

Subject: Re: [netways #13188] Nagios Conference Trademark Issues

From: Ethan Galstad <nagios@nagios.org>

Date: Mon, 27 Feb 2006 11:59:13 -0600

To: nagioscon@rt2.netways.de

Hi Julian -

I apologize for not responding earlier. I have been extremely busy as of late and am slowly catching up on things.

On 6 Feb 2006 at 18:04, Julian Hein via RT wrote:
[snip]

Let me first say, that I understand most of your concerns and I am hopping to find a solution here, that we both can live with and have a good time at the conference together.

Thank you for understanding the intent of my original letter. I believe that we can work together to find a suitable solution for both of us. I am most certainly looking forward to attending the conference and meeting you and other Nagios users this fall.

1) It is definitely no problem to make it more clear and visible on the website and other materials, that it is no official conference and you are only involved as a speaker. I think we would just call it "NETWAYS Conference for Nagios Professionals" or something else and put some statements on the website.

Thank you for offering to do this. I believe that this will help to avoid possible user confusion regarding the official status of the conference.

2) I have some experience in German trademark law as well, because we had our company name, our logo and some smaller stuff registered as trademarks and there were some other companies, using the same name. The first thing I learned is, that trademarks are national only. An US trademark is completely useless in Germany or other EU countries. There is a company called netways in Austria and I had no chance of prohibiting them to use the name, even with us having the registered trademark in Germany and being the older company. (They changed there name voluntary later, because we own netways.at :-))

The problem is theoretically even bigger, because someone could register nagios as a trademark here and ban us (netways and other German companies) from using it. I don't know about US trademark law, but here a trademark is for preventing other to use the name. If something is already put into circulation, this prevents from registering it as a trademark. Maybe it wouldn't be a bad thing here, if everybody uses the name. Or you must register nagios as a trademark in all EU countries.

This is a good point that you bring up. The Nagios trademark will likely be registered in the EU and other countries in the near future. Even without foreign registrations, the concept of country-specific trademarks is difficult in relation to Internet domains and such, as they are not contained to a specific geographic area. In the past, U.S. companies have had to defend their trademarks against companies in foreign countries due to their having used the (U.S.) registered trademark in an Internet domain name. This is because the domain name is visible/accessible to U.S. customers and violates

their trademark in the U.S.

3) I don't understand why nagiosconference.{org|com|de|net} is a problem, while others like nagios-wiki.de or nagiosexchange.org are not?

There is a subtle, but important, difference between the domain names. Domains like nagiosexchange.org do not have a (noticeable) commercial side to them and serve the greater good of the Nagios community. That is the reason that I granted Netways the permission to use the nagiosexchange.org domain name. A conference is more of a commercial event (even if admission is free), and conferences with Nagios as part of their name that are not officially sponsored/organized by myself dilute the Nagios mark.

Ok, please don't get me wrong, I definitely do not want to offend you, I just try to understand it a little better and find a compromise. I definitely understand, that you need to protect your trademark and if you insist on giving up the current domains I will do it.

Maybe you could just give us a license as it is sometimes done with the linux trademark.

What do you think about my points?

Thanks for you thoughtful comments regarding the trademark issue. I appreciate your efforts on not only this issue, but with your work on the conference and the nagiosexchange.org website as well.

I believe that transferring the nagiosconference.* domains to me is probably the best thing, given the fact that I have to defend the Nagios trademark, or risk losing it. However, I would like to do the following:

I purchased the nagiosconferences.* domains recently and will use them to host a new dedicated site for conferences that relate to Nagios. I will heavily promote the NETWAYS conference on that site, as well as the main Nagios.org website. Once the nagiosconferences.* site is up and running, we can get the nagiosconference.* domains transferred and I will set them up to all refer to the nagiosconferences.org site. This way people who have the site bookmarked will still find the NETWAYS conference easily. What do you think of this plan?

Take care and best of luck.

Best and take care,
Julian

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