

ADMINISTRATIVE PANEL DECISION

Ph. Nederman & Co, AB v. dash love, Dee loardongs
Case No. D2024-2840

1. The Parties

The Complainant is Ph. Nederman & Co, AB, Sweden, represented by Abion AB, Sweden.

The Respondent is dash love, Dee loardongs, United States of America (“US”).

2. The Domain Name and Registrar

The disputed domain name <nederman.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 July 11, 2024. On July 12, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 12, 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 (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 15, 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 an amended Complaint on July 15, 2024.

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 July 19, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 8, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 12, 2024.

The Center appointed William A. Van Caenegem as the sole panelist in this matter on August 16, 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, Ph. Nederman & Co, AB, is a global provider of industrial air filtration and environmental technology solutions, based in Sweden.

The Complainant owns several trademark registrations for NEDERMAN in various jurisdictions, including European Union (“EU”) trademark No. 010645216 NEDERMAN registered on July 24, 2012 in classes 3, 6, 7, 9, 11, 17, 20, 37, and 40; EU trademark No. 002506400 NEDERMAN registered on November 23, 2004 in classes 7, and 11; US trademark No. 4508526 NEDERMAN registered on April 8, 2014 in classes 7, 11; and United Kingdom trademark No. UK00910645216 NEDERMAN registered on July 24, 2012 in classes 3, 6, 7, 9, 11, 17, 20, 37, and 40.

The disputed domain name was registered on September 11, 2023, and resolves to a parking page with pay-per-click (“PPC”) links to unrelated providers.

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 NEDERMAN trademark is clearly recognizable within the disputed domain name, which was registered on September 11, 2023, long after the NEDERMAN trademarks were registered.

The Complainant asserts that it has not licensed or authorized the Respondent to use its trademarks. The Respondent is not affiliated with the Complainant, and the Complainant says that it did not authorize the Respondent to register or use the disputed domain name, nor has the Complainant endorsed or sponsored the Respondent or the Respondent’s website.

The Complainant points out that there is no evidence that the Respondent is commonly known by the disputed domain name or owns any registered trademarks including the term “nedeerman.com”. In fact, when entering the term “nederman” in the Google search engine, the returned results point to it and its online activity, the Complainant says.

The Complainant points out that at the time of filing of the present proceeding, the disputed domain name resolved to a page featuring PPC links. There is no evidence of any actual or contemplated good-faith use of the disputed domain name and previous UDRP panels have held, under the doctrine of passive holding, that non-use of a domain name does not prevent a finding of bad faith, the Complainant contends.

The Complainant adds that it is crucial to consider the use of parking pages featuring PPC links as evidence of passive holding. Such parking pages display third-party advertisements, including links unrelated to the Complainant’s services, which generate revenue for the Respondent through click-through fees. This practice, the Complainant contends, has been widely recognized as indicative of bad faith and as passive holding in previous UDRP decisions.

Further in terms of bad faith, the Complainant highlights that the registration of the Complainant’s trademarks pre-dates the registration of the disputed domain name and the Respondent has never been authorized by the Complainant to use the NEDERMAN trademarks nor to register the disputed domain name.

Nonetheless, the Respondent has chosen to use the distinctive trademark NEDERMAN in the disputed domain name in its entirety, the Complainant points out.

The Complainant also asserts that by conducting a simple online search regarding the term “Nederman”, the Respondent would have inevitably learnt about the Complainant, its trademark and business.

In conclusion, the Complainant contends that it is very likely that the Respondent registered the disputed domain name using the trademark NEDERMAN intentionally in order to take advantage of the Complainant’s goodwill and to free-ride on its reputation.

B. Respondent

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

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 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 Panel finds the mark NEDERMAN is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the Complainant’s registered mark for the purposes of the Policy ([WIPO Overview 3.0](#), section 1.7). The slight variation to the trademark accomplished by adding a single “e” in the disputed domain name does not prevent a finding of confusing similarity ([WIPO Overview 3.0](#), section 1.9).

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 finds that the use of the disputed domain name to direct Internet users to a parking page where PPC links are available is not an activity that generates rights or legitimate interests in the Respondent under the circumstances of this case.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The disputed domain name was registered well after the registration of the Complainant's NEDERMAN trademarks, and when those distinctive marks had long acquired a widespread reputation. The composition of the disputed domain name suggests that the Respondent was well aware of the rights held by the Complainant in the NEDERMAN trademarks, and that considerable goodwill attached to them. A simple Google or register search would have revealed the Complainant's rights in the NEDERMAN trademarks. The Respondent's actions are in the nature of typo-squatting, a bad faith attempt to take unfair advantage of the reputation of a trademark belonging to a third party.

Panels have found that the use of a domain name to link to a parking page where third party hyperlinks are available can amount to bad faith use. Here the distinctiveness of the NEDERMAN marks and their well-established reputation, and the composition of the disputed domain name, with its doubtlessly deliberate minor alteration, points to the Respondent's intention to capitalize on the Complainant's goodwill for the sake of generating potential commercial gain from Internet users who are tricked into visiting the website and clicking on PPC links to which the disputed domain name resolves.

Having reviewed the available record, the Panel finds that the Respondent registered and is using the disputed domain name in bad faith. Therefore, 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 <nedeerman.com> be transferred to the Complainant.

/William A. Van Caenegem/

William A. Van Caenegem

Sole Panelist

Date: August 30, 2024.