

ADMINISTRATIVE PANEL DECISION

BioNTech SE v. Wang Liqun

Case No. DAE2023-0003

1. The Parties

The Complainant is BioNTech SE, of Germany, represented by MSA IP – Milojevic Sekulic & Associates, Serbia.

The Respondent is Wang Liqun, of China.

2. The Domain Name and Registrar

The disputed domain name <biontech.ae> is registered with AE Domain Administration (.aeDA).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 16, 2023. On May 17, 2023, the Center transmitted by email to AE Domain Administration (.aeDA) a request for registrant verification in connection with the disputed domain name. On May 18, 2023, AE Domain Administration (.aeDA) transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the Complaint satisfied the formal requirements of the UAE Domain Name Dispute Resolution Policy for – UAE DRP approved by .aeDA (the “Policy”), the Rules for UAE Domain Name Dispute Resolution Policy – UAE DRP (the “Rules”), and the Supplemental Rules for UAE Domain Name Dispute Resolution Policy – UAE DRP (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2(a) and 4(a), the Center formally notified the Respondent of the Complaint, and the proceedings commenced on May 24, 2023. In accordance with the Rules, paragraph 5(a), the due date for Response was June 20, 2023. The Respondent did not submit any Response. Accordingly, the Center notified the Respondent’s default on June 27, 2023.

The Center appointed Nayiri Boghossian as the sole panelist in this matter on June 29, 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 next generation biotechnology company founded in 2008. The Complainant owns many trademark registrations for BIONTECH such as:

- International registration No. 1682233 registered on December 28, 2021.
- International registration No. 1370266 registered on July 10, 2017.

The disputed domain name was registered on November 6, 2022. The disputed domain name resolves to pay-per-click ("PPC") website offered for sale for the amount of EUR 9,500.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is identical to the Complainant's trademark. The Complainant's trademark has been found to be well known by prior panels. The disputed domain name incorporates the Complainant's trademark in its entirety and without the addition of any terms. The country code Top-Level Domain ("ccTLD") ".ae" is not relevant in the assessment of confusing similarity as it is a standard registration requirement.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant did not authorize the Respondent to use its trademark in the disputed domain name nor is the Complainant affiliated with the Respondent. The Respondent is not using the disputed domain name in connection with a *bona fide* offering of goods or services. In fact, the disputed domain name is offered for sale. The Respondent is not commonly known by the disputed domain name. The Respondent is engaged in a pattern of registering domain names corresponding to marks held by third parties or by the Complainant. This cannot be a *bona fide* offering of goods or services.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. The Respondent must have been aware of the Complainant's trademark, which became well known as a result of COVID-19 and the media coverage of the Complainant. Further indication of such knowledge is that at least four more domain names identical to the Complainant's trademark are registered by the Respondent.

The Respondent has a history of bad faith registrations of well-known trademarks. Bad faith is found when a domain name is so obviously connected with a well-known trademark that its very use by someone with no connection to the trademark suggests opportunistic bad faith. It was the Respondent's duty to verify, prior to registering the disputed domain name, that the registration of the disputed domain name would not infringe the rights of any third party. The Respondent deliberately chose the disputed domain name with the Complainant in mind in order to sell it and make a commercial gain or to disrupt the Complainant's business. A quick search would have revealed the existence of the Complainant and its trademark. A likelihood of confusion is presumed and such confusion will divert Internet traffic to the Respondent's site. The disputed domain name resolves to a PPC webpage and is offered for sale. This is an indication that the Respondent is using the disputed domain name in order to make a commercial gain by abusing the Complainant's reputation. It is likely that the Respondent registered the disputed domain name to prevent the Complainant from registering its own domain name with the ccTLD ".ae". On the basis of the above, there is clear inference to be drawn that the Respondent is trying to benefit from the fame of the Complainant's trademark.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant owns trademark registrations for BIONTECH. The Panel is satisfied that the Complainant has established its ownership of the trademark BIONTECH.

The disputed domain name incorporates the Complainant's trademark BIONTECH in its entirety. The ccTLD ".ae" can be ignored when assessing confusing similarity as it is a standard registration requirement.

Consequently, the Panel finds that the disputed domain name is identical to the trademark of the Complainant and that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, a complainant must make at least a *prima facie* showing that a respondent does not have any rights or legitimate interests in the disputed domain name. Once such showing is made, the burden of production shifts to the respondent. In the instant case, the Complainant asserts that the Respondent is not authorized by the Complainant to use its trademark. The Complainant further asserts that the Respondent is not using the disputed domain name for a *bona fide* offering of goods or services. Therefore, the Complainant has established a *prima facie* case, and the burden of production shifts to the Respondent to show that it has rights or legitimate interests.

Panels have found that the use of a domain name to host a parked page comprising PPC links does not represent a *bona fide* offering where such links capitalize on the reputation and goodwill of the complainant's mark. The website to which the disputed domain name resolves contains a variety of PPC links including a link entitled "biotech". It is the Panel's view that the Respondent is trying to capitalize on the reputation and goodwill of the Complainant's trademarks. In *Legacy Health System v. Nijat Hassanov*, WIPO Case No. [D2008-1708](#)¹, it was found that the respondent had no rights or legitimate interests as "the sole purpose of the disputed domain name is to resolve to pay-per-click advertising websites and collect click-through revenue from advertising links. Such use demonstrates that the Respondent has used the disputed domain name to derive a commercial benefit. There is no indication on the website that the Respondent has made a *bona fide* use of the disputed domain name".

The absence of a response by the Respondent allows the Panel to draw inferences, and under the circumstances, the absence of a response leaves the Complainant's *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name un rebutted.

Accordingly, the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered or Used in Bad Faith

The Respondent must have been aware of the Complainant's trademark as it is well known. Furthermore, the disputed domain name resolves to a parking webpage that contains PPC links including a link entitled "biotech". It is therefore highly likely that the Respondent was aware of the Complainant's business and its trademark and intended to trade off its reputation.

Additionally, a parked page with sponsored links is an indication of bad faith use under the circumstances. In *Mpire Corporation v. Michael Frey*, WIPO Case No. [D2009-0258](#), the panel found that "While the intention to earn click-through-revenue is not in itself illegitimate, the use of a domain name that is deceptively similar to a trademark to obtain click-through-revenue is found to be bad faith use".

¹ Noting the substantive similarities between the Policy and the Uniform Domain Name Dispute Resolution Policy ("UDRP"), the Panel will refer to prior UDRP cases and doctrine, as well as to applicable sections of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), where appropriate.

Lastly, the disputed domain name is offered for sale for EUR 9,500. These figure likely exceeds the out-of-pocket expenses, which is a further indication of bad faith.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(iii) of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 6(i) of the Policy and 15 of the Rules, the Panel orders that the domain name <biontech.ae> be transferred to the Complainant.

/Nayiri Boghossian/

Nayiri Boghossian

Panelist

Date: July 13, 2023