

## **ADMINISTRATIVE PANEL DECISION**

LUARMIA, S.L. v. Domain Administrator, Fundacion Privacy Services Ltd  
Case No. D2024-3405

### **1. The Parties**

Complainant is LUARMIA, S.L., Spain, represented by DURÁN-CORRETJER, S.L.P., Spain.

Respondent is Domain Administrator, Fundacion Privacy Services Ltd, Panama.

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

The disputed domain name <eugin.com> is registered with Media Elite Holdings Limited (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 20, 2024. On August 20, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 22, 2024, the Registrar transmitted by email to the Center its verification response confirming that Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 Respondent of the Complaint, and the proceedings commenced on September 4, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 24, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on September 27, 2024.

The Center appointed Georges Nahitchevansky as the sole panelist in this matter on October 8, 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**

Complainant, Luarmia, S.L., is a provider of medical assistance services and, in particular, assisted reproduction medical services. Complainant operates clinics in Spain and Portugal under the name and mark EUGIN and is part of a group known as Eugin Group that operates 34 clinics in nine countries under various names and marks. Complainant owns, through an assignment in 2011, a figurative trademark for EUGIN in Spain (Registration No. M2165016(0)) for medical assistance services that issued to registration in 1998. Complainant also owns a registration in the European Union for the EUGIN mark (Registration No. 008295487) that issued to registration in 2009. Complainant also owns and uses the domain names <eugin.es> and <eugin.co.uk> to provide information concerning Complainant and its services.

Respondent's actual identity is unknown as the disputed domain name is registered using a Panama based privacy service. The disputed domain name appears to have been registered on October 25, 2003. It is not clear how the disputed domain name has been used in the past, but since at least August 2024 the disputed domain name has resolved to a pay-per-click page with links for third party fertility services. The disputed domain name currently resolves to the same type of page with pay-per-click links to fertility and IVF services.

#### **5. Parties' Contentions**

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

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

Complainant contends that it has used the EUGIN mark for 25 years in Spain and since 2005 in the European Union and that its EUGIN clinics have now become leading clinics for its assisted reproduction medical services.

Complainant asserts that the disputed domain name is identical to its EUGIN mark as it fully and solely consists of the EUGIN mark.

Complainant maintains that Respondent does not have rights or legitimate interests in the disputed domain name as there is no commercial relationship between the parties and the disputed domain name is being used by Respondent to simply redirect web users to a website with likely pay-per-click links to other providers of fertility services. In that regard, Complainant asserts that such use of the disputed domain name is likely being done by Respondent to "unlawfully benefit from the Complainant's Trade Marks and their attractiveness and well-known character within the assisted reproduction medical services sector".

Lastly, Complainant argues that Respondent's current use of the disputed domain name for a "link farm parking page advertising the services of third parties" who compete with Complainant establishes Respondent's bad faith registration and use. Complainant maintains that given this use of the disputed domain name by Respondent, there can be no doubt that Respondent is intentionally using the disputed domain name, which is based on the EUGIN mark, to attract web users to Respondent's website.

##### **B. Respondent**

Respondent did not reply to the Complainant's contentions.

## 6. Discussion and Findings

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) 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

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in its EUGIN mark for purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. As the disputed domain fully and solely consists of the EUGIN mark, the disputed domain name is identical to the EUGIN mark for purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel finds the first element of the Policy has been established.

### B. Rights or Legitimate Interests

Given that Complainant's Complaint fails on the third element, as discussed below, the Panel does not address whether Respondent has rights or legitimate interests in the disputed domain name.

### C. Registered and Used in Bad Faith

Under Paragraph 4(a)(iii) of the Policy, a complainant must establish the conjunctive requirement that the respondent registered and used a disputed domain name in bad faith. The assessment of whether a disputed domain name was registered in bad faith has to be assessed at the time of the registration of the disputed domain name, which in this case is October 25, 2003.

Here while Complainant maintains that it has used the EUGIN mark for 25 years in Spain and since 2005 in the rest of Europe, Complainant has not submitted any evidence showing use or reputation of the EUGIN mark prior to when the disputed domain name was registered in October 2003. Instead, Complainant relies on a Spanish figurative trademark registration for EUGIN from 1998 and a European Union registration for the EUGIN word mark from 2009. However, as the European Union registration is from 2009 and well after the disputed domain name was registered, Complainant's entire case rests on its Spanish figurative mark registration from 1998.

Notably, the trademark registration documents provided by Complainant show that the 1998 Spanish registration in question was assigned to Complainant on January 27, 2011. No details regarding this assignment of this registration to Complainant in 2011 are provided by Complainant, including who was the prior owner and what the use of the EUGIN mark had been made prior to the assignment. In all, Complainant's case rests on conclusory statements regarding its broad rights with little supporting evidence. Conclusory allegations or assertions that are unsubstantiated with specific evidence are entitled to little or no weight. See [WIPO Overview 3.0](#) at sections 1.3 and 3.1.

While the Panel notes that the current use of the disputed domain name is likely being done in bad faith to take advantage of Complainant's current rights in the EUGIN mark for the profit of Respondent, what is lacking here is evidence that Respondent registered the disputed domain name in 2003 to target Complainant or more appropriately Complainant's predecessor in interest in the EUGIN mark.

Given that Complainant has not established the extent of its rights in the EUGIN mark prior to October 2003, it is hard for the Panel to conclude that the registration of the disputed domain name by Respondent in 2003 was made to take advantage of any claimed rights in EUGIN in Spain in 2003. Simply put, the evidence in the case file as presented does not indicate that the Respondent's aim in registering the disputed domain name in 2003 was to profit from or exploit the Complainant's trademark.

The Panel finds the third element of the Policy has not been established.

## **7. Decision**

For the foregoing reasons, the Complaint is denied.

*/Georges Nahitchevansky/*

**Georges Nahitchevansky**

Sole Panelist

Date: October 24, 2024