

ADMINISTRATIVE PANEL DECISION

Open Text Corporation v. darren myers, opentextinc
Case No. D2025-1069

1. The Parties

The Complainant is Open Text Corporation, Canada, represented by SafeNames Ltd., United Kingdom.

The Respondent is darren myers, opentextinc, Nigeria

2. The Domain Name and Registrar

The disputed domain name <opentextinc.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 14, 2025 in respect of the domain names <opentextca.com> and <opentextinc.com>. On March 17, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with these domain names. On March 17, 2025, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the two domain names 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 March 19, 2025, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. On March 24, 2025, the Complainant filed an amended Complaint in respect of the domain name <opentextinc.com> (hereinafter, the “disputed domain name”) and requested the termination of proceeding in respect of the other domain name <opentextca.com>. On March 25, 2025, the Center acknowledged the Complainant’s request and confirmed that it would not proceed in respect of the domain name <opentextca.com>.

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 March 25, 2025. In accordance with the Rules, paragraph 5, the due date for Response was April 14, 2025. The Respondent did not submit any response.

Accordingly, the Center notified the Respondent's default on April 15, 2025.

The Center appointed Assen Alexiev as the sole panelist in this matter on April 22, 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 Rules, paragraph 7.

4. Factual Background

The Complainant is a global software company incorporated in 1991. It provides software applications and manages content and unstructured data for large companies, government agencies, and professional service firms. The Complainant has 120,000 enterprise customers in 180 countries, 31 million public cloud users, and over 23,000 employees. TIME Magazine included the Complainant in its "TIME World's Best Companies" 2024 ranking, and Forbes has recognized it as one of the "World's Best Employers" for three consecutive years.

The Complainant is the owner of the following trademark registrations for OPENTEXT (the "OPENTEXT trademark"):

- the United States trademark OPEN TEXT with registration No. 2685043, registered on February 11, 2003, for goods in International Class 9.
- the Canadian trademark OPEN TEXT with registration No. TMA646346, registered on August 23, 2005, for goods and services in International Classes 9, 9, 38, 41, 42, 42, 45, 45;
- the European Union trademark OPENTEXT (figurative) with registration No. 012976569, registered on November 5, 2014 for goods and services in International Classes 9, 35, 41 and 45; and
- the United Kingdom trademark OPENTEXT with registration No. UK00003228978, registered on September 29, 2017 for goods and services in International Classes 9, 35, 38, 41, 42, 45.

The Complainant operates its official website at the domain name <opentext.com>, registered on October 26, 1994.

The disputed domain name was registered on January 20, 2025. It resolves to a landing page of the Registrar with the text "Opentext Inc | Launching Soon | Contact Us | Drop us a line!". The webpage also includes the copyright notice "© 2025 OpenText Inc - All Rights Reserved" and invites visitors to "Sign up for our email list for updates, promotions, and more" by providing their names and email addresses.

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.

The Complainant states that the disputed domain name is confusingly similar to its OPENTEXT trademark, because it incorporates the trademark entirely in combination with the element "inc", which is a common abbreviation for "incorporated" and is associated with corporations. According to the Complainant, the addition of this element to the OPENTEXT trademark in the disputed domain name is insufficient to prevent a finding of confusing similarity.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name, because it is not commonly known as “OPENTEXT” or “OPENTEXTINC”, has no trademark rights in these terms, and has not been licensed by the Complainant to use domain names incorporating the OPENTEXT trademark. The Complainant adds that the Respondent has not used the disputed domain name in connection with a bona fide offering of goods or services, as it resolves to a landing page created using the Registrar’s Website Builder, displays the OPENTEXT trademark in its header and claims that the website is “Launching Soon”. According to the Complainant, this shows the Respondent’s intention to achieve commercial gain by associating itself with the Complainant’s reputation in the software-application sector and misleading third parties. The Complainant submits that the webpage at the disputed domain name invites Internet users to “Sign up for our email list for updates, promotions, and more” by providing their names and email addresses, which increases their exposure to potential phishing activities. According to the Complainant, there is no plausible reason for the registration and use of the disputed domain name other than to keep it away from the Complainant and to take advantage of the goodwill of its OPENTEXT trademark.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. It notes that it has operated its business under the OPENTEXT brand since 1991, and that the first registration of the OPENTEXT trademark predates the creation date of the disputed domain name by almost 22 years. The Complainant submits that its OPENTEXT trademark has accrued substantial goodwill and has acquired secondary meaning within the software industry in respect of the Complainant’s Enterprise Information Management (“EIM”) services, and notes that all top results from a simple Google search of the terms “opentext” and “opentextinc” refer to the Complainant’s offerings. The Complainant maintains that the Respondent must therefore have been aware of the Complainant’s rights in the OPENTEXT trademark when registering the disputed domain name, and that it has registered the disputed domain name with the primary intention of taking advantage of the Complainant’s OPENTEXT trademark for commercial gain to attract Internet users to the website at the disputed domain name.

The Complainant further points out that the Respondent has activated Mail Exchange (“MX”) records for the disputed domain name and that the associated webpage invites visitors to sign up for the Respondent’s email list by providing their names and email addresses. According to the Complainant, this plus the “sign up” call to action suggests that the Respondent intends to engage in phishing activities through the use of the disputed domain name.

The Complainant adds that a cease-and-desist letter was sent to the Respondent on January 29, 2025, but received no response.

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 the OPENTEXT trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the OPENTEXT trademark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the OPENTEXT trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms (here, “inc”) may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the OPENTEXT trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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 disputed domain name is confusingly similar to the Complainant’s OPENTEXT trademark and incorporates it in combination with the abbreviation “inc” which creates an appearance that it represents the official online location of a corporate legal entity with a trade name identical to that of the Complainant. This appearance is further reinforced by the copyright notice on the webpage at the disputed domain name, which claims that the copyright belongs to “Open Text Inc.”

The name that the Respondent has indicated to the Registrar for the registration of the disputed domain name includes “opentextinc”. The Respondent has however not claimed or submitted any evidence in this proceeding that an entity with such name actually exists or that it has any relationship to such entity, so there is nothing before the Panel to support a conclusion that the Respondent is commonly known under a name that corresponds to the disputed domain name.

As also noted by the Complainant, the disputed domain name has MX records activated and the associated webpage invites visitors to sign up for an email list by providing their names and email addresses. There is therefore the possibility that Internet users confused that the disputed domain name belongs to the Complainant may provide their contact details to the operator of the website at the disputed domain name, and that they may believe that the communications that they subsequently receive originate from the Complainant. This may expose them to a greater risk of phishing attacks.

Considering the totality of the circumstances in this case, the Panel accepts as more likely that the Respondent, being aware of the goodwill of the Complainant’s OPENTEXT trademark, has registered and may use the disputed domain name for targeting this trademark in an attempt to receive some commercial or

business advantage such as access to potential customers. A conduct like this cannot be regarded as giving rise to rights or legitimate interests in the disputed domain name.

The Panel therefore finds that 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.

Panels have found that the non-use of a domain name (including a blank or "coming soon" page) 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 reputation of the Complainant's OPENTEXT trademark, the composition of the disputed domain name, which appears to belong to the Complainant, and the fact that it has MX records activated and that the Respondent's website invites visitors to join a email list by providing contact details. Considering that the Respondent appears to be targeting the Complainant to obtain a commercial advantage, the Panel finds that the Respondent has registered and used the disputed domain name in 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 <opentextinc.com> be transferred to the Complainant.

/Assen Alexiev/

Assen Alexiev

Sole Panelist

Date: May 1, 2025