

ADMINISTRATIVE PANEL DECISION

Hexaware Technologies Limited v. Mulyowa Joet
Case No. D2024-2517

1. The Parties

The Complainant is Hexaware Technologies Limited, India, represented by ZeusIP Advocates LLP, India.

The Respondent is Mulyowa Joet, Uganda.

2. The Domain Name and Registrar

The disputed domain name <hexawareug.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 20, 2024. On June 20, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 20, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 June 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 16, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 17, 2024.

The Center appointed Philippe Gilliéron as the sole panelist in this matter on July 25, 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 a company organized and incorporated under the laws of India. Founded in 1990, it provides IT, business process outsourcing and consulting services. The Complainant employs over 30000 people over the world in 50 international offices. Its revenue exceeds USD 1.3 billion. The Complainant has received numerous prizes over the last years for its high-quality services.

The Complainant owns numerous trademarks on a worldwide basis for HEXAWARE, such as:

- Indian Trademark n° 3725091 registered in classes 35 and 42 on January 11, 2018.
- United Kingdom Trademark n° UK00002444345 registered in class 35 on February 8, 2008.
- United States of America Trademark n° 3574540 registered in class 35 on February 17, 2009.

The Complainant has owned the domain name <hexaware.com> since 1996.

On August 3, 2023, the Respondent registered the disputed domain name. The website associated to the disputed domain name offers identical services to those provided by the Complainant, with a layout, colors and logo that are apparently meant to refer to the Complainant. Prior to the filing of the Complaint, the website attached to the disputed domain named disclosed the following addresses: (i) Hexaware Technologies / Nanosoft, 2307 Beverley Rd Brooklyn, New York 11226, United States of America, (ii) Hexaware Technologies / Nanosoft, Schulstr. 9, 70173 Stuttgart, Germany and (iii) Hexaware Technologies / Nanosoft, 4 Zemlyanoy val, bld. 1 Moscow, Russia 105064. In spite of the Respondent's address referring to Hexaware Technologies Ltd, there is no evidence of such company incorporated in Uganda (where the Respondent is purportedly located).

On March 22, 2024, the Complainant sent to the Respondent to the above mentioned addresses a cease and desist letter, both in hardcopy and electronically. None of the letters sent in hardcopy however reached their target, as the disclosed addresses proved to be non-existent.

While the Respondent did not respond to these cease and desist letters, the website linked to the disputed domain name does not show any of the above mentioned addresses anymore, but contact details in Uganda.

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 disputed domain name is confusingly similar to the Complainant's trademark, as it entirely incorporates the trademark HEXAWARE and that the mere addition of the letters "ug" will lead Internet users to believe that they are accessing the Ugandan affiliate or subsidiary of the Complainant.

The Complainant further affirms that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not known by that name. The Complainant has never authorized the Respondent to use its trademark HEXAWARE.

The Complainant finally is of the view that the disputed domain name was registered and is being used in bad faith. Taking into account the fact that the website attached to the disputed domain name is clearly meant to be associated with the Complainant to offer identical services, the Respondent was obviously aware of the Complainant's trademark when it registered the disputed domain name, and that such use amounts to a usage in bad faith.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs this Panel to “[...] decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”.

Pursuant to paragraph 4(a) of the Policy, the Complainant must prove each of the following three elements to obtain an order that the disputed domain name should be cancelled or transferred:

- (i) the disputed domain name is identical or confusingly similar to a trademark or a service mark 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

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 HEXAWARE mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The addition of the letters “ug” will likely be understood by Internet users as referring to Uganda. Accordingly, the disputed domain name is confusingly similar 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.

Furthermore, the Panel notes the composition of the disputed domain name, which carries a risk of implied affiliation with the Complainant, [WIPO Overview 3.0](#), section 2.5.1, and that the disputed domain name used to resolve to a website whose layout resembled the Complainant's one purportedly offering identical services to the Complainant's ones. Panels have held that the use of a domain name for illegal activity, such as the provision of services identical to the Complainant's ones by impersonating the Complainant's identity, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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 has developed a website related to the disputed domain name that is meant to lead Internet users to believe that the website is affiliated to the Complainant. As a result, there is no doubt that the Respondent was well aware of the Complainant's trademark when it registered the disputed domain name and that, in doing so, the Respondent intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's trademark.

Panels have held that the use of a domain name for illegal activity, in the present case the provision of services identical to the Complainant's ones by impersonating the Complainant's identity, 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.

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 <hexawareug.com> be transferred to the Complainant.

/Philippe Gilliéron/

Philippe Gilliéron

Sole Panelist

Date: July 31, 2024