



Asian Domain Name Dispute Resolution Centre

hong kong

**(Hong Kong Office)**

**ADMINISTRATIVE PANEL DECISION**

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<b>Case No.</b>	HK-2101525
<b>Complainant:</b>	EventXtra Limited
<b>Respondent:</b>	Nick van der Meij /EventX B.V.
<b>Disputed Domain Name(s):</b>	<eventx.network>

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**1. The Parties and Contested Domain Name**

The Complainant is EventXtra Limited, of 9/F, 822 Lai Chi Kok Road, Cheung Sha Wan, Kowloon, Hong Kong, represented by Tsai Yung Chieh David, Benny Kong & Tsai of 19B, OTB Building, 160 Gloucester Road, Wan Chai, Hong Kong.

The Respondent is Nick van der Meij /EventX B.V., of Stationsplein 45, Rotterdam, 3013 AK, Netherlands.

The domain name at issue is <eventx.network> (“Disputed Domain Name”), registered by the Respondent with Key-Systems GmbH (“Registrar”), of Im Oberen Werk 1, 66386 St. Ingbert, Germany.

**2. Procedural History**

On August 24, 2021, the Complaint was filed with the Hong Kong office of the Asia Domain Name Dispute Resolution Centre (“Centre”) in accordance with the Uniform Domain Name Disputed Resolution Policy (“Policy”) adopted by the Internet Cooperation for Assigned Names and Numbers (“ICANN”) on October 24, 1999. On August 26, 2021, the Centre transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On August 26, 2021, the Registrar transmitted by email to the Centre its verification response confirming the Respondent as the registrant of the Disputed Domain Name and provided contact details of the Respondent.

In accordance with paragraphs 2(a) and 4(a) of the Rules for Uniform Domain Name Dispute Resolution Policy (“Rules”), the Centre formally notified the Respondent of the Complaint, and the proceedings commenced on September 1, 2021. The Respondent was informed that the due date for Response was September 21, 2021. No Response was filed by the Respondent. Accordingly, the Centre notified the parties of the Respondent’s default on September 23, 2021.

The Centre appointed Gabriela Kennedy as the sole panelist in this matter on September 23, 2021. The Panel finds that it was properly constituted.

### **3. Factual background**

The Complainant is engaged in the business of, inter alia, providing event management services throughout the world.

The Complainant is the owner of several trade mark registrations for the EVENTX trade mark in various jurisdictions, including, inter alia, EVENTX trade mark (Reg. No. 018366255) registered in the EU on May 5, 2021, EVENTX trade mark (Reg. No. 305494069) registered in Hong Kong on December 30, 2020, and EVENTX trade mark (Reg. No. 40202027832S) registered in Singapore on December 30, 2020.

The Respondent registered the Disputed Domain Name on December 1, 2017. The Disputed Domain Name currently resolves to an inactive website. To further understand the factual background and make an informed assessment in this case, the Panel has conducted online searches of the website to which the Disputed Domain Name resolves using the Internet Archive WayBack Machine and found that, from as early as May 11, 2018 to August 16, 2021, the Disputed Domain Name resolved to an operational website that promoted a platform providing event management, payment, access control, ticketing and intelligence services.

### **4. Parties' Contentions**

#### **A. Complainant**

The Complainant's contentions may be summarized as follows:

- i. The Disputed Domain Name is confusingly similar to the Complainant's EVENTX trade mark. The Disputed Domain Name incorporates the Complainant's EVENTX trade mark in its entirety.
- ii. The Respondent was not commonly known by the EVENTX trade mark and the Complainant has never authorised or given permission to the Respondent, who is not affiliated with the Complainant in any way, to use its EVENTX trade mark, therefore the Respondent has no rights or legitimate interest in the Disputed Domain Name; and
- iii. The Respondent had registered the Disputed Domain Name primarily for the purpose of disrupting the Complainant's business and to attract Internet users to its websites for commercial gain by creating a likelihood of confusion with the Complainant's EVENTX trade mark, as the website to which the Disputed Domain Name resolves is used by the Respondent to carry out the provision of event management services which are in direct competition to the Complainant's business.. Therefore, the Respondent is acting in bad faith

#### **B. Respondent**

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

The fact that the Respondent has not submitted a formal Response does not automatically result in a decision in favour of the Complainant. However, the Respondent's failure to file a Response may result in the Panel drawing appropriate inferences from such default. The Panel may also accept all reasonable and supported allegations and inferences flowing from the Complaint as true (see *Entertainment Shopping AG v. Nischal Soni, Sonik Technologies*, WIPO Case No. D2009-1437 and *Charles Jourdan Holding AG v. AAIM*, WIPO Case No. D2000-0403).

## 5. Findings

The ICANN Uniform Domain Name Dispute Resolution Policy provides, at Paragraph 4(a), that each of three findings must be made in order for a Complainant to prevail:

- i. Respondent's domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- ii. Respondent has no rights or legitimate interests in respect of the domain name; and
- iii. Respondent's domain name has been registered and is being used in bad faith.

### A) Identical / Confusingly Similar

The Panel accepts that the Complainant has rights in the EVENTX trade mark, based on its various trade mark registrations, such as the EVENTX trade mark (Reg. No. 018366255) registered in the EU on May 5, 2021, EVENTX trade mark (Reg. No. 305494069) registered in Hong Kong on December 30, 2020, and EVENTX trade mark (Reg. No. 40202027832S) registered in Singapore on December 30, 2020.

It is well established that in making an enquiry as to whether a trade mark is identical or confusingly similar to a domain name, the Top-Level Domain extension (".network" in this case) may be disregarded. See section 1.11 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0").

The Disputed Domain Name appears to be identical to the Complainant's EVENTX trade mark.

The Panel therefore finds that the Disputed Domain Name is identical to the Complainant's EVENTX trade mark, and accordingly, paragraph 4(a)(i) of the Policy is satisfied.

### B) Rights and Legitimate Interests

Once a complainant establishes a prima facie case in respect of the lack of rights or legitimate interests of a respondent in a disputed domain name, the respondent then carries the burden of demonstrating that it has rights or legitimate interests in the domain name. Where the respondent fails to do so, a complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy. See section 2.1 of the WIPO Overview 3.0.

The Panel accepts that the Complainant has not authorised the Respondent to use the EVENTX trade mark, and that there is no relationship between the Complainant and the Respondent which would otherwise entitle the Respondent to use the EVENTX trade mark. Accordingly, the Panel is of the view that a *prima facie* case has been established and it is

for the Respondent to show rights or legitimate interests in the Disputed Domain Name. As the Respondent has not submitted a Response, the Panel will assess the case based on the reasonable inferences that can be drawn from the Complainant's evidence.

Pursuant to paragraph 4(c) of the Policy, the Respondent may establish rights or legitimate interests in the Disputed Domain Name by demonstrating any of the following:

- (1) before any notice to him of the dispute, the Respondent's use of, or demonstrable preparations to use the Disputed Domain Name or a name corresponding to the Disputed Domain Name was in connection with a bona fide offering of goods or services;
- (2) the Respondent has been commonly known by the Disputed Domain Name, even if he has acquired no trade mark or service mark rights; or
- (3) the Respondent is making a legitimate noncommercial or fair use of the Disputed Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark or service mark at issue.

Based on the Internet Archive WayBack Machine searches conducted by the Panel, the website to which the Disputed Domain Name resolves appears to have been used in connection with a *bona fide* offering of goods or services. In particular, it has been used to promote event management services offered by the Respondent since May 2018 even before the Complainant had first acquired registered rights in relation to the EVENTX trade mark in December 2020.

Therefore, for the reasons mentioned above, the Panel finds that the Respondent has rights or legitimate interests in the Disputed Domain Name and the Complainant has failed to satisfy paragraph 4(a)(ii) of the Policy.

### **C) Bad Faith**

UDRP panels have consistently found that the mere registration of a domain name that is confusingly similar to a widely-known trade mark by an unaffiliated entity can already by itself create a presumption of bad faith. See section 3.1.4 of the WIPO Overview 3.0.

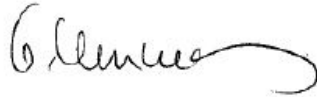
However, while the Complainant's EVENTX trade mark appears to be fairly well-known, the registration of the Disputed Domain Name by the Respondent pre-dates the first registration of the EVENTX trade mark by the Complainant by about 2 years and 7 months. The Complainant has also failed to show that it had any unregistered or common law rights in the EVENTX trade mark prior to the first registration of the EVENTX trade mark in December 2020. While in the Complaint the Complainant asserted that the EVENTX trade mark "has been continuously used by the Complainant and/or its related entities in the world since at least August 2013", the Panel finds that the evidence provided by the Complainant in support of this assertion, which is a copy of the receipt showing the purchase of the domain name <eventx.cc> by the Complainant on August 8, 2013 (under Exhibit 8), is insufficient and does not adequately show that the Complainant had unregistered or common law rights in the EVENTX trade mark. Furthermore, the Complainant's business appears to be focused on Asia whereas the Respondent's business appears to be operating in Europe.

Therefore, given the factors mentioned above, the Panel finds that it is unlikely that the Respondent would have been aware of the Complainant's business when registering the Disputed Domain Name.

In the circumstances, the Panel finds that the Respondent has not registered and been using the Disputed Domain Name in bad faith, and paragraph 4(a)(iii) of the Policy has not been satisfied.

**6. Decision**

For the foregoing reasons, the Complaint is denied.



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Gabriela Kennedy  
Panelist

Dated: October 7, 2021