

ADMINISTRATIVE PANEL DECISION

Arm Limited v. Whois Agent, Domain Protection Services, Inc. /
DomainNameNexus.com - This Domain is For Sale, Domain Admin
Case No. D2022-1147

1. The Parties

The Complainant is Arm Limited, United Kingdom, represented by Quinn IP Law, United States of America.

The Respondent is Whois Agent, Domain Protection Services, Inc., United States of America /
DomainNameNexus.com - This Domain is For Sale, Domain Admin, United States of America.

2. The Domain Name and Registrar

The disputed domain name <neo-verse.com> is registered with Name.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 1, 2022. On April 4, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 6, 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 April 6, 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 amended Complaint on April 12, 2022.

The Center verified that the Complaint together with the amended 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 April 19, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 9, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 10, 2022. The Respondent sent informal communications to the Center on May 11, 2022, and on June 21, 2022. The Complainant requested the

suspension of proceedings on May 13, 2022, in order to implement a settlement agreement between the parties.

Following a number of communications, the Complainant's representative wrote on June 29, 2022 stating:

"Respondent communicated multiple times to the Center and Complainant that it would resolve this dispute by signing the WIPO Standard Settlement Form. Despite these claims, Respondent is unresponsive to Complainant's communications to return signed copies of the required settlement documents and does not appear to have a legitimate interest in settling this administrative proceeding."

The proceedings were reinstated on August 3, 2022.

The Respondent wrote on August 5 stating:

"Thanks for the email. No, the domain was renewed because we already informed WIPO to transfer the ownership to you to save you unnecessary legal expenses and avoid going through the UDRP process.

WIPO,

Could you please transfer the ownership of the domain to the complainant?"

The Center appointed Richard C.K. van Oerle as the sole panelist in this matter on August 9, 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 is a provider of technology related goods and services since 1990, designing electronic products, including computer processors, graphics processors, digital memories and peripheral hardware and supplies software, development tools for computer hardware as well as providing software and consultancy services.

Among the Complainant's products is the "Arm Neoverse" series of processors which was first introduced in October 2018, including the "Neoverse V-Series", "Neoverse N-Series", and "Neoverse E-Series" Central Processing Units ("CPUs").

The Complainant is the owner of several trademark registrations for the NEOVERSE trademark in various jurisdictions amongst which the United States of America, where the Respondent appears to be located, trademark registration No. 5,915,615, registered on November 19, 2019, claiming first use in commerce on December 31, 2018, in classes 09 and 42, hereinafter also referred to as the "Trademark".

The disputed domain name was registered on July 3, 2021. Presently, the disputed domain name resolves to a landing page with pay-per-click ("PPC") advertising links, where the disputed domain name is also offered for sale.

According to the Complainant, the Respondent's Admin Contact has been employed as Chief Engineer & Vice President of Engineering by the computer software and mobility solutions company Flatirons Solutions that is in a similar technology or computer-based industry as the Complainant.

5. Parties' Contentions

A. Complainant

The Complainant states, in summary and in so far as relevant, the following.

The Complainant claims to have sold over 200 billion products, having its products and services reached over 70 percent of the world's population and the NEOVERSE Trademark become a brand of global recognition and achieved significant recognition in the marketplace in connection with the Complainant's goods and services since before the Respondent registered the disputed domain name.

According to the Complainant, its processors marketed under the Trademark are used as the main CPU for most mobile telephones, including those manufactured by Apple, HTC, Nokia, Sony Ericsson, and Samsung, in addition to providing the CPUs for many other widely used devices including laptops, tablets, televisions, and other electronic products.

Under the Complainant's view, the disputed domain name incorporates its Trademark entirely. This is sufficient to establish confusing similarity. The disputed domain name contains no additional terms to distinguish itself in any way from the Complainant and the Complainant's Trademark, and such changes are insufficient to distinguish the disputed domain name from the Complainant's Trademark. Consequently, the public are likely to be confused into believing the disputed domain belongs to the Complainant and not the Respondent.

Regarding the absence of the Respondent's rights or legitimate interests, the Complainant argues that:

- (i) there has been no *bona fide* use of the disputed domain name by the Respondent offering of goods or services;
- (ii) the Respondent is not commonly known by the disputed domain name, nor does the Respondent have priority in use of the Trademark, or any Trademark registrations for the Trademark or "neo-verse", and the Respondent is not affiliated with or licensed by the Complainant;
- (iii) the Respondent is not making legitimate noncommercial or fair use of the disputed domain name without intent for commercial gain to misleadingly divert the public or to tarnish the Complainant's Trademark.

As to the registration and use of the disputed domain name in bad faith, the Complainant asserts that the Respondent registered the disputed domain name long after the first use of the Trademark and the registrations of the Trademark.

The Respondent's Admin Contact has been employed as Chief Engineer & Vice President of Engineering by the computer software and mobility solutions company Flatirons Solutions that is in a similar technology or computer-based industry as the Complainant and would be well aware of the Complainant, the Complainant's Trademarks and the Respondent chose to register a domain name incorporating the Trademark in its entirety, and nearly identical to the Complainant's Trademark.

The Complainant is very well-known. A simple search in Google would have ascertained the existence of the Complainant and the Complainant's use of the "neoverse.com" domain.

The Complainant suggests that the Respondent's registration of the disputed domain name appears strongly preparatory for possible use as a "phishing" or "pharming" site, as the disputed domain name incorporates the Complainant's Trademark without just ascertainable independent cause or purpose. Cybersecurity threats such as "phishing" or "pharming" attacks are potentially materially damaging to the Complainant and its customers, suppliers, and other industry participants. The public is likely to be confused, misled, and deceived as to the source of the Respondent's disputed domain name and are likely to be misdirected away from the Complainant when, in fact, the public is actually searching for the Complainant.

The Complainant asserts the present facts support the contention that the Respondent registered or acquired the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the disputed domain name to the Complainant, who is the owner of the Trademark, the Complainant's competitors or a third party bad faith actor.

The Respondent registered the disputed domain name on June 3, 2021, and has not published any content on the page, except for links to terminology related to the Complainant's goods and services and a domain name sale solicitation. The website associated with the disputed domain name includes an offer to sell the domain for USD 19,888. The Respondent's speculative registration and offering for sale of the disputed domain name for an amount that far exceeds the amount of out-of-pocket expenses incurred for registering and maintaining the domain name clearly demonstrates that the Respondent lacks a legitimate business interest in the disputed domain name and is operating in bad faith. Given the fact that the Respondent registered or acquired the disputed domain name in June 2021, well after the Complainant began marketing and selling technology related goods and services under the Trademark and is offering the domain name for sale for USD 19,888, it is clear that the Respondent registered the disputed domain name in bad faith for the purpose of selling, renting, or transferring the domain name to the Complainant, the Complainant's competitors or another bad faith actor, and is an attempt to exploit the Trademark and brand recognition for illicit commercial gain.

B. Respondent

The Respondent did not submit a formal response. The Respondent sent communications on a number of occasions indicating its willingness to resolve the dispute.

Following the reinstatement of the proceedings on August 3, 2022, the Respondent replied stating:

"Thanks for the email. No, the domain was renewed because we already informed WIPO to transfer the ownership to you to save you unnecessary legal expenses and avoid going through the UDRP process.

WIPO,

Could you please transfer the ownership of the domain to the complainant?"

6. Discussion and Findings

Dealing, first, with the Respondent's failure to file a response to the Complaint, paragraph 14(b) of the Rules provides that if a party, in the absence of exceptional circumstances, does not comply with a provision of, or requirement under these Rules, the Panel shall be entitled to draw such inferences from this omission, as it considers appropriate.

The Panel moreover considers the Respondent's August 3 communication to amount to a consent to transfer; for completeness however the Panel will briefly address the three elements.

Paragraph 4(a) of the Policy provides that the Complainant prove each of the following three elements in order to succeed in its Complaint:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (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 provided details of its trademark registrations for NEOVERSE, including the registration in respect of which full details are set out above, and has thereby established its rights in the Trademark.

The disputed domain name incorporates the Trademark in its entirety, the only difference being the addition of a hyphen between “neo” and “verse”, but that, however, does not prevent the disputed domain name from being confusingly similar.

Accordingly, this Panel finds that the disputed domain name is confusingly similar to the Trademark, and the first element of the Policy under paragraph 4(a) has been satisfied.

B. Rights or Legitimate Interests

Paragraph 4(a)(ii) of the Policy requires a complainant to show that the respondent has no rights or legitimate interests in respect of the disputed domain name. Once the complainant establishes a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name, the burden of production shifts to the respondent to show that it has rights or legitimate interests in respect to the disputed domain name (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 2.1).

The Complainant alleges that the Respondent lacks rights to or legitimate interests in the disputed domain name for the reasons set out in section 5.A above. The Panel finds that the Complainant has fulfilled the obligation to establish *prima facie* that the Respondent has no rights to or legitimate interests in the disputed domain name. Because of its failure to submit a response, the Respondent has not rebutted the arguments of the Complainant and/or shown rights to or legitimate interests in the disputed domain name.

The Complainant has satisfied the second requirement that the Respondent has no rights or legitimate interests in the disputed domain name, under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that at the time of registration of the disputed domain name, the Respondent was or should have been aware of the Trademark. The Complainant has presented evidence that the Trademark is well-known. In any event, a trademark register search, or even a simple online search prior to the registration of the disputed domain name would have informed the Respondent of the existence of the Complainant’s trademark rights and its extensive use of the Trademark as a source identifier.

In addition, the Complainant has submitted documents, which the Respondent has not contested, showing that the Admin Contact of the Respondent was at the time of registration and is presently still working in a similar technology or computer-based industry as the Complainant, which makes it even more plausible that the Respondent must have known the Trademark.

Moreover, the composition of the disputed domain name itself strongly suggests that the Respondent targeted the Trademark.

Furthermore, the disputed domain name was registered on June 3, 2021, and listed for sale shortly thereafter for a substantial price. In these circumstances the Panel concludes that the disputed domain name was registered and is used primarily for the purpose of selling the disputed domain and in light of the reputation of the Trademark, it is reasonable to conclude that the Respondent registered and is using the disputed domain name to sell to the Complainant or a competitor of the Complainant.

Finally, the failure of the Respondent to submit a response or to provide any evidence of actual or contemplated good faith use, is further evidence of bad faith, given the circumstances of the case (see, [WIPO Overview 3.0](#), section 3.2).

Therefore, the Panel finds that the disputed domain name has been registered and is being used in bad faith within the meaning of paragraph 4(a)(iii) 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, <neo-verse.com>, be transferred to the Complainant.

/Richard C.K. van Oerle/

Richard C.K. van Oerle

Sole Panelist

Date: August 19, 2022