

ADMINISTRATIVE PANEL DECISION

NEX Foundation v. Registration Private, Afternic Services, LLC
Case No. D2025-0428

1. The Parties

Complainant is NEX Foundation, United States of America (“United States”), internally represented .

Respondent is Registration Private, Afternic Services, LLC, United States.

2. The Domain Name and Registrar

The disputed domain name <nex.org> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 4, 2025. On February 4, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 4, 2025, 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 (NEXIIX Marketing LLC) and contact information in the Complaint. The Center sent an email communication to Complainant on February 6, 2025, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on February 8, 2025.

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 Respondent of the Complaint, and the proceedings commenced on February 13, 2025. In accordance with the Rules, paragraph 5, the due date for Response was March 5, 2025. The named-registrant Respondent as confirmed by the Registrar did not submit any response. Nex Marketing LLC, as registrant-in-fact, represented by Chyrkin Law, Ukraine, filed a Response on March 4, 2025. Accordingly, the Center notified the commencement of panel appointment process on March 6, 2025.

The Center appointed Frederick M. Abbott as the sole panelist in this matter on March 10, 2025. 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.

Legal counsel responding to the Complaint on behalf of Respondent differed from counsel that had previously represented Respondent in correspondence with Complainant's counsel. The Center exchanged email correspondence with Respondent, and its former and newly appointed legal counsel, to verify that new counsel had been appointed by Respondent. The Panel is satisfied that legal counsel acting on behalf of Respondent was duly appointed for this matter by Respondent, and that the various parties (including the Center) have acted properly in addressing this matter.

4. Factual Background

Complainant NEX Foundation is a non-profit organization established in 2018 in the State of Washington, United States. Complainant develops software solutions and online resources to support students and young talent in their career development in the United States. Complainant's staff works largely remotely from various states within the United States. Complainant's efforts are focused principally on relations with organizations within Taiwan Province of China ("Taiwan") and the United States, including with the Taiwanese and United States governments and a substantial number of academic institutions in Taiwan and the United States. Complainant hosts events that have engaged over 8,000 individuals and operates online job referral and resource systems supporting more than 2000 members. Complainant operates a media platform, NEX Media Lab (at <https://media.nexf.org>).

Complainant is the owner of registration of the word trademark NEX FOUNDATION on the Principal Register of the United States Patent and Trademark Office ("USPTO"), registration number 5826857, registration dated August 6, 2019 (claiming date of first use and first use in commerce of October 25, 2018), in international class ("IC") 41, covering career counseling, including providing advice concerning education options, publishing online articles in career development, providing charitable services and publishing applications concerning employment, as further specified. Complainant has applied for registration at the USPTO of a design consisting of a logo which it describes as "two overlapping diagonal shapes, which provides flexibility in interpretation, allowing it to resemble either the letter 'X' or 'N'," application number 98834697, application filed November 3, 2024, in IC 41.

According to the Registrar's verification, Respondent "Registration Private; Afernic Services, LLC", is registrant of the disputed domain name. According to the Registrar's verification, the disputed domain name was initially created on March 27, 1998. Respondent has submitted evidence in the form of invoices sufficient to establish that the owner-in-fact of the disputed domain name, Nex Marketing, LLC, purchased the disputed domain name through dan.com on August 10, 2022, for a purchase price of USD 6,000 payable in installments over a 36 month period.¹ For purposes of this proceeding, the Panel will treat Respondent's

¹Complainant has submitted evidence of an apparently unrelated purchase of the disputed domain name dated May 5, 2022, for a purchase price of USD 1,459. There is no inconsistency between the evidence submitted by Complainant and Respondent assuming that the disputed domain name changed hands more than once.

Respondent has asserted that the disputed domain name was acquired in 2022 by Nexix Marketing LLC, operating under the umbrella of Nex Marketing, LLC, although the invoices submitted by Respondent for purchase of the disputed domain name are in the name of Nex Marketing, LLC. The CEO of Nex Marketing, LLC has identified that entity as the Respondent in this case. The Panel does not consider material whether Respondent may have internally allocated ownership of the registration of the disputed domain name to a related entity, Nexix Marketing LLC, and for purposes of this decision treats Nex Marketing, LLC, as the owner-in-fact of the disputed domain name.

date of purchase of the disputed domain name as its date of registration of the disputed domain name.²

Respondent as owner-in-fact of the disputed domain name has submitted evidence that it was formed under the laws of the State of New Jersey as a limited liability company on April 7, 2017. Respondent has further submitted evidence that it is part of a group of affiliated entities under the Nex Marketing, LLC umbrella, including Nexix Marketing LLC and Nex Chamber LLC.

As of the date of this proceeding, Respondent directed the disputed domain name to a website headed NEX CHAMBER, including a stylized “N” logo, and referring to “Endless Network Opportunities; Join one of our chambers and network today” with a button for “Attend Our Events”. There is reference on the website to “Networking Events Powered By AI”, Multi-Chamber Events Over the Tri-State”, “Join a Chamber”, and a button for “Let’s Talk”. Complainant has submitted evidence that Respondent’s “branding” on its website associated with the disputed domain name has undergone a number of changes since Respondent acquired the disputed domain name, starting with referring to itself as “nex technologies”, and referring to “Attract, convert & get found online”; to “nex organization”, referring to “Ready to market your business”; to “Nex chamber”, which it alleges uses Complainant’s logo, although the logo used by Respondent, while similar, is different from that used by Respondent. Respondent’s website identified by the disputed domain name is not a “clone” or stylistic copy of Complainant’s website.³ Respondent replied to a demand letter from Complainant offering to purchase the disputed domain name for \$1,200, stating, inter alia, “perhaps, if you asked nicely -- I would’ve considered selling it to you for closer to the \$50,000 figure”. The Panel notes that this statement was made in the context of a longer response from the CEO of Respondent referring to his business plans and investment, and the greater value to his business interests of the disputed domain name.

Complainant’s website is headed with NEX FOUNDATION specifically, and describes itself:

“Established in 2018, NEX Foundation is a Seattle-based 501(c)(3) nonprofit organization, aims to connect global Taiwanese talents and lead reciprocity-driven initiatives to address cultural and systemic challenges during their career development.”

In addition, much of Complainant’s website is in Chinese-language characters, and there are no Chinese language characters or apparent references to Taiwan on Respondent’s website identified by the disputed domain name.

There is no relationship or affiliation, commercial or otherwise, between Complainant and Respondent.

5. Parties’ Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

²Although the question whether acquisition of a domain name from an unrelated third party constitutes a “new registration” has occasioned some judicial disagreement in the United States, WIPO UDRP panelists have consistently taken the position that such acquisitions constitute new registrations for purposes assessing whether such acquisition-registrations are abusive within the meaning of the Policy. See generally Frederick M Abbott, *On the Duality of Internet Domain Names: proprietization and its discontents*, 3 N.Y.U. JOURNAL OF INTELL. PROP. & ENT. LAW 1 (2013). The parties have not sought to challenge the consistent view of WIPO UDRP panelists. If abusive registration were considered by this Panel as of the initial date of creation of the disputed domain name in 1998, Complainant could not prevail because such initial creation long preceded the formation of Complainant and its trademark registration.

³Complainant has asserted that it does not believe that Respondent is operating a functional enterprise through its website. Complainant has not submitted specific evidence of this asserted non-functionality.

Notably, Complainant contends that owns rights in the trademark NEX FOUNDATION and that the disputed domain name is confusingly similar to that trademark. Complainant asserts that NEX is the “dominant part” of its trademark, and that the term “FOUNDATION” serves a secondary role, reinforcing that NEX operates as a nonprofit organization. Complainant argues the open “.org” extension traditionally signifies the role of a charity or nonprofit organization, and that Respondent modified its logo to appear more similar to that of Complainant. Complainant argues that Respondent’s use of a logo similar to that of Complainant’s on its website heightens the risk of public confusion.

Complainant alleges that Respondent lacks rights or legitimate interests in the disputed domain name because: (1) prior to using the disputed domain name, Respondent used a different domain name <nexix.com> that was better aligned to its business name; (2) after receiving a demand letter from Complainant, Respondent rebranded its logo to appear more like that of Complainant; (3) Respondent is directing users to what Complainant refers to as a pay-per-click landing page because Respondent requests fees for its services on its website; (4) Respondent is not using its website for legitimate noncommercial purposes as would be expected from a “.org” extension.

Complainant contends that Respondent registered and is using the disputed domain name in bad faith because: (1) Complainant has applied for a design logo registration; (2) Respondent’s activities may be confusingly similar to those of another company that is not owned by Respondent; (3) Respondent rejected Complainant’s offer of USD 1,200 for the disputed domain name with a reference to a potential USD 50,000 price; (4) Respondent is using the disputed domain name to direct Internet users to a website with a logo confusingly similar to that of Complainant that seeks to collect funds from Internet users by misleading them as to Complainant as source, sponsor, affiliate, or endorser of Respondent’s website; (5) Respondent’s activities after Complainant’s cease-and-desist letter strongly suggests that Respondent sought to prevent Complainant from reflecting its mark in the disputed domain name and is indicative of a bad faith pattern of conduct.

Complainant requests the Panel to direct the Registrar to transfer the disputed domain name to Complainant.

B. Respondent

Respondent contends that Complainant has not satisfied the elements required under the Policy for a transfer of the disputed domain name.

Respondent alleges that it was legally established in 2017, more than a year before Complainant, and that it has used the name Nex Marketing, LLC, for various legitimate business activities since its inception.

Respondent rejects Complainant’s assertion that it acquired the disputed domain name for USD 1,459 on May 5, 2022, and contends that instead Respondent acquired the disputed domain name on August 10, 2022, for USD 6,000.

Respondent’s business model differs from the nonprofit activities of Complainant. Respondent has submitted a photograph of its business “team”.

Respondent’s rejection of Complainant’s attempt to purchase the disputed domain name was a standard business response reflecting in part disappointment at Complainant’s approach to the matter.

Respondent’s revisions of its website reflected an ordinary evolution of business plans and website design. There is no evidence that Respondent was targeting Complainant when it acquired the disputed domain name.

In terms of rights or legitimate interests, the “.org” domain is an open domain and is not restricted to nonprofit organizations or activities, even if that domain may be favored by nonprofit entities. Lack of rights or legitimate interests cannot be attributed to use of an open domain for a legitimate business purpose.

The term “nex” is in wide use, with the WIPO Global Brand Database identifying 2,586 trademarks incorporating “nex”, underscoring its non-exclusive nature. “Nex” is a generic or descriptive term. Commonly used terms may not be monopolized by a single entity.

Respondent’s use of the disputed domain name in connection with legitimate business activities, including networking events, marketing and software solutions, establishes rights or legitimate interests in the disputed domain name.

The logos of Complainant and Respondent are distinctly different in structure, style, and conceptual meaning, eliminating any likelihood of confusion. In addition, Respondent publicly used its “Nex Chamber” logo prior to Complainant’s submission of its application for registration of its logo.

Respondent did not register the disputed domain name with the intent to prevent Complainant from reflecting its mark in a corresponding domain name. Respondent did not aim to create confusion or disrupt Complainant’s business operations. The fact that Respondent expressed a willingness to sell the disputed domain name does not establish bad faith. The fact that a wide range of enterprises use the term “nex” demonstrate that it is generic and not solely associated with Complainant. “Nex” entities were established by Respondent before Complainant was formed.

Complainant and Respondent are in different fields of endeavor. Complainant is a nonprofit organization dedicated to connecting Taiwanese talents for career development, and Respondent is a chamber of commerce management organization supporting various communities, inter alia, providing AI-powered networking events. The potential for consumer confusion is minimal.

In terms of geographic focus, Complainant operates primarily in Seattle and promotes Taiwan-related initiatives, while Respondent is not limited to a specific ethnic or geographic community.

The target audiences of Complainant and Respondent are fundamentally different and negate any reasonable likelihood of confusion.

Respondent requests a finding of reverse domain name hijacking because Complainant should have known that a registered trademark for a generic term does not entitle it to ownership of the corresponding domain name.

Respondent requests the Panel to deny the Complaint and to make a finding of reverse domain name hijacking.

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 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.

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.

Complainant appears to argue that it has established unregistered trademark or service mark rights in its logo for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.3. Given the Panel’s determination in this proceeding, without prejudice, it is unnecessary to decide whether Complainant has established unregistered trademark rights in its logo.

The Panel finds that Complainant's NEX FOUNDATION mark is recognizable within the disputed domain name because the more distinct portion of that trademark, "NEX", is reproduced in the disputed domain name. It is not clear to the Panel that Complainant has established trademark rights in the term "NEX" standing alone. Its trademark registration is for a combination term that distinguishes "NEX" by the addition of the term "FOUNDATION". Moreover, Complainant has not argued that it has established trademark rights in the term "nex.org" by virtue of its use in commerce, and its website is identified by the combination term NEX FOUNDATION. The Panel ultimately rejects Complainant's request for a finding of abusive domain name registration based on the second and third elements of the Policy. In light of this, the Panel will assume, without deciding, that the disputed domain name <nex.org> is confusingly similar to Complainant's NEX FOUNDATION trademark.⁴

As further elaborated below in addressing the second and third elements, there is minimal risk of Internet user confusion between the website(s) that Complainant operates, and the website operated by Respondent at the disputed domain name.

For purposes of this decision, the Panel assumes without deciding that 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 Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Respondent established itself as Nex Marketing, LLC in the State of New Jersey in 2017. It has used different domain names to associate itself, including affiliated entities, with that business since its formation, including <nexiix.com>. Evidence submitted by Complainant in the form of a Kona Equity report shows Nexiix Marketing with revenues of approximately USD 4 million and with 17 employees, identifying the CEO of Nex Marketing, LLC as the CEO of Nexiix Marketing. Complainant by its own evidence demonstrates that Respondent following acquisition of the disputed domain name began using the term "nex technologies" sometime in 2024, offering marketing solutions to businesses. It subsequently "evolved" its business model and rebranded itself "NEX CHAMBER" with a website and presence offering to support chambers of commerce and networking opportunities.

Respondent's websites are not in any substantial manner "clones" or replicants of Complainant's website(s). Complainant's argument about confusing similarity almost wholly hinges on a similarity between the logos used on their respective sites. Respondent presents a detailed analytic discussion of what distinguishes the two logos. The most recent logos of the two parties are "similar". The Panel notes, however, that there are only so many stylistic ways to draw the letter "N" and, if a logo is going to convey an "N", it needs to have features that will alert the viewer to what it is. Complainant has told the USPTO in its application for registration that its logo deliberately conveys ambiguity between an "N" and an "X". Respondent claims there is no such ambiguity in its logo which is just an "N".

Notwithstanding the dispute about logo similarity in the context of the websites operated by each party, Complainant's website is headed by NEX FOUNDATION, and Respondent's website is headed by NEX CHAMBER. An even greater distinction is that a substantial part of Complainant's website(s) text is in Chinese characters. There are no Chinese characters on Respondent's website, or for that matter any reference to Taiwan.

⁴The reason for the Panels reluctance to "decide" this question is that the parties may eventually find themselves in a civil trademark infringement litigation and the Panel prefers that this decision not be relied on by either party as a finding on the issue of confusing similarity. Because the Panel makes its determination under the second and third elements for which the results are clear, it need not resolve the more nuanced issues raised under the first element.

Complainant has made an argument that Respondent's website is not truly operational, but it has not submitted any concrete evidence of that. Moreover, if by Respondent's own evidence it is developing its website operated at the disputed domain name, it would not be unusual for its small business website to embody different functional characteristics over time.

Respondent has not explained why it chose a ".org" generic Top-Level Domain ("gTLD") rather than ".com" or some other extension, but as Respondent has observed this is a matter of choice for a domain name registrant. The Panel will not draw an adverse inference from that. Because Respondent is marketing itself to Chambers of Commerce, the use of ".org" does not to the Panel seem inherently odd.

The Panel has found very little in the factual record of this case to suggest that Respondent was somehow attempting to target or take unfair advantage of Complainant through its development of its business model and the use of the disputed domain name. Complainant has suggested that Respondent could only establish rights or legitimate interests if it was operating a charitable or nonprofit organization and using the ".org" gTLD. This is not a rule embodied in the Policy, nor does it reflect a decisional perspective of UDRP panels. Neither the Policy nor registrars restrict the ".org" domain to charitable or nonprofit organizations.

The Panel determines that Complainant has failed to establish that Respondent lacks rights or legitimate interests in the disputed domain name within the meaning of paragraphs 4(c)(i) and (ii) of the Policy. Respondent registered its business under the name Nex Marketing, LLC, well before Complainant was established. It could not have had notice of the dispute with Complainant when it did so, and its business name corresponds in sufficient measure to the disputed domain name. Respondent has been engaged in preparing for and offering bona fide services since that time, as evidenced by its revenues. In that regard, within the meaning of paragraph 4(c)(ii), it has also been commonly known as a business by the domain name since 2017.

The Panel finds the second element of the Policy has not been established.

C. Registered and Used in Bad Faith

The evidence in the case file as presented does not indicate that Respondent's aim in registering the disputed domain name was to profit from or exploit Complainant's trademark.

There is no evidence on the record of this proceeding that Respondent registered the disputed domain name to take advantage of Complainant's rights or goodwill in its trademark NEX FOUNDATION. When Respondent formed its business Nex Marketing, LLC in 2017, Complainant did not exist. There is nothing in the record that shows that Respondent was somehow otherwise targeting an organization the principal focus of which was to foster linkages between United States and Taiwanese academics and career seekers.

When Respondent acquired the disputed domain name in 2022, Complainant did not hold a trademark registration for "nex". It held a registration for NEX FOUNDATION. It is not apparent that Respondent should have identified that as an obstacle to acquisition of the disputed domain name since the terms are different. Moreover, as Respondent has pointed out, there are many registered trademarks that in one way or another incorporate the term "nex", and on that basis it would have been reasonable for Respondent to assume that so long as it was not specifically infringing on the line of a business of an established enterprise there would not be a basis for a finding of abusive domain name registration. Moreover, as Complainant has pointed out, Complainant and Respondent are in distinctly different lines of business.

Respondent has argued that the term "nex" is "generic". This seems something of a misuse of that term. A term is "generic" when it refers to a genus or class of thing. It is not so clear even that the term "nex" is "descriptive" as Respondent argues since, while it may have some unusual meanings, it is not a term widely used in English to describe something. Rather than "descriptive", it may be that "nex" is a commonly used term from a trademark standpoint. It may not manifest inherent distinctiveness, but rather as a commonly used term requires secondary meaning to establish rights in the trademark context. The Panel does not concur with Respondent that it is by definition entitled to register and use "nex" because it is generic and thus

not capable of, to use its term, “monopolization”. But it may require a showing of secondary meaning to be protectable for a given usage.

Bearing in mind that Respondent paid USD 6,000 for the disputed domain name, it does not strike the Panel as odd that Respondent was not impressed when Complainant offered USD 1,200 to purchase it. And the fact that Respondent may have been willing to part with it for USD 50,000 does not tell us much other than that some domain names have substantial market value which may exceed the value of the specific use for which the current domain name owner engages it.

There is no evidence that Respondent registered the disputed domain name to keep Complainant from registering it, or that Respondent has engaged in a pattern of bad faith registration. The latter requires a particular type of conduct not in evidence here.

The Panel finds the third element of the Policy has not been established.

Complainant has failed to establish the second and third elements required for a finding of abusive domain name registration and use under the Policy. The Panel denies its request for relief.

D. Reverse Domain Name Hijacking

Paragraph 15(e) of the Rules provides that, if after considering the submissions, the Panel finds that the Complaint was brought in bad faith, for example in an attempt at reverse domain name hijacking (“RDNH”) or to harass the domain-name holder, the Panel shall declare in its decision that the Complaint was brought in bad faith and constitutes an abuse of the administrative proceeding. The mere lack of success of the complaint is not, on its own, sufficient to constitute reverse domain name hijacking. [WIPO Overview 3.0](#), section 4.16.

Respondent’s argument in favor of a finding of RDNH is that Complainant, represented by experienced counsel, should have known that a registered trademark for a generic term does not entitle it to ownership of the disputed domain name. As noted above, “nex” is not a generic term. Respondent’s RDNH argument based on genericness fails on its face. The overall context does not to the Panel suggest a bad faith motive on the part of Complainant, nor does it support a finding of RDNH.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Frederick M. Abbott/
Frederick M. Abbott
Sole Panelist
Date: March 24, 2025