

ADMINISTRATIVE PANEL DECISION

Lanxess Deutschland GmbH v. Domain Admin, Privacy Protect, LLC
(PrivacyProtect.org) / mary Ann, MayChem Ltd
Case No. D2022-0610

1. The Parties

The Complainant is Lanxess Deutschland GmbH, Germany, represented by Wolpert Rechtsanwälte, Germany.

The Respondent is Domain Admin, Privacy Protect, LLC (PrivacyProtect.org) / mary Ann, MayChem Ltd, Nigeria.

2. The Domain Name and Registrar

The disputed domain name <lanxesseur.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on February 22, 2022. On February 22, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 23, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on February 23, 2022 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 on February 23, 2022.

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 25, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 17, 2022. The Respondent did not submit any

response. Accordingly, the Center notified the Respondent's default March 18, 2022.

The Center appointed Beatrice Onica Jarka as the sole panelist in this matter on March 22, 2022. 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 in this administrative proceeding is LANXESS Deutschland GmbH, which has its core business as the development, manufacturing and marketing of chemical intermediates, additives, specialty chemicals and plastics.

The Complaint is based on the following trademarks:

European Union Trademark Registration No. 003696581 for LANXESS, which was registered on June 27, 2005 and covers the goods in classes 01, 02, 04 and 17; and,

European Union Trademark Registration No. 006596514 for LANXESS, which was registered on February 13, 2009 and covers the goods and services in classes 16, 18, 21, 24, 25, 28, 35, 37, 38, 41, 42, 43 and 45 held by LANXESS Trademark GmbH & Co, KG, which undeniably belongs to the same group of companies with the Complainant.

The Registrar disclosed that the Respondent is the following individual: mary Ann from Nigeria.

The disputed domain name was registered on December 21, 2021, and at the time of the filing of the Complaint, resolved to a website which disclosed "Internal Server Error".

5. Parties' Contentions

A. Complainant

By the Complaint, the Complainant, contends that:

- The disputed domain name is confusingly similar to the Complainant's LANXESS trademarks, as the trademarks of the Complainant are identically contained at the beginning of the disputed domain name, in the "lanxesseur" phrase and the ending "-eur" will be only perceived as an indication of the geographic origin, for Europe region, given that "eur" is an abbreviation for Europe;
- As apparent to the Complainant, the Respondent does not use the website, as the website only shows an "Internal Server Error", has no trademark rights regarding "lanxesseur", and uses the domain name in the field of interest of the Complainant claiming to be the Complainant itself;
- the Respondent is using the disputed domain name in bad faith, because the Respondent claims to be the Complainant or wants to give the impression that he is the Complainant, as the Respondent sends fraud e-mails to third parties in the name of an existing employee of the Complainant in the United Kingdom, and informs the contacted third parties that they have received the CV for Vacant Internship positions at LANXESS AG Energy, but need further information from the person and that the recipient of the e-mail shall fill in the Internship Application form and re-send the same.

In this regard, the Respondent is intentionally attempting to obtain information from the persons contacted by creating a likelihood of confusion with the trademarks of the Complainant and its employees and by causing the persons contacted to disclose private data.

B. Respondent

Although procedurally summoned, the Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

There is no doubt that the Complainant has established its rights in the LANXESS trademark.

The Panel finds that the disputed domain name reproduces the Complainant's trademark in its entirety and adds the termination "eur". Such addition does not prevent a finding of confusing similarity between the Complainant's trademark and the disputed domain name.

According with the UDRP practice and precedent, the addition of a term or a termination does not prevent a finding of confusing similarity between the disputed name and the complainant's trademark. (See *Mou Limited v. qi meng, xia men qi meng wang lu ke ji you xian gong si* (厦门企盟网络科技有限公司) WIPO Case No. [D2019-2954](#))

Moreover, the generic Top-Level-Domain ("gTLD") ".com" is not to be taken into consideration when examining the identity or similarity between the Complainant's trademark and the disputed domain name, as it is viewed as a standard registration requirement. See section 1.11 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)")

Thus, the Panel finds that disregarding the suffix "eur", as well as the gTLD suffix ".com", the disputed domain name is otherwise identical to the Complainant's trademark.

Therefore, this Panel finds that the disputed domain name is confusingly similar to the trademark LANXESS in which the Complainant has rights, and therefore the first element of paragraph 4(a) is established.

B. Rights or Legitimate Interests

According to UDRP practice, in order to establish the second element of the Policy, the Complainant has to show that the Respondent lacks rights or legitimate interests in respect of the disputed domain name. If the Complainant makes a *prima facie* showing, the burden of production of evidence shifts to the Respondent, with the overall burden of proof always remaining on the Complainant. See section 2.1 of the [WIPO Overview 3.0](#).

In these proceedings, this Panel considers that the Complainant has made a *prima facie* showing that the Respondent lacks rights or legitimate interests in respect of the disputed domain name and such showing has not been rebutted by the Respondent, as the Respondent did not reply to the Complainant's contentions.

The disputed domain name incorporates the Complainant's trademark in full with the addition of the suffix "eur", which does not render the disputed domain name distinct from the Complainant's trademark.

The Panel agrees with the Complainant that, as apparent to the Complainant, the Respondent does not use the website, as the website only shows an "Internal Server Error". Moreover, the Panel finds the Complainant's assertion reliable to indicate that the Respondent appears not to hold trademark rights regarding "lanxesseur" and to use the disputed domain name in the field of interest of the Complainant claiming to be the Complainant itself.

In conclusion, it is the opinion of this Panel that the Complainant has sufficiently demonstrated, without the same being rebutted, that the Respondent lacks any rights or legitimate interests in the disputed domain

name and consequently, the second element of the paragraph 4(a) of the Policy is; therefore, established.

C. Registered and Used in Bad Faith

This Panel notes that the disputed domain name is used by the Respondent to send fraud e-mails to third parties, by which the Respondent intends to give the impression that she is the Complainant. The Respondent seems to send fraud e-mails to third parties in the name of an existing employee of the Complainant in the United Kingdom, and informs the third party that they have received the CV for Vacant Internship positions at LANXESS AG Energy, but need further information from the person and that the recipient of the email shall fill in the Internship Application form and re-send the same.

The Panel agrees with the Complainant in this regard, and finds that the Respondent is intentionally attempting to obtain information from the persons contacted by creating a likelihood of confusion with the trademarks of the Complainant and its employees and by causing the persons contacted to disclose private data.

Considering the above, the Panel holds that the disputed domain name was registered and used in bad faith and the third element of paragraph 4(a) of the Policy is also established.

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, <lanxesseur.com> be transferred to the Complainant.

/Beatrice Onica Jarka/

Dr. Beatrice Onica Jarka

Sole Panelist

Date: April 5, 2022