

ADMINISTRATIVE PANEL DECISION

Ph. Nederman & Co, AB v. Name Redacted
Case No. D2024-2863

1. The Parties

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

The Respondent is Name Redacted.¹

2. The Domain Name and Registrar

The disputed domain name <nederrnan.com> is registered with Wild West Domains, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 15, 2024. On July 15, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 15, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 17, 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 17, 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”).

¹The Respondent appears to have used the name and contact details of a third party when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted the Respondent’s name from this decision. However, the Panel has attached as Annex 1 to this decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on July 18, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 7, 2024. A third party sent email communications to the Center between on July 18 and July 26, indicating inter alia it is not the owner of the disputed domain name. On August 9, 2024, the Center informed the Parties that it would commence the panel appointment process. On August 15 and August 21, 2024, the Center received email communications from this third party, reiterating it is not the owner of the disputed domain name and its name and contact details had been erroneously or maliciously used in registering the disputed domain name.

The Center appointed Mihaela Maravela as the sole panelist in this matter on August 26, 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

According to information in the Complaint, the Complainant is a leading global provider of industrial air filtration and environmental technology solutions. It specializes in offering products and systems for air filtration, recycling, and material handling, catering to industries such as metal fabrication, woodworking, food processing, and pharmaceuticals. The Complainant's products are sold in over 50 countries, supported by a vast network of distributors and partners. The Complainant holds numerous patents and has received various awards for its environmentally friendly solutions and commitment to corporate responsibility.

The Complainant owns many registered trademarks for NEDERMAN including the United States of America trademark No. 4508526, registered on April 8, 2014, in classes 7 and 11, and the European Union trademark No. 010645216, registered on July 24, 2012, in classes 3, 6, 7, 9, 11, 17, 20, 37, and 40.

The disputed domain name was registered on October 6, 2023, and does not resolve to an active website.

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 almost identical to the trademark and service mark in which the Complainant has rights and is likely to confuse consumers into thinking that the disputed domain name is associated with or endorsed by the Complainant.

As regards the second element, the Complainant argues that it has not licensed or authorized the Respondent to use its trademarks. The Respondent is not affiliated to the Complainant. The Complainant did not authorize the Respondent to register or use the disputed domain name incorporating its respective trademarks nor have the Complainant endorsed or sponsored the Respondent or the Respondent's website. The website at the disputed domain name is inactive. There is no evidence that the Respondent is commonly known by the disputed domain name.

With respect to the third element, the Complainant argues that the disputed domain name was registered by the Respondent on October 6, 2023, well after the registration of the Complainant's trademarks, and that by conducting a simple online search regarding the term "Nederman", the Respondent would have inevitably learnt about the Complainant, its trademark and business. The Complainant submits 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 reputation of the trademark and the Complainant's goodwill free-riding on the

Complainant's reputation.

B. Respondent

Apart from the email communications received from a third party who denied having registered the disputed domain name or having any connection with it, and claiming its name and contact details had been erroneously or maliciously used in registering the disputed domain name, the Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

The applicable standard of proof in UDRP cases is the "balance of probabilities" or "preponderance of the evidence", and the Panel can draw certain inferences in light of the particular facts and circumstances of the case. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.2.

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (i) the disputed domain name is identical or confusingly similar to a trademark or 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 3.0](#), section 1.7. It is the settled view of panels applying the Policy that the Top-Level Domain (here ".com") should be disregarded under the first element test as it is viewed as a standard registration requirement.

The Complainant has shown rights in respect of the trademark NEDERMAN for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the Complainant's mark is recognizable within the disputed domain name which consists of the obvious misspelling of the NEDERMAN trademark of the Complainant, the letter "m" being replaced with the letters "rn". This misspelling in the disputed domain name also referred to as typosquatting, does not prevent a finding of confusing similarity. [WIPO Overview 3.0](#), section 1.9. Accordingly, the disputed domain name is confusingly similar to the Complainant's 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.

There is no evidence of the Respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a bona fide offering of goods or services. Rather, according to the unrebutted evidence provided by the Complainant, the disputed domain name does not resolve to an active website, which according to the Panel does not give rise to any rights or legitimate interests in the disputed domain name considering the circumstances of this case.

Also, there is no evidence that the Respondent is commonly known by the disputed domain name within the meaning of paragraph 4(c)(ii) of the Policy.

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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

According to the unrebutted assertions of the Complainant, its NEDERMAN trademark was widely used in commerce well before the registration of the disputed domain name. The disputed domain name is a misspelled version of the Complainant's trademark, the letter "m" being replaced with the letters "rn", which would be easily overlooked by Internet users, and is confusingly similar to the Complainant's trademark. Under these circumstances, it is most likely that the Respondent was aware of the Complainant's trademark at the registration date of the disputed domain name. The Respondent provided no explanations for why it registered the disputed domain name.

Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness and reputation of the Complainant's trademark, and the composition of the disputed domain name, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of 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 <nederrnan.com> be transferred to the Complainant.

/Mihaela Maravela/

Mihaela Maravela

Sole Panelist

Date: September 4, 2024