

## **ADMINISTRATIVE PANEL DECISION**

BioNTech SE v. Lei Wang  
Case No. DME2023-0006

### **1. The Parties**

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

The Respondent is Lei Wang, China.

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

The disputed domain name <biontech.me> is registered with Dynadot, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 5, 2023. On May 8, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 9, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 10, 2023 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 May 14, 2023.

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 May 24, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 13, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 19, 2023.

The Center appointed Fabrizio Bedarida as the sole panelist in this matter on June 26, 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 in this proceeding is a biotechnology company pioneering the development of novel therapies for cancer and other serious diseases. The company focuses on developing cancer therapeutics, including individualized immunotherapy, as well as vaccines for infectious diseases, including COVID-19 (together with United States pharmaceutical company Pfizer). The Complainant has a strong global media presence because it is one of the few companies to have developed a vaccine against COVID-19 in response to the growing global health crisis.

A number of prior panels in domain name disputes have recognized the well-known character of the BIONTECH trademark.

The Complainant is, *inter alia*, the owner of:

- International Trademark registration No.1478253, for the BIONTECH (device) trademark, registered on April 5, 2019;
- International Trademark registration No. 1370266, for the BIONTECH trademark (word), registered on July 10, 2017;
- European Union trademark registration No.008964447, for the BIONTECH (word) trademark registered on December 22, 2010;
- European Union trademark registration No. 016241465, for the BIONTECH (word) trademark registered on November 9, 2017;
- United States Trademark registration No. 5712036, for the BIONTECH (word) trademark, registered on April 2, 2019.

The Complainant also owns a number of domain names that comprise the “biontech” element, including <biontech.com> registered on May 29, 1998; <biontech.info> registered on February 27, 2009; <biontech.net> registered on February 27, 2009; <biontech.us> registered on May 9, 2019; <biontech-covid19.com> registered on June 5, 2020; and <biontechglobal.com> registered on April 20, 2020.

The disputed domain name was registered on November 25, 2022.

The disputed domain name resolved to a Registrar’s parking page on which the disputed domain name is offered for sale.

#### **5. Parties’ Contentions**

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

The Complainant contends that the disputed domain name is confusingly similar to the BIONTECH trademark, that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the disputed domain name has been registered and is being used in bad faith.

The Complainant further stresses that given the Complainant’s extensive presence in the media in the ongoing COVID-19 health crisis and recognition of its vaccine (commonly known as theBioNTech/Pfizer COVID-19 vaccine or Pfizer/BioNTech COVID-19 vaccine), the Complainant’s BIONTECH trademark has gained a renowned status within a short period of time, and thus it is implausible that the Respondent registered the disputed domain name without knowing of the Complainant’s BIONTECH trademark.

## **B. Respondent**

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

## **6. Discussion and Findings**

In order for the Complainant to obtain the transfer of the disputed domain name, paragraphs 4(a)(i)-(iii) of the Policy require that the Complainant must demonstrate to the Panel that:

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

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

The Complainant has established rights in the BIONTECH trademark. The only difference between the BIONTECH trademark and the disputed domain name is the addition of the country code Top-Level Domain ("ccTLD") ".me".

The Panel considers that the use of the ccTLD is irrelevant in assessing the confusing similarity between the Complainant's trademarks and the disputed domain name.

Therefore, the Panel finds the disputed domain name to be identical to the BIONTECH trademark in which the Complainant has rights.

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

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

This Panel finds that the Complainant has made a *prima facie* case that the Respondent does not have rights or legitimate interests in the disputed domain name. The Respondent has no connection or affiliation with the Complainant and the Complainant has not licensed or otherwise authorized the Respondent to use or register any domain name incorporating the Complainant's trademark. The Respondent does not appear to engage in any legitimate noncommercial or fair use of the disputed domain name, nor any use in connection with a *bona fide* offering of goods or services. In addition, the Respondent does not appear to be commonly known by the disputed domain name or by a similar name. The Respondent has not formally replied to the Complainant's contentions, claiming any rights or legitimate interests in the disputed domain name. Given that the disputed domain name is identical to the Complainant's distinctive and renowned BIONTECH trademark, the composition is such to carry a high risk of implied affiliation to the Complainant, contrary to the fact, which cannot constitute fair use.

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

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

The Panel, on the basis of the evidence presented, finds that the disputed domain name was registered and has been used in bad faith.

The Panel is of the opinion that the Respondent was aware of the Complainant's trademark registrations and rights to the BIONTECH trademark when it registered the disputed domain name.

Given the Complainant's extensive presence in the media during the COVID-19 health crisis and recognition of its vaccine, the Complainant's BIONTECH trademark has undoubtedly gained a well-known status.

Therefore, owing to the repute of the BIONTECH trademark, and the substantial presence established on the Internet by the Complainant, it is at the least very unlikely that the Respondent was not aware of the existence of the Complainant's trademarks when registering the disputed domain name identical to the Complainant's trademark.

Hence, the registration of the disputed domain name does not seem to be a coincidence, and thus indicates that the Respondent knew of the Complainant's mark and intentionally intended to create an association with the Complainant and its business at the time of the registration of the disputed domain name.

Further inference of bad faith can be found in the fact that the disputed domain name is offered for sale for USD 4,988, which is most likely in excess of the out-of-pocket costs related to the disputed domain name. This is further evidence of bad faith in accordance with paragraph 4(b)(i) of the Policy.

The bad faith registration and use of the disputed domain name is also affirmed by the fact that the Respondent has not responded to, let alone denied, the assertions of bad faith made by the Complainant in this proceeding.

Lastly, in these circumstances, the current passive holding of the disputed domain name would not prevent a finding of bad faith. See section 3.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Accordingly, the Panel finds that the Respondent registered and is using the disputed domain name in bad faith.

Therefore, the Complainant has satisfied 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, <biontech.me> be transferred to the Complainant.

*/Fabrizio Bedarida/*

**Fabrizio Bedarida**

Sole Panelist

Date: July 10, 2023