

ADMINISTRATIVE PANEL DECISION

BASF SE v. Yerima Yerima, Yerima Yerima

Case No. D2023-0936

1. The Parties

The Complainant is BASF SE, Germany, represented by IP Twins, France.

The Respondent is Yerima Yerima, Yerima Yerima, Cameroon.

2. The Domain Name and Registrar

The disputed domain name <basfholding-gmbh.com> is registered with DreamHost, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 2, 2023. On March 2, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 6, 2023, 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 (Proxy Protection LLC, Proxy Protection LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 9, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Center received an email communication from the Respondent on March 9, 2023. On March 10, 2023, the Complainant filed an amended Complaint.

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 March 14, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 3, 2023. On March 9, 2023, the Center received an email communication from the Respondent.

The Center appointed Wilson Pinheiro Jabur as the sole panelist in this matter on April 24, 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 largest chemical manufacturers in the world, counting with 390 other production sites in Europe, Asia, Australia, the United States of America, and Africa, as well as customers in over 200 countries, employing more than 112,000 people around the world.

The Complainant is the owner, amongst numerous others, of the international registrations for the trademark BASF:

- No. 638794, registered on May 3, 1995, subsequently renewed, in classes 03, 05, and 30; and
- No. 909293, registered on October 31, 2006, subsequently renewed, in classes 01, 02, 03, 04, 05, 06, 07, 09, 10, 12, 16, 17, 18, 19, 22, 24, 25, 27, 28, 29, 30, 31, 32, 35, 36, 37, 39, 41, 42, and 44.

The disputed domain name was registered on November 28, 2022, and presently redirects Internet users to an inactive webpage hosted at <belinvestr.site>. In the past the disputed domain name was used in connection with an online shop impersonating the Complainant (Annex 14 to the Amended Complaint).

5. Parties' Contentions

A. Complainant

The Complainant asserts to be the largest chemical company in the world, being listed on the Frankfurt Stock Exchange, London Stock Exchange, and Zurich Stock Exchange. According to the Complainant its conglomerate comprises subsidiaries and joint ventures in more than 80 countries.

The Complainant further asserts that its BASF trademark has already been found to be "a famous trademark" (*BASF SE v. Jim Welsh*, WIPO Case No. [D2010-2000](#)), enjoying a "widespread reputation and high degree of recognition as a result of their fame and notoriety" (*BASF SE v. kou xiansheng, bashifurunhuayouwuxiyouxiangongsi*, WIPO Case No. [D2015-2245](#)).

The Complainant contends that the disputed domain name is highly similar to its BASF trademark and likely to create confusion in the mind of the general public, the addition of the terms "holding" and "gmbh" not diminishing the risk of confusion, but rather increasing the risk of confusion on the part of the Internet user of average attention.

Moreover, the Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name given that:

- (a) the Respondent has acquired no trademark or service mark related to the BASF term;
- (b) the Respondent has never been granted authorization, license or any right whatsoever to use the Complainant's BASF trademarks; not being the Respondent commercially linked to the Complainant;
- (c) the Respondent, in having used the disputed domain name in an attempt to impersonate the Complainant has not used the disputed domain name in connection with a *bona fide* offering of goods or services in accordance with paragraph 4(c)(i) of the Policy; and
- (d) the burden is on the Respondent to establish the Respondent's rights or legitimate interests the Respondent may have or have had on the disputed domain name.

As to the registration of the disputed domain name in bad faith, the Complainant asserts that the Respondent knew or should have known of the Complainant's widely well-known trademark rights at the time of the registration of the disputed domain name considering that it has used the disputed domain name in an attempt to impersonate the Complainant, thus having the Respondent used the disputed domain name to

intentionally attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation or endorsement of the website.

B. Respondent

On March 9, 2023, the Respondent sent an email message to the Center stating that: "A domain of mine was placed under dispute with no reason stated. Please I would like to find out why my domain was placed under dispute and no message concerning this domain was sent to me."

No further communication or formal response was submitted by the Respondent.

6. Discussion and Findings

Paragraph 4(a) of the Policy sets forth the following three requirements, which have to be met for this Panel to order the transfer of the disputed domain name to the Complainant:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The Complainant must prove in this administrative proceeding that each of the aforesaid three elements is present in order to obtain the transfer of the disputed domain name.

A. Identical or Confusingly Similar

The Complainant has established its rights in the BASF trademark.

The Panel finds that the disputed domain name reproduces the Complainant's trademark in its entirety. The addition of the terms "holding" and "gmbh" and a hyphen does not prevent a finding of confusing similarity under the Policy which, as recognized by past UDRP panels, involves a "comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name". (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7.)

The first element of the Policy has therefore been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a non-exclusive list of circumstances that may indicate the Respondent's rights to or legitimate interests in the disputed domain name. These circumstances are:

- (i) before any notice of the dispute, the Respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the Respondent (as an individual, business, or other organization) has been commonly known by the disputed domain name, in spite of not having acquired trademark or service mark rights; or
- (iii) the Respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

In the present case, the Respondent used the disputed domain name in connection with a website that clearly sought to impersonate the Complainant, which clearly cannot be considered a *bona fide* offering of goods or services.

In addition to that, the absence of any indication that the Respondent has been commonly known by the disputed domain name, or that it has acquired any registered trademarks or trade names corresponding to the disputed domain name, as well as the Complainant's statement that the Respondent has never been granted authorization, license or any right whatsoever to use the Complainant's BASF trademarks; not being the Respondent commercially linked to the Complainant corroborate with the indication of the Respondent's lack of rights or legitimate interests in the disputed domain name.

Under these circumstances and absent evidence to the contrary, the Panel finds that the Respondent does not have rights or legitimate interests with respect to the disputed domain name.

C. Registered and Used in Bad Faith

The Policy indicates in paragraph 4(b)(iv) of the Policy that bad faith registration and use can be found in respect of the disputed domain name, where a respondent has intentionally attempted to attract, for commercial gain, Internet users to the website or other online location, by creating a likelihood of confusion with a complainant's mark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on the website or location.

In this case, the use of the disputed domain name in connection with a website that impersonated the Complainant characterizes the Respondent's intent of commercial gain by misleadingly diverting the Complainant's consumers.

The Respondent's bad faith conduct is further corroborated by the following circumstances:

- (i) the Respondent has provided no evidence whatsoever of any actual or contemplated good faith use of the disputed domain name, not having submitted a formal response;
- (ii) the well-known status of the Complainant's trademark;
- (iii) the Respondent's choice to retain a privacy protection service to conceal its true identity; and
- (iv) the indication of what appears to be false contact details, not having the Center's courier service been capable of delivering the written notice to the Respondent.

For the reasons above, the Panel finds that the Respondent's amounts to bad faith registration and use of the disputed domain name pursuant to paragraph 4(b)(iv) of the Policy.

The third element of the Policy has therefore been established.

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, <basfholding-gmbh.com> be transferred to the Complainant.

/Wilson Pinheiro Jabur/

Wilson Pinheiro Jabur

Sole Panelist

Date: May 8, 2023