, being almost identical to the Complainant's trademark, and particularly to the Complainant's domain name <lanxess.com>. This near identity can easily lead to confusion, effectively blurring the lines between the two and potentially misleading individuals familiar with the LANXESS trademark.

In the present case, the Panel notes that by utilizing the disputed domain name <1anxess.com>, the Respondent orchestrated emails under the guise of the Complainant, utilizing the identity of a genuine employee from a third-party agency linked to the Complainant, to divert payments to an unaffiliated bank account. This deliberate impersonation, aimed at exploiting the established trust and relationships of the Complainant, resulted in the wrongful redirection of financial transactions.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have held that the use of a domain name for illegal activity, such as impersonation/passing off, 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 disputed domain name constitutes bad faith under the Policy.

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 disputed domain name <1anxess.com> be transferred to the Complainant.

/Andrea Cappai/

Andrea Cappai

Sole Panelist

Date: April 1, 2024