

ADMINISTRATIVE PANEL DECISION

Travellers Exchange Corporation Limited v. Remarkable Works B.V.
Case No. DNL2022-0044

1. The Parties

Complainant is Travellers Exchange Corporation Limited, United Kingdom, represented by Deloitte LLP, United Kingdom.

The registrant of the disputed domain names is Remarkable Works B.V., Netherlands (“Respondent”).

2. The Domain Names and Registrar

The disputed domain names <travelexchangenetwork.nl> and <travelexchange.nl> (the “Domain Names”) are registered with SIDN through Realtime Register.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 19, 2022. On October 20, 2022, the Center transmitted by email to SIDN a request for registrar verification in connection with the Domain Names.

On October 21, 2022, SIDN transmitted by email to the Center its verification response confirming that Respondent is listed as the registrant and providing the contact details of Respondent.

The Center sent an email communication to Complainant on October 26, 2022, providing the information disclosed by SIDN, and inviting Complainant to amend the Complaint in this light. Complainant filed an amended Complaint on October 27, 2022.

The Center verified that the Complaint as amended satisfies the formal requirements of the Dispute Resolution Regulations for .nl Domain Names (the “Regulations”).

In accordance with the Regulations, articles 5.1 and 16.4, the Center formally notified Respondent of the Complaint and the proceedings commenced on October 28, 2022. In accordance with the Regulations, article 7.1, the due date for Response was November 17, 2022. The Center did not receive any response. Accordingly, the Center notified Respondent’s default on November 18, 2022.

The Center appointed Dinant T. L. Oosterbaan as the panelist in this matter on November 29, 2022. The Panel finds that it was properly constituted. The Panelist has submitted the Statement of Acceptance and

Declaration of Impartiality and Independence, as required to ensure compliance with the Regulations, article 9.2.

4. Factual Background

According to the information provided in the Complaint, Complainant is a foreign exchange business, which operates across 60 countries.

According to the evidence submitted, Complainant owns multiple European Union Trade Marks for TRAVELEX, including No. 009145285, registration date November 12, 2010.

In addition, Complainant owns a portfolio of domain names, each of which incorporates the trademark TRAVELEX. Complainant's main website is at "www.travelex.com".

SIDN informed the Center that the Domain Names were registered on April 11, 2021.

The Domain Names do not resolve to an active website.

5. Parties' Contentions

A. Complainant

Complainant submits that the Domain Names are confusingly similar to Complainant's trademark. According to Complainant, the dominant and most distinctive element of both Domain Names is Complainant's trademark, which appears in its entirety and comprises the first part of the Domain Names. The only other elements of the Domain Names appear at the end and comprise of (a) the word "change" and the country code Top-Level Domain ("ccTLD") ".nl", and (b) the word "changenetwork" and the ccTLD ".nl", respectively. Complainant asserts that the addition of these elements is not enough to create a domain name distinct from Complainant's mark.

According to Complainant, Respondent has no rights or legitimate interests in the Domain Names. Complainant confirms that it has not licensed or otherwise given any third parties the permission to use its trademark as part of the Domain Names. To Complainant's knowledge, no third party, let alone Respondent, has sought or attempted to seek any authorization from Complainant to use its trademark as part of the Domain Names or otherwise. Complainant submits that the Domain Names are inactive, resolve to a holding page, and do not resolve to an active website, which is indicative that Respondent does not have any ongoing commercial or business offering under the trademark, or for which it uses the trademark.

To Complainant's knowledge, there is no evidence that Respondent has made preparations or has intentions to use the Domain Names for a *bona fide* business or offering of goods or services.

Complainant submits that the Domain Names have been registered and are being used in bad faith. Having regard to the significant investment which Complainant has put into advertising, promoting and, protecting its trademark over the past 40 years, and its status as a market-leading foreign exchange business with an international retail network of specialist foreign exchange stores across 60 countries, Respondent must have been aware of Complainant at the time of registering the Domain Names. According to Complainant, use of the Domain Names will clearly cause confusion for customers and partners by deceiving them into thinking that the Domain Names will be used for a website operated by or associated with Complainant, and will therefore disrupt Complainant's business. Confusion amongst consumers who recognize and associate Complainant with its trademark would be even more likely, if the Domain Names are used for financial services in the future. Complainant concludes that the Domain Names were registered by Respondent in bad faith, and if Respondent is not restrained from using the Domain Names, Complainant will suffer loss of custom and also loss of the distinctiveness, reputation, and goodwill of its trademark.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Based on article 2.1 of the Regulations, for the transfer of a domain name must meet three cumulative conditions:

- a. the domain name is identical or confusingly similar to a trademark or trade name protected under Dutch law in which the complainant has rights, or other name mentioned in article 2.1(a) under II of the Regulations; and
- b. the respondent has no rights to or legitimate interests in the domain name; and
- c. the domain name has been registered or is being used in bad faith.

As Respondent has not filed a Response, the Panel shall rule based on the Complaint. In accordance with article 10.3 of the Regulations, the Complaint shall in that event be granted, unless the Panel considers it to be without basis in law or in fact.

A. Identical or Confusingly Similar

Complainant has established that it is the owner of multiple trademarks, including the European Union Trademark TRAVELEX, also applicable in the Netherlands.

The Domain Names incorporate the entirety of the TRAVELEX mark. Previous panels under the Regulations have found that a domain name is identical or confusingly similar to a complainant's trademark where the domain name incorporates the entirety or a dominant feature of such trademark. See also section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").¹ The addition of the words "change" and "changenetwork" in the Domain Names does not prevent a finding of confusing similarity.

The ccTLD ".nl" may be disregarded for purposes of article 2.1(a) of the Regulations, see *Roompot Recreatie Beheer B.V. v. Edoco LTD*, WIPO Case No. [DNL2008-0008](#).

The Panel finds that the Domain Names are confusingly similar to Complainant's TRAVELEX trademark for purposes of the Regulations.

B. Rights or Legitimate Interests

As stated in [WIPO Overview 3.0](#), "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".

¹ In view of the fact that the Regulations are substantially similar to the Uniform Domain Name Dispute Resolution Policy ("UDRP"), it is well established that both cases decided under the Regulations and cases decided under the UDRP, and therefore [WIPO Overview 3.0](#), may be relevant to the determination of this proceeding (see, e.g., *Aktiebolaget Electrolux v. Beuk Horeca B.V.*, WIPO Case No. [DNL2008-0050](#)).

In the Panel's opinion, Complainant has made out a *prima facie* case that Respondent lacks rights to or legitimate interests in the Domain Names.

According to the undisputed submission and evidence provided by Complainant, the Domain Names do not resolve to an active website. The Panel does not consider such use a *bona fide* offering of goods or services, nor a legitimate noncommercial or fair use of the Domain Names. There is no evidence that Respondent has acquired any relevant trademark or service mark rights. In addition, there is no evidence that there has ever been any business relationship between Complainant and Respondent. There is also no indication that Respondent is commonly known by the Domain Names. Moreover, the Panel finds that the composition of each of the Domain Names carries a risk of implied affiliation. See section 2.5.1 of the [WIPO Overview 3.0](#).

No Response to the Complaint was filed and Respondent has not rebutted Complainant's *prima facie* case.

On the record before it, the Panel finds that Respondent has no rights to or legitimate interests in the Domain Names.

C. Registered or Used in Bad Faith

The Panel finds that the Domain Names have been registered and are being used in bad faith.

Noting the status and the history of the TRAVELEX trademark and the overall circumstances of this case, the Panel finds it highly likely that Respondent knew of Complainant's TRAVELEX trademark at the time of registration. This is also suggested by Respondent's choice of the Domain Names, namely one which includes the entirety of Complainant's TRAVELEX trademark.

The Panel notes that the Domain Names do not resolve to an active website. It is well established that non-use of a domain name does not prevent a finding of bad faith use under the doctrine of passive holding (see [WIPO Overview 3.0](#), section 3.3.). Noting (i) the degree of distinctiveness and reputation of Complainant's mark, (ii) the failure of Respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the implausibility of any good faith use to which the inherently misleading Domain Names may be put, the Panel finds that Respondent has registered and used the Domain Names in bad faith.

7. Decision

For all the foregoing reasons, in accordance with articles 1 and 14 of the Regulations, the Panel orders that the Domain Names, <travelexchangenetwork.nl> and <travelexchange.nl>, be transferred to Complainant.

/Dinant T. L. Oosterbaan/

Dinant T. L. Oosterbaan

Panelist

Date: December 9, 2022