

ADMINISTRATIVE PANEL DECISION

Idorsia Pharmaceuticals Ltd v. Qingqing Ye
Case No. D2024-1504

1. The Parties

The Complainant is Idorsia Pharmaceuticals Ltd, Switzerland, represented by SILKA AB, Sweden.

The Respondent is Qingqing Ye, United States of America.

2. The Domain Name and Registrar

The disputed domain name <idosria.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 9, 2024. On April 10, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 18, 2024, 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 amendment to the Complaint on April 22, 2024.

The Center verified that the Complaint together with the amendment to the 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 April 24, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 14, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 16, 2024.

The Center appointed Antony Gold as the sole panelist in this matter on May 23, 2024. 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 biopharmaceutical company, headquartered in Allschwil, Switzerland, which specializes in the discovery, development and commercialization of medicines for therapeutic purposes. The Complainant began its operations in 2017. It employs more than 800 professionals and has commercial operations in Europe and North America. For the first nine months of 2023, the Complainant's revenue was CHF 131 million.

The Complainant's brand is IDORSIA and it has registered many trademarks to protect this trading style. These include, by way of example only, Swiss trademark, registration number 610174, for IDORSIA, in class 5, registered on January 11, 2011. The Complainant also operates many domain names comprising its mark, including the domain name <idorsia.com>, which resolves to a website providing information about its products.

The disputed domain name was registered on January 31, 2024. For a period, it resolved to a webpage containing pay-per-click ("PPC") links unrelated to the Complainant, such as "Money Transfer" and "Financial Advisories". It does not presently resolve to an active website.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name. Notably, the Complainant contends that;

- the disputed domain name is identical or confusingly similar to a trademark in which it has rights. The disputed domain name is identical to the Complainant's IDORSIA mark save that the letters "r" and "s" have been reversed. This misspelling does not prevent the disputed domain name from being found confusingly similar to the Complainant's mark;
- the Respondent has no rights or legitimate interests with respect to the disputed domain name. The Respondent is not known by the name "idosria" nor anything similar and, to the best of the Complainant's knowledge, the Respondent has not registered any trademarks for "idosria". The Respondent has not been licensed by the Complainant to register domain names featuring its mark, nor any confusingly similar variants. The Respondent has not used, nor prepared to use, the disputed domain name in connection with a bona fide offering of goods or services. In particular, use of the disputed domain name to resolve to a website containing PPC links unrelated to the Complainant is capitalizing on Internet users who have mistyped the Complainant's IDORSIA mark when trying to reach the Complainant's website and does not constitute a bona fide nor a legitimate non-commercial or fair use of it; and
- the disputed domain name was registered and is being use in bad faith. The Complainant's IDORSIA mark is widely known and a simple search on Google would have revealed it and made the Respondent aware of the Complainant's rights. The Respondent's misspelling of its mark establishes its awareness of it and an intention to target the Complainant by capitalizing on Internet users who inadvertently mistype the Complainant's mark. The Respondent's use of the disputed domain name is in bad faith in that it has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark through its use of a typo-squat variation on it. Additionally, the fact that the Respondent has configured the disputed domain name with multiple MX (mail exchange) records strongly suggests that the disputed domain name has been used to send phishing emails. Any such emails would appear to originate from the Complainant because an Internet user receiving an email ending in "@idosria.com" is very likely to misread the string and believe they are receiving correspondence from the Complainant. Lastly, the fact that the disputed domain name no longer resolves to an active website does not prevent a finding of bad faith under the doctrine of passive holding.

B. Respondent

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

6. Discussion and Findings

Dealing, first, with the Respondent's failure to file a reply to the Complainant's contentions, paragraph 14(b) of the Rules provides that if a party, in the absence of exceptional circumstances, does not comply with a provision of, or requirement under, these Rules the Panel shall be entitled to draw such inferences from this omission as it considers appropriate.

Paragraph 4(a) of the Policy provides that a complainant proves each of the following three elements in relation to a domain name in order to succeed in its complaint in respect of it:

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

A. Identical or Confusingly Similar

The Complainant has provided evidence of its trademark registrations for IDORSIA, full details of an example registration having been set out above. It has thereby established its rights in this mark.

For the purpose of considering whether the disputed domain name is identical or confusingly similar to the Complainant's IDORSIA mark, the generic Top-Level Domain ("gTLD") ".com" is typically disregarded as this is a technical requirement of registration. The disputed domain name does not reproduce the Complainant's IDORSIA mark exactly, but the only difference is that the order of the fifth and sixth letters has been reversed and the disputed domain name is recognizably a typo-squat variation of the Complainant's mark. As explained at section 1.9 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"): "A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element".

For the above reason, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances by which the Respondent may demonstrate rights or legitimate interests in a disputed domain name. Whilst the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the impossible task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such evidence, the complainant is deemed to have satisfied the second element; see the [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise. In particular, the Panel considers that the record of this case reflects that:

- before any notice to the Respondent of the dispute, the Respondent did not use, nor has it made 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; see paragraph 4(c)(i) of the Policy, and the [WIPO Overview 3.0](#), section 2.2. It is well established under the Policy that use of a domain name to host a parked page comprising PPC links does not represent a bona fide offering where such links compete with, or capitalise upon, the reputation and goodwill of a complainant's trademark; see section 2.9 of the [WIPO Overview 3.0](#). The fact that the links on the Respondent's webpage did not relate to products which competed with those of the Complainant does not make the Respondent's web page bona fide, see *Government Employees Insurance Company v. See PrivacyGuardian.org / johnny leed*, WIPO Case No. [D2022-0826](#). Nor, self-evidently, does the current inactive status of the disputed domain comprise use in connection with a bona fide offering of goods and services;
- there is no evidence in the record that the Respondent has been commonly known by the disputed domain name. In this respect, see paragraph 4(c)(ii) of the Policy and the [WIPO Overview 3.0](#), section 2.3;
- the Respondent is not 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 trade mark or service mark at issue; see paragraph 4(c)(iii) of the Policy and the [WIPO Overview 3.0](#), section 2.4; and
- the record contains no other factors demonstrating rights or legitimate interests of the Respondent in the disputed domain name.

For the above reasons, based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

For the purpose of assessing the third element the Panel takes note of the following. First, the disputed domain name comprises a typo-squat variant of the Complainant's IDORSIA trademark. Second, the record indicates that the only use the Respondent has made of the disputed domain name has been to resolve to a page containing PPC links and that it is currently inactive. The fact that the links on the Respondent's web page were to goods and services unrelated to the business activities of the Complainant does not prevent the registration and use of the disputed domain name from being in bad faith; see *AB Electrolux v. Carolina Rodrigues*, WIPO Case No. [D2023-4298](#) and *Yahoo! Inc. v. Hildegard Gruener*, WIPO Case No. [D2016-2491](#), in which the UDRP panel explained that "the use, to which the disputed domain names are put, namely parking pages featuring sponsored advertising links, is calculated to attract Internet users to the site in the mistaken belief that they are visiting a site of or associated with the Complainant. The object has to be commercial gain, namely pay-per-click or referral revenue achieved through the visitors to the site clicking on the sponsored advertising links. Even if visitors arriving at the websites to which the disputed domain name resolve become aware that these websites are not such of the Complainant, the operators of these websites will nonetheless have achieved commercial gain in the form of a business opportunity, namely the possibility that a proportion of those visitors will click on the sponsored links". Third, the MX records for the disputed domain name have been activated which makes it capable of being used for the sending of emails, most likely for dishonest objectives. Fourth, the Respondent has not taken the opportunity to deny the Complainant's assertions that it intends to use the disputed domain name for fraudulent purposes. Fifth, the Respondent has sought to mask its identity by its use of a privacy service. These circumstances, collectively, point to the Respondent's registration of the disputed domain name having been in bad faith and to its intention to use it in bad faith.

So far as the current inactive status of the disputed domain name is concerned, from the inception of the UDRP, panelists have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. See the [WIPO Overview 3.0](#), section 3.3 and by way of example, *Johnson & Johnson v. Daniel Wistbacka*, WIPO Case No. [D2017-0709](#). Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the

failure of the respondent to submit a response or to provide any evidence of actual or contemplated good faith use, (iii) the respondent's concealing its identity or use of false contact details and (iv) the implausibility of any good faith use to which the domain name may be put.

Applying these factors to the circumstances of these proceedings: (i) the Complainant has provided evidence which establishes, for the purpose of the Policy, that its IDORSIA trademark is distinctive in the context of the products for which it is registered; (ii) the Respondent has not provided a reply to the Complainant's contentions nor is there any evidence of actual or contemplated good faith use of the disputed domain name; (iii) the Respondent has sought to conceal its identity by its use of a privacy service; and (iv) there is no evidence of a plausible good faith use to which the Respondent might put the disputed domain name. Accordingly, in the circumstances of this case, the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Having reviewed the record, and for the reasons set out above, the Panel finds the Respondent's registration and use of the disputed domain name has been in bad faith.

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 <idosria.com> be transferred to the Complainant.

/Antony Gold/

Antony Gold

Sole Panelist

Date: June 13, 2024