

ADMINISTRATIVE PANEL DECISION

Boehringer Ingelheim International GmbH v. Liu Fen
Case No. DCO2022-0111

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 <glyxambi.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 9, 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 13, 2022. In accordance with the Rules, paragraph 5, the due date for Response was January 2, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 3, 2023.

The Center appointed Clive Duncan Thorne as the sole panelist in this matter on January 17, 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 one of the top 20 pharmaceutical companies worldwide. It was founded in 1885 by Albert Boehringer in Ingelheim am Rhein, Germany, where it is still based. It employs around 52,000 employees. It has three business areas; Human Pharma, Animal Health, and Biopharmaceutical Contract Manufacturing. In 2021, it achieved net sales of EUR 20.6 billion.

One of its products is GLYXAMBI which is a prescription medication for the treatment of type 2 diabetes mellitus to improve glycaemic control in adults when treatment with empagliflozin and linagliptin is appropriate.

The Complainant owns International registration No.1158911 for GLYXAMBI in class 5 for pharmaceutical preparations, registered on March 20, 2013, and designated for numerous countries worldwide.

The Complainant also owns multiple domain names consisting of the mark GLYXAMBI such as <glyxambi.com>, which was registered on November 27, 2013.

In the absence of a Response little is known about the Respondent who is not known to the Complainant save that his contact address is in China. The disputed domain name was registered on November 23, 2022, which is well after registration of the Complainant's mark GLYXAMBI. The disputed domain name redirects to a website offering the disputed domain name for sale for USD 1,450.

5. Parties' Contentions

A. Complainant

The Complainant submits:

- i. the disputed domain name is identical to the Complainant's trade mark GLYXAMBI;
- ii. the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- iii. the disputed domain name was registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

Having compared the disputed domain name with the Complainant's trade mark GLYXAMBI it is clear that, excluding the Top-Level Domain ".co", the domain name and trade mark are identical. The domain name incorporates the GLYXAMBI trade mark in its entirety.

The Complainant submits that the addition of the Top-Level Domain “.co” does not change the overall impression of the domain name as being connected to the trade mark. Moreover, it is well-established that the Top-Level Domain is viewed as a standard registration requirement and as such is typically disregarded under the first element confusing similarity test.

The Panel therefore finds that the disputed domain name is identical to the Complainant’s registered trade mark GLYXAMBI within paragraph 4(a)(i) of the Rules.

B. Rights or Legitimate Interests

The Complainant rightly relies on the fact that the Complainant is required to make out a *prima facie* case that the Respondent lacks rights or legitimate interests. Once such a *prima facie* case is established the Respondent then carries the burden of demonstrating rights or legitimate interests in the disputed domain name. Authority for this is set out in WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 2.1.

The Complainant points out that there is no evidence that the Respondent is known by the disputed domain name.

The Respondent is not known to the Complainant. It is not affiliated or authorized by the Complainant in any way. The Complainant does not carry out any activity for, nor has any business dealings with the Respondent. In particular, the Complainant confirms that no license or authorization has been granted to the Respondent to make any use of its trade mark GLYXAMBI or permit it to apply for registration of the disputed domain name.

In the absence of a Response, the Respondent has failed to rebut the Complainant’s *prima facie* case that the Respondent does not have any rights or legitimate interests in the disputed domain name.

Moreover, the identical nature of the disputed domain name carries a high risk of implied affiliation. See [WIPO Overview 3.0](#), section 2.5.1.

On the basis of the above the Panel is satisfied that the Respondent has no rights or legitimate interests in the disputed domain name within Paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Complainant submits that the disputed domain name incorporates its well-known and distinctive trade mark GLYXAMBI in its entirety, coupled with the fact that GLXAMBI has no dictionary meaning, evidences and establishes the inference that the reason why the Respondent registered the domain name was because of its value as the Complainant’s trade mark.

There is no evidence to the contrary and in these circumstances the Panel finds that the disputed domain name was registered in bad faith. There is no other plausible reason why the disputed domain name, identical to the Complainant’s trade mark, was registered.

The Panel also takes into account that the disputed domain name resolves to a web page where the disputed domain name is offered for sale for USD 1,450. The domain name is expressly described as “highly brandable” thereby suggesting its attraction to a purchaser in the pharmaceutical industry. This offer for sale of the disputed domain name, which is identical to the Complainant’s distinctive, coined trademark, supports a finding of use in bad faith.

The Panel therefore finds that the disputed domain was registered and used in bad faith within Paragraph 4(b)(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 <glyxambi.co> be transferred to the Complainant.

/Clive Duncan Thorne/

Clive Duncan Thorne

Sole Panelist

Date: January 31, 2023