

## **ADMINISTRATIVE PANEL DECISION**

**Bachem Holding AG v. on Behalf of Bachem-us.com Owner,  
Identity Protection Service / Mike Aaronson  
Case No. D2022-0849**

### **1. The Parties**

The Complainant is Bachem Holding AG, Switzerland, represented by Isenbruck Bösl Hörschler PartG mbB, Germany.

The Respondent is on Behalf of Bachem-us.com owner, Identity Protection Service, United States of America (“United States”) / Mike Aaronson, United States.

### **2. The Domain Name and Registrar**

The disputed domain name <bachem-us.com> is registered with Amazon Registrar, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 11, 2022. On March 11, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 11, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on March 14, 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 amendment to the Complaint on March 21, 2022.

The Center verified that the Complaint together with the amendment to the 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 24, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 13, 2022. An informal email was received by the Respondent on March 14, 2022.

The Center appointed Marilena Comanescu as the sole panelist in this matter on April 27, 2022. 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 Swiss based company operating in Europe, United States, and Asia. The Complainant claims it is a world leader in developing and manufacturing peptides and oligonucleotides and that it has over 50 years of experience and expertise. The Complainant supports customers in the discovery and development of innovative medicines that help to treat and cure patients for a variety of diseases.

Bachem offers its products and services directly on its website available at "www.bachem.com".

The Complainant holds trademark registrations for BACHEM mark, such as the United States Registration No. 4826587, filed on February 19, 2015 and registered on October 6, 2015, covering services in class 40.

The disputed domain name <bachem-us.com> was registered on January 20, 2022, and, according to the evidence provided in the Complaint, at the time of filing the Complaint it was not actively used.

The Complainant sent a cease and desist letter to the Respondent on February 10, 2022, but no response was received.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant contends that the disputed domain name is confusingly similar to its trademark BACHEM as it contains such mark together with the geographical indication "us", the Respondent has no rights or legitimate interests in the disputed domain name, and the Respondent registered and is using the disputed domain name in bad faith. The Complainant requests the transfer of the disputed domain name to it.

##### **B. Respondent**

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

On March 14, 2022 the Center received an email communication from the Respondent Mike Aaronson stating that "[...] I am not sure how you received my information but I am not connected to bachem-us.com in any way. Is it possible my identity has been compromised?".

#### **6. Discussion and Findings**

In view of the absence of a formal Response, the discussion and findings will be based upon the contentions in the Complaint and any reasonable position that can be attributable to the Respondent. Under paragraph 4(a) of the Policy, a complainant can only succeed in an administrative proceeding under the Policy if the following circumstances are met:

- (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 the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The Panel will further analyze the potential concurrence of the above circumstances.

### **A. Identical or Confusingly Similar**

The Panel finds that the Complainant holds rights in the BACHEM trademark.

The disputed domain name incorporates the trademark BACHEM with one additional term, “us”. However, such addition does not prevent a finding of confusing similarity as the Complainant’s trademark is clearly recognizable within the disputed domain name.

Numerous UDRP panels have considered that the addition of other terms (whether geographical wording, descriptive, pejorative, meaningless or otherwise) to trademarks in a domain name is not sufficient to escape a finding of confusing similarity. See section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)).

Further, it is well established in decisions under the UDRP that the generic Top-Level Domain (“gTLD”) (e.g., “.com”, “.site”, “.info”, “.shop”) is typically disregarded for the purposes of consideration of confusing similarity between a trademark and a domain name. See section 1.11 of the [WIPO Overview 3.0](#).

Given the above, the Panel finds that the disputed domain name is confusingly similar to the trademark BACHEM, pursuant to the Policy, paragraph 4(a)(i).

### **B. Rights or Legitimate Interests**

The Complainant asserts that the Respondent does not hold any trademark rights, license, or authorization whatsoever to use the mark BACHEM, that the Respondent is not commonly known by the disputed domain name, and that the Respondent has not used the disputed domain name in connection with a legitimate noncommercial or fair use or a *bona fide* offering of goods or services.

Under the Policy, “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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element”. See section 2.1 of the [WIPO Overview 3.0](#).

Although properly notified with regard to the present procedure, the Respondent failed to provide a substantive Response to invoke any circumstances which could demonstrate any rights or legitimate interests in the disputed domain name.

The mere allegations that the disputed domain name is not connected to him and the query of whether his identity has been compromised do not provide a basis for finding any rights or legitimate interests. Also, contrary to these allegations, the information in the Whois (at least the registrant name and email address), confirmed by the Registrar, indicates the Respondent as the registrant of record for the disputed domain name.

In addition, and without prejudice to the above, UDRP panels have found that domain names consisting of a trademark plus an additional term cannot constitute fair use if they effectively impersonate or suggest sponsorship or endorsement by the trademark owner, as is the case here. See section 2.5.1 of the [WIPO Overview 3.0](#).

For these reasons, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name, pursuant to the Policy, paragraph 4(a)(ii).

### **C. Registered and Used in Bad Faith**

The Complainant holds trademark rights for BACHEM since at least 2001, carries its activities under the name Bachen, and promotes its business under the domain name <bachem.com> since around 1996.

The disputed domain name was registered in 2022 and incorporates the Complainant's mark together with the term "us", an abbreviation for the United States, where the Complainant operates and has held trademark registrations for decades.

From the above, the Panel finds that the Respondent was aware of the Complainant, its business, and trademark at the registration of the disputed domain name.

According to the case file documents before it, the Panel finds no evidence of actual use of the disputed domain name during the short period between its registration and commencement of the present proceeding. From the inception of the UDRP, panels have found that the non-use of a domain name (including a blank or "coming soon" or other similar inactive page) would not prevent a finding of bad faith under the doctrine of passive holding. The Panel must examine all the circumstances of the case to determine whether the Respondent is acting in bad faith. Examples of what may be relevant circumstances found to be indicative of bad faith include the degree of distinctiveness or reputation of the complainant's mark and the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good faith use. See section 3.3 of the [WIPO Overview 3.0](#).

As previously mentioned, the Complainant has held trademark registrations for BACHEM worldwide for decades, and uses a similar company name and domain name; the disputed domain name incorporates exactly the Complainant's trademark together with an abbreviated form of the United States, where the Complainant conducts business, and the Respondent has not provided any arguments for choosing the disputed domain name or otherwise replied to the Complainant's contentions.

The mere allegations made in the informal email communication, regardless of their veracity, do not indicate any good faith use, and moreover, in these circumstances the Panel is unable to determine any plausible good faith use to which the disputed domain name may be put.

For all the above reasons, the Panel finds that the Respondent registered and is using the disputed domain name in bad faith, pursuant to the Policy, paragraph 4(a)(iii).

### **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 <bachem-us.com> be transferred to the Complainant.

*/Marilena Comanescu/*

**Marilena Comanescu**

Sole Panelist

Date: May 11, 2022