

## ADMINISTRATIVE PANEL DECISION

Elanders AB v. Andreas Haub

Case No. D2024-3784

### 1. The Parties

The Complainant is Elanders AB, Sweden, represented by Abion AB, Sweden.

The Respondent is Andreas Haub, Germany.

### 2. The Domain Name and Registrar

The disputed domain name <elanders-group.com> is registered with Hostinger Operations, UAB (the "Registrar").

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on September 17, 2024. On September 18, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 19, 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 (Domain Admin) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 19, 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 on September 20, 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 September 24, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 14, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 18, 2024.

The Center appointed Beatrice Onica Jarka as the sole panelist in this matter on October 23, 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 was founded in 1908. The Complainant is the parent company of the Elanders Group and the company's B shares are listed on NASDAQ OMX Stockholm's Mid Cap list.

The Group has almost 8,000 employees in some 20 countries on four continents and annual net sales of approximately EUR 1.4 billion.

Elanders Group offers integrated and customized solutions for handling all or part of the customers' supply chain.

The Complainant is the owner of the trademark ELANDERS registered as:

- European Union Trade Mark no. 010356087, ELANDERS (figurative), registered on April 25, 2012, and
- United Kingdom trademark no. UK00910356087, ELANDERS (figurative), registered on April 25, 2012.

The Respondent appears to be an individual located in Germany.

The disputed domain name has been registered on June 20, 2024.

In respect of the use of the disputed domain name, it appears that it was used to send fraudulent emails. The disputed domain name redirects to the Complainant's main website at "www.elanders.com."

#### **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 Complainant puts great effort in protecting their trademarks against infringements and abuse, to ensure that the trademarks continue to serve as reliable indicators of source and quality.
- The disputed domain name is confusingly similar to the Complainant's registered trademark ELANDERS, the company name Elanders AB and the trade name Elanders Group (they belong to the same corporate group).
- The disputed domain name incorporates the trademark ELANDERS in its entirety, as the additional generic term "group" does not help to overcome the confusing similarity either, as the most dominant and distinctive part of the domain name is still the "Elanders."
- On the contrary, it refers to the name that the Complainant is using in trade, meaning the group of companies owned by the Complainant and trademark owner Elanders AB.
- Performing a Google search of "elanders group" automatically results in Google suggesting the search was meant for "Elanders Group".
- This means that even the search engine considers the name a misspelling.
- Consequently, it is shown that the Complainant has registered the right to the wording "Elanders" and "Elanders Group".

- The disputed domain name <elanders-group.com> is thereby confusingly similar to the Complainant's registered rights.
- The Respondent does not have any rights in the Elanders trademark, nor is the Respondent a licensee of the Complainant.
- The Complainant has not given the Respondent any permission to register the trademark as a domain name. Controls made on the webpage at <elanders-group.com> conclude that the domain name is redirected to the Complainant's website at <elanders.com>, without any affiliation or direct permission to do that.
- There is no evidence of any legitimate use of the domain name for any activity or business related to "Elanders Group".
- There is no evidence in the present record that the Respondent has been commonly known by the domain name, enabling it to establish rights or legitimate interest in the name Elanders.
- The complainant's trademarks were registered and used by the Complainant well before the Respondent became the owner of the disputed domain name.
- It is obvious that the Respondent was well aware of the Complainant's business when registering the disputed domain name since the disputed domain name was used in an email address (or more) in order to deceive the Complainant's business partners.
- The disputed domain name redirects to the Complainant's website, and thereby falsely creates the impression that it is endorsed or registered by the Complainant.
- The email sent from the disputed domain name impersonates a member of the Complainant's management team.
- Moreover, as mentioned above, the structure of the disputed domain name shows that the Respondent registered it having the Complainant and its trademark and company name in mind. It reflects the Respondent's clear intention to create an association, and a subsequent likelihood of confusion, with the Complainant's trademark in Internet users' mind.
- The Respondent registered the disputed domain name to take advantage of the Complainant's trademark.
- Furthermore, the Respondent has registered and used the disputed domain name to take advantage of the Complainant's trademark, and engage in phishing scheme.
- In the corresponding fraudulent email, the fraudster has clearly referred to the Elanders Group.
- Such fraudulent activity clearly shows that the Respondent registered the disputed domain name having the Elanders trademark and the Elanders Group in mind to conduct a phishing scheme.
- As has been demonstrated above the disputed domain name is confusingly similar to the Complainant's registered rights.
- The Respondent is trying to take advantage of the Elanders trademarks or at the very least inflict damage on the Complainant's business. Such fraudulent emails pose a great risk to the Complainant's business and reputation.

## **B. Respondent**

lthough procedurally summoned, 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 entirety of the mark is reproduced within the disputed domain name. The disputed domain name is confusingly similar to the Complainant's registered trademark ELANDERS. The additional term "group" in the disputed domain name does not prevent the finding of confusing similarity, as the Complainant's trademark ELANDERS remains recognizable.

Accordingly, the disputed domain name is confusingly similar to the Complainant's trademark ELANDERS for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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. Although procedurally summoned according to the Policy and the Rules, 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 notes that the Respondent was well aware of the Complainant's business when registering the disputed domain name since the disputed domain name was used in an email address in order to deceive the Complainant's business partners. The Complainant has provided evidence showing that at least one email was sent from an email address associated with the disputed domain name impersonating a member of the Complainant's management team.

Moreover, the disputed domain name redirects to the Complainant's website, and thereby falsely creates the impression that it is endorsed or registered by the Complainant.

Panels have held that the use of a domain name for illegal activity here, claimed phishing and impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Accordingly, 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.

In the present case, the Panel notes that the disputed domain name which incorporates the Complainant's trademark and also corresponds to the name of the Complainant's corporate group carries a risk of implied affiliation. In this regard, the Panel finds that the Respondent has registered and used the disputed domain

name to take unfair advantage of the Complainant's trademark. This is further affirmed by the use of the disputed domain name in a phishing scheme, as the Respondent used the disputed domain name for sending a fraudulent email impersonating a member of the Complainant's management team. The evidence in the case file as presented does indicate that the Respondent is trying to take unfair advantage of the ELANDERS trademarks or at the very least disrupt the Complainant's business, as such fraudulent emails pose a great risk to the Complainant's business and reputation.

Panels have held that the use of a domain name for illegal activity, here, claimed as phishing and 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.

Accordingly, 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 <elanders-group.com> be transferred to the Complainant.

*/Dr. Beatrice Onica Jarka/*

**Dr. Beatrice Onica Jarka**

Sole Panelist

Date: November 6, 2024