

ADMINISTRATIVE PANEL DECISION

Nissan Automotive Europe SAS v. Orbix Technologies
Case No. DAI2024-0032

1. The Parties

The Complainant is Nissan Automotive Europe SAS, France, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Orbix Technologies, United States of America.

2. The Domain Name and Registrar

The disputed domain name <nissan.ai> is registered with 1API GmbH (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 15, 2024. On April 15, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 17, 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 (Registration Private, Domains By Proxy, LLC), and contact information in the Complaint. The Center sent an email communication to the Complainant on April 18, 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 amended Complaints on April 18, and April 22, 2024.

The Center verified that the Complaint together with the amended Complaints 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 April 23, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 13, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 20, 2024.

The Center appointed Mario Soerensen Garcia as the sole panelist in this matter on May 29, 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 Nissan Automotive Europe SAS (“Complainant”), a subsidiary of Nissan Jidosha Kabushiki Kaisha / Nissan Motor Co., Ltd., Headquartered in Yokohama, Japan. The Complainant and its parent company (as owner of the NISSAN trademark registrations) are hereinafter referred to as the Complainant. The Complainant is a multinational automobile manufacturer. The history of Nissan can be traced back to 1910 as an automobile manufacturer named Tobata Casting Co., Ltd. In 1933, Tobata Casting Co., Ltd set up an Automobile division and began automobile production. In the following year, the company officially changed its name to Nissan Motor Co., Ltd.

The Complainant is the owner of the following trademark registrations:

Trademark	Jurisdiction/ TM Office	Registration no.	Registration date	International Class
NISSAN	UK / UKIPO	UK00000778781	June 17, 1958	12
NISSAN	UK / UKIPO	UK00001264163	January 13, 1989	7
NISSAN	EU / EUIPO	000069757	January 18, 1999	7, 12, 36, 37, 39

The Complainant hosts its main website through its primary domain name <nissan-global.com>, registered since November 9, 2000.

The disputed domain name was registered on July 17, 2020, and resolves to a blank page without any active content.

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.

The Complainant argues that the disputed domain name is identical or confusingly similar to the Complainant’s trademark.

The disputed domain name redirects internet users to a website that resolves to a blank page and lacks content.

There is no evidence that the Respondent has made demonstrable preparations to use the disputed domain name for legitimate purposes, nor is there any evidence that the Respondent is using the disputed domain name in connection with a bona fide offering of goods and services.

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

The Complainant finds that the disputed domain name is used to take unfair advantage of the Complainant’s rights for commercial gain, since Internet users and the Complainant’s clients would inevitably associate the disputed domain name with the Complainant’s prior trademarks.

The Complainant stresses that the Respondent is not commonly known by “nissan.”

According to the Complainant, it has prior rights over the NISSAN trademarks and has not authorized the registration and use of the disputed domain name, nor the use of its trade name and trademarks by the Respondent.

The Respondent is not affiliated to or authorized by the Complainant to use or register the disputed domain name.

The Complainant’s trademark rights for the NISSAN trademarks predate the registration of the disputed domain name.

The Complainant also argues that the Respondent was aware of the Complainant’s rights and has clearly registered the disputed domain name to target the Complainant’s trademark, and that the registration of the disputed domain name was conducted in bad faith.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

- (i) the disputed domain name is identical or confusingly similar to the trademarks or service marks in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has shown rights in respect of the trademark NISSAN for the purposes of the Policy. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“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 identical to the mark 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. 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 disputed domain name resolves to a blank page without any active content. Such use does not constitute a bona fide offering of goods or services or a legitimate noncommercial or fair use.

Moreover, the nature of the disputed domain name is such to carry a high risk of implied affiliation that cannot constitute fair use. [WIPO Overview 3.0](#), section 2.5.1.

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.

In the present case, the Panel notes that the Respondent was clearly aware of the NISSAN trademarks as they are well-known and the Complainant's trademark registrations as well as its domain name predate the registration date of the disputed domain name.

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 found that the non-use of a domain name (including a blank page) would not prevent a finding of bad faith under the doctrine of passive holding.

Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3.

Having reviewed the available record, the Panel notes the distinctiveness and the reputation of the Complainant's trademark, the composition of the disputed domain name including the NISSAN trademarks in its entirety, the failure of the Respondent to submit a response or to provide any evidence of actual or contemplated good-faith use and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of 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, <nissan.ai> be transferred to the Complainant.

/Mario Soerensen Garcia/

Mario Soerensen Garcia

Sole Panelist

Date: June 12, 2024