

ADMINISTRATIVE PANEL DECISION

Tüv Nord AG v. Tetiana Pidlisna

Case No. DUA2025-0001

1. The Parties

The Complainant is Tüv Nord AG, Germany, internally represented.

The Respondent is Tetiana Pidlisna, Ukraine.

2. The Domain Name and Registrar

The disputed domain name <tuev-nord.com.ua> is registered with NIC.UA LLC (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on February 10, 2025. On February 10, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 11, 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 (n/a) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 13, 2025, 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 14, 2025.

On February 13, 2025, the Center informed the parties in Ukrainian and English, that the language of the registration agreement for the disputed domain name is Ukrainian. On February 13, 2025, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not submit any comments on the Complainant’s submission.

The Center verified that the Complaint together with the amendment to the Complaint satisfied the formal requirements of .UA Domain Name Dispute Resolution Policy (the “.UA Policy”), the Rules for .UA Domain Name Dispute Resolution Policy (the “.UA Rules”), and the WIPO Supplemental Rules for .UA Domain Name Dispute Resolution Policy (the “WIPO Supplemental Rules”).

In accordance with the .UA Rules, paragraphs 2(a) and 4(a), the Center formally notified the Respondent of the Complaint in both English and Ukrainian, and the proceedings commenced on February 19, 2025. In accordance with the .UA Rules, paragraph 5(a), the due date for Response was March 11, 2025.

The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 12, 2025.

The Center appointed Ganna Prokhorova as the sole panelist in this matter on March 18, 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 .UA Rules, paragraph 7.

4. Further Procedural Considerations

A. Respondent's location

Under paragraph 10 of the .UA Rules, the Panel is required to ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case, and also that the administrative proceeding takes place with due expedition.

Since the Respondent's mailing address is stated to be in Ukraine, which is subject to an international conflict at the date of this Decision that may impact case notification, it is appropriate for the Panel to consider, in accordance with its discretion under paragraph 10 of the .UA Rules, whether the proceeding should continue.

Having considered all the circumstances of the case, the Panel is of the view that the proceeding should continue.

The Panel concludes that the Parties have been given a fair opportunity to present their case, and so that the administrative proceeding takes place with due expedition the Panel will proceed to a Decision accordingly.

B. Language of Proceedings

Paragraph 11(a) of the .UA Rules provides that "unless otherwise agreed by the Parties, the language of the administrative proceeding shall be the language of the Registration Agreement (which shall be in English, Russian or Ukrainian), subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding".

The language of the Registration Agreement for the disputed domain name is Ukrainian. The Panel is proficient in both Ukrainian and English.

It is established practice to take paragraphs 10(b) and (c) of the .UA Rules into consideration for the purpose of determining the language of the proceeding, in order to ensure fairness to the Parties and the maintenance of an inexpensive and expeditious avenue for resolving domain name disputes. Language requirements should not lead to undue burdens being placed on the Parties and undue delay to the proceeding. (See, e.g., *Chewy Inc v. Rostislav Karyi / Ростислав Карый*, WIPO Case No. [DUA2020-0007](#); *Crocs, Inc. v. Матвеева Анжела Геннадьевна / Matveeva Angela*, WIPO Case No. [DUA2020-0015](#)).

The Complainant filed the Complaint in English and requested English to be the language of this proceeding referring to the potential unfairness or unwarranted delay in ordering the Complainant to translate the complaint.

The Center has provided both Parties with an opportunity to comment on the language of the proceedings by sending both Parties a Language of Proceedings notification, as well as all other communications in both Ukrainian and English. The Complainant has provided submissions regarding the proper language of proceedings, while the Respondent did not raise any objection or reply thereto.

As it was earlier found by other panels, while applying the provision on the language of the proceeding the Panel considers that it should be also ensured that the parties are treated equally, that each party is given a fair opportunity to present its case and that the proceeding takes place with due expedition (See *Facebook Inc. v. Private Registration / Denis Khakimov*, WIPO Case No. [DUA2019-0002](#)).

Requiring the Complainant to translate the Complaint and all documents into Ukrainian would cause delay in contravention to paragraph 10(c) of the .UA Rules, which requires that “[t]he Panel shall ensure that the administrative proceeding takes place with due expedition”. See *Michael Kors (Switzerland) International GmbH. v. Minakova Maria*, WIPO Case No. [DUA2020-0002](#) (finding that the registration agreement was in Russian, but that the proceeding should be conducted in English since “the Panel has to balance [the language requirement that is provided for in paragraph 11(a) of the .UA Rules] against the other considerations of ensuring that the proceeding takes place with due expedition and that the parties are treated fairly and given a fair opportunity to present their case. The Panel is of the view that the language requirement should not cause any undue burden on the parties or undue delay”).

Furthermore, the Panel establishes that English is not the native language of the Complainant. In previous similar cases, panels after considering the totality of the circumstances found that it would be fair to the parties not having English as their native language and one of which is not familiar with the respondent’s native language to designate English as the language of the proceeding (see *OPPO Pte. Ltd. v. Alexander Leonidovich Shirkov*, WIPO Case No. [DUA2019-0001](#)).

In exercising its discretion to use a language other than that of the Registration Agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both Parties, taking into account all relevant circumstances of the case, including matters such as the Parties’ ability to understand and use the proposed language, time, and costs.

Considering that both Parties have been given fair opportunities to present their cases and the Respondent has been given an opportunity to object to the proceedings being conducted in English but has not responded, the Panel finds that in the circumstances of this case, paragraph 11(a) of the .UA Rules is best served by allowing the proceedings to be conducted in English in accordance with the Complainant’s request as the Complainant could suffer significant disadvantage if the proceedings are conducted in Ukrainian.

Having considered all the matters above, the Panel determines under paragraph 11(a) of the .UA Rules that the language of the proceeding shall be English.

5. Factual Background

The Complainant is part of the group of German TÜV companies, originally founded in the 1860s as technical inspection associations for steam engine and boilers. Their success in improving industrial safety led to the expansion of TÜV services into a wide range of industries. Today, there are seven TÜV companies that operate globally, offering testing, inspection, certification, expert opinions, technical consulting, and employee training. In 2023, the seven TÜV companies employed over 71,000 experts worldwide, including in Ukraine, and reported an annual turnover of EUR 7.62 billion.

The Complainant is the owner of several trademark registrations for TÜV NORD, including:

- International Registration No. 911593 for the trademark “TÜV NORD”, registered on November 24, 2005 for goods and services in classes 16, 35-38, 41, 42, 44, and 45, covering, in particular, Ukraine; and
- International Registration No. 911371, for the trademark “TÜV NORD & dev.”, registered on December 23, 2005 for goods and services in classes 16, 35-38, 41, 42, 44, and 45, also covering Ukraine.

The group of TÜV companies to which the Complainant belongs operates under various domain names, including in particular <tuv-nord.com>, <tuev-nord.de>, and <tuev-nord-group.com>.

The disputed domain name was registered on September 23, 2024, and initially resolved to a website advertising gambling services. At the time of this decision, the disputed domain name resolves to an inactive website.

6. Parties' Contentions

A. Complainant

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

Notably, the Complainant contends that:

(1) the disputed domain name is confusingly similar to the Complainant's trademarks, as it wholly incorporates the trademark without any additional wording, deletion of characters, or intentional misspellings. The disputed domain name differs from the trademark TÜV NORD only in two minor, technical ways: (i) the umlaut "ü" in "TÜV" is replaced with "ue", and (ii) a hyphen is inserted between "tuev" and "nord". These changes are purely conventional adjustments made for international domain name registrability. They affect only the formatting, while preserving the content and distinctiveness of the trademark in full;

(2) the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent does not own any valid trademark corresponding to the disputed domain name, nor is it the holder of a company name that matches it. The Complainant has never granted the Respondent any rights to use its trademarks. There is also no evidence that the Respondent has used the disputed domain name in connection with a bona fide offering of goods or services. Through the use of the disputed domain name to promote gambling services, the Respondent is clearly attempting to exploit the Complainant's marks for commercial gain. The Respondent is not commonly known by the disputed domain name. There is no legal notice on the website identifying the owner, and the Respondent uses a privacy service to hide the domain registration details. The Respondent is not making any legitimate noncommercial or fair use of the disputed domain name;

(3) the Respondent has registered and is using the disputed domain name in bad faith. The Respondent has intentionally chosen the predominating element "tuev-nord" to attract, for commercial gain, Internet users to its website or other online location, by faking a connection with the TÜV brand and the original TÜV companies and, therefore, creating a likelihood of confusion with the Complainant's mark. To transfer this high reputation of the TÜV companies towards its own gambling service is the obvious intention of the Respondent. The disputed domain name and the corresponding website are clearly designed to attract visitors to the advertised gambling services. The illegitimate use of the disputed domain name is causing damage, harm to the goodwill and reputation of the Complainant, and is disrupting its activities. Besides losing business, the Complainant has no control over the quality of the services being offered from this fake website, and therefore its goodwill and reputation is vulnerable.

The Complainant asks the disputed domain name to be transferred.

B. Respondent

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

7. Discussion and Findings

The burden for the Complainant under paragraph 4(a) of the .UA Policy is to prove:

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

The Complainant must prove in this administrative proceeding that each of the aforementioned three elements is present in order to obtain the transfer of the disputed domain name.

In accordance with paragraph 14(a) of the .UA Rules, if the Respondent does not submit a Response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the Complaint.

The Panel also notes that it has undertaken limited independent research due to the Complainant providing only limited information about its own company and official websites. In particular, this research was conducted strictly to clarify matters of public record, considering such information useful for assessing the merits of the case and reaching a decision. The Panel has carried out its investigation in accordance with paragraph 10 of the .UA Rules.

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 1.7.¹

The Panel finds that the Complainant is the owner of the trademarks TÜV NORD, and that the disputed domain name is confusingly similar to the Complainant's trademarks. The disputed domain name reproduces the Complainant's trademark in its entirety, with only minor technical modifications: the umlaut "ü" in "TÜV" is replaced with "ue", and a hyphen is inserted between "tuev" and "nord". Such alterations are common modifications for domain name registration purposes and do not prevent a finding of confusing similarity. See [WIPO Overview 3.0](#), section 1.14. The overall impression of the disputed domain name remains virtually identical to the Complainant's mark, both visually and phonetically.

It is also well accepted that a country code Top-Level Domain ("ccTLD"), in this case ".com.ua", is typically ignored when assessing the similarity between a trademark and a domain name. See [WIPO Overview 3.0](#), section 1.11.1.

The Panel finds that the Complainant has therefore met its burden of proving that the disputed domain name is confusingly similar to the Complainant's trademark, pursuant to the .UA Policy, paragraph 4(a)(i).

B. Rights or Legitimate Interests

Paragraph 4(c) of the .UA Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

¹ Given the similarities between the .UA Policy and the Uniform Domain Name Dispute Resolution Policy ("UDRP"), the Panel will refer when relevant to previous UDRP decisions and the [WIPO Overview 3.0](#).

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.

The Complainant has established a prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name. It asserts that the Respondent, who is not associated with the Complainant in any way, is not using the disputed domain name for a legitimate noncommercial or fair use or in connection with a bona fide offering of goods or services. Considering the disclosed information for the disputed domain name by the Registrar, it is clear that the Respondent is not commonly known by the disputed domain name.

According to the Complainant, there is no association or connection between the Respondent and the Complainant. The Complainant has not granted the Respondent any license or authorization to use or register any domain name incorporating the Complainant’s marks. Furthermore, the Respondent has failed to submit a response to the Complaint and has not provided any evidence of rights or legitimate interests in the disputed domain name. Under these circumstances, the Respondent’s use of the disputed domain name to redirect users to a gambling website – operating under the disputed domain name itself – strongly indicates a lack of legitimate interests or good faith use. The connection to gambling services, which bear no relation to the Complainant’s business or trademarks, suggests a clear intent to misappropriate the Complainant’s reputation and to profit commercially by misleading Internet users. Such conduct is inconsistent with any claim to noncommercial or bona fide activity and further reinforces the conclusion that the Respondent lacks rights or legitimate interests in the domain name.

Based on the facts of this case, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

As such, the Panel finds that the Complainant has established that the Respondent does not have rights or a legitimate interest in the disputed domain name, and that the element under paragraph 4(a)(ii) of the .UA Policy has been established.

C. Registered or Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the .UA Policy, paragraph 4(b) of the .UA Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration or use of a domain name in bad faith.

With respect to the registration of the disputed domain name in bad faith, the Panel finds that the Complainant’s trademarks TÜV NORD enjoy a well-established reputation, as evidenced by the Complainant’s trademark registrations and other evidence submitted in the case file. It is therefore likely that the Respondent was aware of the Complainant and its marks at the time of registration and deliberately targeted them. The structure of the disputed domain name <tuev-nord.com.ua> further supports this finding. The disputed domain name closely resembles what would be perceived as an official regional website for TÜV NORD in Ukraine, following a format commonly used by multinational companies to localize their online presence. Specifically, “tuev-nord” reflects the Complainant’s brand name, while the ccTLD “.com.ua” indicates a commercial entity operating in Ukraine. This deliberate construction suggests an intent to mislead Internet users and to take unfair advantage of the Complainant’s established brand. Accordingly, the Panel concludes that the Respondent registered the disputed domain name in bad faith.

Pursuant to paragraph 4(b)(iv) of the .UA Policy, bad faith registration or use of a domain name can be established by showing that the Respondent has used the domain name to intentionally attempt to attract, for commercial gain, Internet users to the Respondent's website or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or of a product or service offered thereon.

There is ample evidence of such conduct in this case. By redirecting the disputed domain name to a gambling website, the Respondent has clearly sought to exploit the Complainant's trademark and reputation for commercial gain (see, for example, *Claudie Pierlot v. Yinglong Ma*, WIPO Case No. [D2018-2466](#)). The record shows that the Respondent has no rights or legitimate interests in the disputed domain name.

Finally, the Panel notes that the Respondent's current non-use or passive holding of the disputed domain name does not prevent a finding of bad faith. See section 3.3 of the [WIPO Overview 3.0](#).

The Respondent's failure to submit a response, its registration of the disputed domain name incorporating the Complainant's distinctive trademark, and its prior bad faith use of the disputed domain name – making any plausible good faith use unlikely – have all been found in previous decisions to support a finding of bad faith. See, for example, *TÜV NORD AG v. Mohd Yasir Arafat*, WIPO Case No. [D2022-4650](#). Therefore, the totality of the circumstances in this case indicates that the Respondent registered and is using the disputed domain name in bad faith. See section 3.3 of the [WIPO Overview 3.0](#).

Consequently, the Panel finds that the disputed domain name was registered and is being used in bad faith. In light of the above, the third element under paragraph 4(a)(iii) of the .UA Policy has been established.

8. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the .UA Policy and 15 of the .UA Rules, the Panel orders that the disputed domain name <tuev-nord.com.ua> be transferred to the Complainant.

/Ganna Prokhorova/

Ganna Prokhorova

Sole Panelist

Date: March 26, 2025