

ADMINISTRATIVE PANEL DECISION

Biofarma v. Derek Broman
Case No. DCO2022-0041

1. The Parties

The Complainant is Biofarma, France, represented by IP Twins, France.

The Respondent is Derek Broman, United States of America.

2. The Domain Name and Registrar

The disputed domain name <coversyl.co> is registered with Sav.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 19, 2022. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. Also on May 19, 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 May 25, 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 also on May 25, 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 June 2, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 22, 2022. Aside from an informal communication sent on June 14, 2022,¹ the Respondent did not submit any formal response. Accordingly, the Center notified the Commencement of Panel Appointment Process on June 23, 2022.

¹ The Respondent’s communication stated, “I want to know what domain you are referring to and what the problem is?” The Center acknowledged receipt of the Respondent’s communication, forwarding the Notification of Complaint and Commencement of Administrative Proceeding sent on June 2, 2022. No further communication was received from the Respondent.

The Center appointed Taras Kyslyy as the sole panelist in this matter on June 30, 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 part of the Servier Group, the independent French pharmaceutical group. Servier is present in 150 countries worldwide, 100 million of patients are treated with the group's various medicines.

COVERSYL designates one of the Complainant's medicines. The Complainant owns numerous trademark registrations worldwide for COVERSYL including, for instance International Registration No. 453868, registered on July 21, 1980.

The Complainant is also the holder of numerous domain names incorporating its COVERSYL trademark, including <coversyl.com> since 1996.

The disputed domain name was registered on January 27, 2022, and redirects towards a page offering <coversyl.co> for sale at USD 855.

5. Parties' Contentions

A. Complainant

The disputed domain name is identical or confusingly similar to the Complainant's trademark. The second level of the disputed domain name is identical to the Complainant's trademark.

The Respondent has no rights or legitimate interests in the disputed domain name. COVERSYL has no meaning in any dictionary, thus the Respondent cannot claim to need the disputed domain name, or the term "coversyl" for its descriptive, generic meaning. The Respondent cannot claim to have trademark rights over the word "coversyl". There is no evidence that the Respondent has been commonly known by the disputed domain name as an individual, business, or other organization. The Complainant has no business relationship with the Respondent, who does not enjoy any license, partnership or authorization from the Complainant. The use of the disputed domain name, which redirects towards a page offering it for sale does not show any use that would indicate a *bona fide* offering of goods or service attached to the disputed domain name.

The disputed domain name was registered and is being used in bad faith. "Coversyl" is a fanciful, arbitrary, distinctive term. The combination of the distinctiveness of the Complainant's trademark and its extensive use makes it highly unlikely that the Respondent did not know about the Complainant before the registration of the disputed domain name. The Complainant's COVERSYL trademark registrations significantly predate the registration date of the disputed domain name. The Respondent specifically chose the disputed domain name because its identity with a trademark in which the Complainant has rights and legitimate interest. This was done in the hope and expectation that the Complainant would purchase the disputed domain name to the Respondent. The current use of the disputed domain name must not be considered a good faith use, as it redirects towards a page offering the disputed domain name for sale for a sum well above out-of-pocket costs of the disputed domain name registration.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

According to section 1.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (the "[WIPO Overview 3.0](#)") the applicable TLD in a domain name (e.g., ".com", ".club", ".nyc") is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. Thus, the Panel disregards TLD ".co" for the purposes of the confusing similarity test.

According to section 1.7 of the [WIPO Overview 3.0](#) in cases where a domain name incorporates the entirety of a trademark the domain name will normally be considered identical or confusingly similar to that mark for purposes of UDRP standing.

Considering the above the Panel finds the disputed domain name is identical to the Complainant's trademark, therefore, the Complainant has established its case under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant has established *prima facie* that the Respondent has no rights or legitimate interests in the disputed domain name.

Furthermore, the Respondent provided no evidence that the Respondent holds rights or legitimate interests in the disputed domain name.

There is no evidence that the Respondent is commonly known by the disputed domain name, which could demonstrate the Respondent's rights or legitimate interests (see, e.g., *World Natural Bodybuilding Federation, Inc. v. Daniel Jones, TheDotCafe*, WIPO Case No. [D2008-0642](#)).

The Complainant did not license or otherwise agree for use of its prior registered trademarks by the Respondent, thus no actual or contemplated *bona fide* or legitimate use of the disputed domain name could be reasonably claimed (see, e.g., *Sportswear Company S.P.A. v. Tang Hong*, WIPO Case No. [D2014-1875](#)).

Considering the above the Panel finds the Respondent does not have rights or legitimate interests in the disputed domain name. Therefore, the Complainant has established its case under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

According to section 3.2.2 of the [WIPO Overview 3.0](#), further factors including the nature of the domain name, the chosen top-level domain, any use of the domain name, or any respondent pattern, may obviate a respondent's claim not to have been aware of the complainant's mark. In the present case the Respondent took a fanciful, arbitrary, distinctive term identical to the Complainant's trademark to register it as the disputed domain name. The Panel finds that the nature of the disputed domain name confirms the Respondent knew or should have known of the Complainant's prior trademark rights, which confirms the bad faith.

According to section 3.1 of the [WIPO Overview 3.0](#), bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark. To facilitate assessment of whether this has occurred, and bearing in mind that the burden of proof rests with the complainant, paragraph 4(b) of the Policy provides that any one of the following non-exclusive scenarios constitutes evidence of a respondent's bad faith:

(i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name 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

the respondent's documented out-of-pocket costs directly related to the domain name; or

(ii) the respondent has 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 the respondent has engaged in a pattern of such conduct; or

(iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website 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 the respondent's website or location or of a product or service on the respondent's website or location.

The Panel finds that the disputed domain name is inherently misleading, comprised solely of the Complainant's COVERSYL trademark, and that Internet users are likely to be deceived into assuming that the disputed domain name is operated or authorized by the Complainant. Moreover, the Panel finds that the Respondent has registered the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the disputed domain name to the Complainant or to a competitor of the Complainant, for valuable consideration likely in excess of the Respondent's documented out-of-pocket costs directly related to the domain name.

Considering the above the Panel finds the disputed domain name was registered and is being used in bad faith. Therefore, the Complainant has established its case under paragraph 4(a)(iii) 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 <coversyl.co> be transferred to the Complainant.

/Taras Kyslyy/

Taras Kyslyy

Sole Panelist

Date: July 15, 2022