

ADMINISTRATIVE PANEL DECISION

Boehringer Ingelheim International GmbH v. Liu Fen

Case No. DCO2022-0112

1. The Parties

The Complainant is Boehringer Ingelheim International GmbH, Germany, represented by Nameshield, France.

The Respondent is Liu Fen, China.

2. The Domain Name and Registrar

The disputed domain name <praxbind.co> 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 December 6, 2022. On December 7, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 9, 2022, 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 (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 12, 2022 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 December 12, 2022.

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 December 14, 2022. In accordance with the Rules, paragraph 5, the due date for Response was January 3, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 10, 2023.

The Center appointed Dr. Clive N.A. Trotman as the sole panelist in this matter on January 20, 2023. 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 group of pharmaceuticals companies with a history tracing back to 1885. Today the group has about 46,000 employees with an annual turnover in recent years in the order of EUR 14 billion.

The Complainant's product Pradox (dabigatran) is an anticoagulant medication. Praxbind (idarucizumab) deactivates Pradox and may be given when it is desirable to reverse the effect of Pradox, for example for urgent surgery or in the treatment of uncontrolled bleeding.

The Complainant has the following trademarks for PRAXBIND:

PRAXBIND, International trademark, registered on March 12, 2013, registration number 1159336, in class 5;

PRAXBIND, International trademark, registered on June 26, 2015, registration number 1263572, in class 5;

PRAXBIND, United States Patent and Trademark Office ("USPTO"), registered on April 19, 2016, registration number 4938928, international registration number 1263572 as above, in class 5;

PRAXBIND, USPTO, registered on April 19, 2016, registration number 4416606, international registration number 1159336 as above, in class 5.

The Complainant also owns domain names based on the PRAXBIND mark, including <praxbind.com>.

Nothing is known about the Respondent except for the contact details provided at the time of registration of the disputed domain name on November 23, 2022. The disputed domain name has resolved to a website stating that it is for sale for USD 1450 or for rent at USD 100 per month.

5. Parties' Contentions

A. Complainant

The Complainant says the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights. The disputed domain name incorporates the entirety of the Complainant's trademark PRAXBIND. The country code Top-Level Domain ("ccTLD") suffix ".co" does not prevent a likelihood of confusion between the disputed domain name and the Complainant's trademark.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant asserts that the Respondent is not known by the disputed domain name, which is different from the Whois identification of the Respondent. The Respondent is not known to or affiliated with the Complainant and has not been authorised to make any use of the Complainant's trademark. The Respondent's offering of the disputed domain name for sale for USD 1450 is not a *bona fide* offering of goods or services under the Policy and is not a legitimate noncommercial or fair use.

The Complainant submits that having made a *prima facie* case to the effect that the Respondent has no rights or legitimate interests in the disputed domain name, then the Respondent has the burden of demonstrating any such rights or legitimate interests.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. The Complainant's trademark is well known and distinctive and it may reasonably be inferred that the Respondent had prior knowledge of the Complainant's trademark.

The disputed domain name has been offered for sale and the Complainant says it may reasonably be inferred that the registration was made with intent to offer it for sale for profit. The Respondent has also intended to attract Internet users to the disputed domain name for commercial gain. The disputed domain name is so obviously connected with the Complainant's well-known trademark as to indicate that the registration and use have been in bad faith.

The Complainant has cited previous decisions under the Policy that, whilst not having precedential status, the Complainant considers to be supportive of its position.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy states that the Respondent is required to submit to a mandatory administrative proceeding in the event that the Complainant asserts to the applicable dispute-resolution provider, in compliance with the Rules, that:

"(i) your domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and

(ii) you have no rights or legitimate interests in respect of the domain name; and

(iii) your domain name has been registered and is being used in bad faith."

The Complainant has made the relevant assertions as required by the Policy. The dispute is properly within the scope of the Policy and the Panel has jurisdiction to decide the dispute.

A. Identical or Confusingly Similar

The Panel accepts the documentary evidence that the Complainant is the owner of the registered trademark PRAXBIND.

On an objective comparison, the disputed domain name clearly reproduces the entirety of the Complainant's trademark, followed by the ccTLD ".co", which latter is a technical necessity that need not be taken into account. The Panel finds the disputed domain name to be identical to the Complainant's trademark and finds for the Complainant under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant states that *prima facie* the Respondent does not have rights or legitimate interests in respect of the disputed domain name. There is no evidence that the Respondent is known by the disputed domain name. The Respondent has not been authorised by the Complainant to make any use of the Complainant's trademark. The evidence of a screen capture of the parking page of the disputed domain name made on December 6, 2022, showed it to be on offer for sale for USD 1450, which does not qualify as a *bona fide* offering of goods or services under the Policy. There is no evidence the disputed domain name is or has been in any legitimate noncommercial or fair use.

Paragraph 4(c) of the Policy provides for the Respondent to contest the Complainant's *prima facie* case under paragraph 4(a)(ii) of the Policy and to establish rights or legitimate interests in a disputed domain name by demonstrating, without limitation:

- “(i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or
- (iii) you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.”

The Respondent has not contested the Complainant’s *prima facie* case in the terms of paragraph 4(c) of the Policy, or otherwise. Furthermore, the composition of the disputed domain name, being identical to the Complainant’s distinctive trademark, carries a high risk of implied affiliation that cannot constitute fair use.

The Panel finds that the Respondent does not have rights or legitimate interests in the disputed domain name and finds for the Complainant under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Complainant must prove under paragraph 4(a)(iii) of the Policy that the disputed domain name has been registered and is being used in bad faith. Paragraph 4(b) of the Policy lists four alternative circumstances that shall be evidence of the registration and use of a domain name in bad faith by a respondent, namely:

- “(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or
- (ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or
- (iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other on-line location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location.”

The screen capture produced in evidence by the Complainant shows the disputed domain name to have resolved on December 6, 2022, to a website page at “www.dan.com” where it was offered for sale at a “Buy now” price of USD 1450, or a “Lease to own” price of USD 100 per month. There is no evidence of any substantive or other use of the disputed domain name. On the evidence, it may reasonably be concluded that the disputed domain name was registered and is being used primarily for the purpose as displayed on the resolving website, namely for the purpose of selling or renting to the Complainant or a competitor of the Complainant. The definition of a competitor under the Policy is not restricted to a direct commercial or business competitor of the Complainant (*Mission KwaSizabantu v. Benjamin Rost*, WIPO Case No. [D2000-0279](#)). The asking price of USD 1450 or the rental price of USD 100 per month may reasonably be taken to be in likely excess of the costs of registration. Together with the Respondent’s lack of participation in this proceeding, failing to rebut any of the Complainant’s contentions, and the Respondent’s provision of seemingly incomplete or false contact details in light of the courier’s inability to deliver the Center’s written communication, the totality of circumstances suggest an inference of bad faith on part of the Respondent. Accordingly, on the evidence, and on the balance of probabilities, the Panel finds the disputed domain name to have been registered and used in bad faith under paragraphs 4(b)(i) and 4(a)(iii) of the Policy.

The Complainant's further grounds of complaint under paragraph 4(b)(iv) of the Policy need not be proceeded with.

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, <praxbind.co>, be transferred to the Complainant.

/Dr. Clive N.A. Trotman/

Dr. Clive N.A. Trotman

Sole Panelist

Date: February 3, 2023