

ADMINISTRATIVE PANEL DECISION

Clínica Baviera S.A. v. Domain Administrator, Tfourth, LLC
Case No. D2026-2800

1. The Parties

The Complainant is Clínica Baviera S.A., Spain, represented by Ubilibet, S.L., Spain.

The Respondent is Domain Administrator, Tfourth, LLC, United Kingdom, represented by Cylaw Solutions, India.

2. The Domain Name and Registrar

The disputed domain name <baviera.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on June 26, 2026. On June 29, 2026, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 30, 2026, 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 (unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 6, 2026, 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 July 10, 2026.

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 July 13, 2026. In accordance with the Rules, paragraph 5, the due date for Response was August 2, 2026. On July 24, 2026, the Respondent requested for a four calendar day extension under paragraph 5(b) of the Rules and the due date for Response was extended to August 6, 2026 accordingly. The Response was filed with the Center on August 6, 2026.

The Center appointed Karen Fong, Reyes Campello Estebarez, and W. Scott Blackmer as panelists in this matter on September 4, 2026. The Panel finds that it was properly constituted. Each member of 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

Founded in Spain in the early 1990s, the Complainant is an ophthalmology company specialising in the diagnosis, treatment and monitoring of visual disorders and eye diseases. The Complainant indicates that it now has 130 ophthalmology clinics in Spain, Germany, Austria, Italy and the United Kingdom. Its medical network includes more than 250 ophthalmologists and has performed more than 1.5 million ophthalmological treatments. The Complainant's principal website is found at the domain name <clinicabaviera.com>.

The Complainant owns inter alia the following trade mark registrations:

- Spanish Trade Mark Registration No M1982523 for C CLINICA OFTALMOLOGICA BAVIERA (figurative), registered on February 20, 1996;
- Spanish Trade Mark Registration No. M2864633 for CLINICA BAVIERA (word), registered on June 9, 2009; and
- European Union Trade Mark Registration No. 009382681 for BAVIERA (figurative), registered on March 1, 2011

(individually and collectively referred to as the "Trade Mark")

The Registrar reports that the disputed domain name was registered on May 6, 2001 and is held by Domain Administrator, Tfourh, LLC of Grand Cayman, Cayman Islands. That appears to be a typographical error for the company name of the Respondent as indicated in the Response is TFourth LLC of Grand Cayman, Cayman Islands. The Respondent appears to be a company engaged in domain name investment, monetization, and development. Its portfolio includes domain names comprising geographical terms and personal surnames, among others.

Since its registration, the disputed domain name has at various times resolved to parking pages displaying random pay-per-click ("PPC") advertising links hosted by third parties unrelated to the Complainant or its field of activity, until around June 2026, when the PPC links related to ophthalmology services and the Complainant's competitors appeared on the website at the disputed domain name. At the time of writing this Decision, the disputed domain name resolves to a landing page that displays the disputed domain name in its header and includes a search engine interface with a click-through link. The footer of this page contains the following text in smaller font: "The links on this site are generated by an automated system. Suggest new links / changes by emailing: [...]@gmail.com. Disclaimer: Domain owner maintains no relationship with third party advertisers. Reference to any specific service or trademark is not controlled by domain owner and does not constitute or imply its association, endorsement or recommendation." Additionally, the copyright notice on the page reads "© 2026 baviera.com. All rights reserved".

Prior to filing the Complaint, on May 20, 2026, the Complainant sent a letter to the Registrar setting out its rights and the alleged violations arising from the registration and use of the disputed domain name, requesting that the Registrar immediately lock and suspend services to the disputed domain name, disclose the identity of the owner, and/or forward the letter to the registrant. The Registrar did not respond, and there is no evidence in the record indicating whether the Respondent received the letter.

5. Parties' Contentions

A. Complainant

The Complainant claims that BAVIERA is the distinctive and recognisable element in its trade mark portfolio and the name by which its services have been identified and distinguished through three decades of continuous provision of ophthalmological services.

The Complainant further asserts that the disputed domain name is confusingly similar to its Trade Mark, as it reproduces in its entirety the term "Baviera", the distinctive and recognisable element of the Trade Mark, which the Respondent has not been authorised to register and use in a domain name and which does not correspond to the Respondent's name. The Respondent has not used the disputed domain name for a bona fide commercial offering or legitimate noncommercial fair use. Since its registration, the disputed domain name has not resolved to any genuine or substantive website content. It has been used exclusively for parking pages and PPC landing pages, including, since around June 2026, PPC links related to ophthalmology services and the Complainant's competitors. The Complainant asserts that these PPC links, which relate to the Complainant's field of activity, appear to have been generated on a keyword-targeted or monetization-based configuration specifically aligned with the Complainant's field of activity, rather than occurring at random. The Respondent is ultimately responsible for this content, even if it is automatically generated or managed by a third-party parking service.

This is evidence of targeting, particularly since independent Internet search results demonstrate that the term "Baviera" is overwhelmingly associated with the Complainant, reinforcing that the Respondent is not commonly known by the disputed domain name and the Complainant's trade mark is well-known internationally. The Respondent's failure to respond to the Complainant's pre-complaint letter to the Registrar further supports the conclusion that it lacks rights or legitimate interests in the disputed domain name and is acting in bad faith, as a respondent with a genuine explanation would ordinarily have come forward to provide one.

The Complainant further infers bad faith registration and use on the part of the Respondent because the registration of the disputed domain name on May 6, 2001 coincided with a significant phase of international commercial growth and market visibility for the Complainant. That year, the Complainant secured approximately EUR 18 million in funding from institutional investors, a major corporate milestone that laid the foundation for its subsequent international expansion, including the launch of new clinics outside Spain, in London and Milan. 2001 was also the year in which the Complainant introduced a new ophthalmological treatment. As a result, the Complainant received extensive media coverage, significantly increasing its visibility. The Complainant submits that the Respondent must be taken to have had inferred knowledge of the Complainant and its Trade Mark at the time of registration, given that this coincided with a documented period of expansion, increased investment, growing public exposure, diversification of services, and international growth.

The Complainant further contends that the disputed domain name has never been used, nor have any demonstrable preparations been made to use it, in connection with its geographical significance. Instead, the disputed domain name has been monetized through PPC links, including advertising links to offerings that compete with the Complainant's field of activity. The Complainant submits that these PPC links are neither generic nor geographically oriented, and that these circumstances, taken together, point to registration and use in bad faith.

The Complainant further submits that the Respondent's passive holding of the disputed domain name, combined with intermittent PPC monetization, forms part of a continuous pattern of conduct aimed at exploiting the Complainant's Trade Mark and amounts to bad faith use.

In support of these contentions, the Complainant relies on media coverage of the 2001 investment in publications including *Cinco Días* on March 27, 2001 and Private Equity International on May 1, 2001.

B. The Respondent

The Respondent acknowledges that the Complainant has satisfied the first element (the standing requirement).

The Respondent asserts that it has rights or legitimate interests in the disputed domain name. It is a professional domain name investment entity that has been acquiring domain names since at least 2001, with a business model of investing in domain names comprising geographical terms and personal surnames that have inherent value independent of any trade mark. The Respondent submits that this is a lawful business model, and that monetizing domain names pending development through third-party parking services is an accepted industry-wide practice.

The Respondent contends that its registration of the disputed domain name was consistent with this strategy, as “Baviera” is the Spanish, Italian, and Portuguese name for Bavaria, a well-known German state, and is also a widespread personal surname in many countries, including Spain, where it is in fact the surname of the Complainant’s own founders.

The Respondent further submits that at the time of registration in 2001, the Complainant held no standalone trade mark for BAVIERA, only a composite mark incorporating the term, and that the Complainant’s first standalone BAVIERA mark was not applied for until 2010. Given the term’s obvious geographic and surname meaning independent of any trade mark, the Respondent asserts there was no intent to target the Complainant.

The Respondent contends that the PPC evidence itself supports this position. The historical PPC links were non-targeted and random, and it was not until the Respondent received the Complaint that it became aware that certain PPC links related to the Complainant’s field of activity, which it then removed immediately. The Respondent denies ever having selected ophthalmology-related keywords or directed the parking provider to display the links in question. The Respondent also denies having received the letter sent by the Complainant to the Registrar, noting that the letter was addressed to the Registrar and not to the Respondent.

The Respondent further submits that there are more than 250 companies worldwide with names incorporating “Baviera”, including its use as a surname, and that there is no exclusive association between the term and the Complainant.

The Respondent denies registering or using the disputed domain name in bad faith. It reiterates that, in 2001, the Complainant had no standalone trade mark for BAVIERA, and that given the term’s independent geographic and surname significance, there is no evidence that the Respondent registered the disputed domain name with the Complainant in mind. The Respondent submits that domain investors cannot be imputed with constructive notice of trade mark registrations worldwide, particularly where a domain name has an obvious meaning independent of any trade mark.

The Respondent denies that it would have had any awareness of the Complainant’s expansion plans or associated media coverage, noting that it is a Cayman Islands-registered, United States-based domain name investor with no connection to Spain. It further submits that the Cinco Días article relied upon by the Complainant is a Spanish-language financial publication, and that the Private Equity International publication relied upon did not launch until December 2001, after the registration of the disputed domain name, such that the article in question could not have existed at the relevant time.

The Respondent submits that the passive holding doctrine established in *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#) cited by the Complainant is confined to invented or fanciful marks with no meaning independent of the trade mark in question, which is not the case here. It further contends that the Complainant's delay of some 25 years in bringing this proceeding is itself an indication that the Complainant never genuinely believed the disputed domain name had been registered in bad faith.

Reverse Domain Name Hijacking ("RDNH")

The Respondent requests a finding of RDNH. It submits that the Complainant failed to disclose that "Baviera" is a recognised surname in Spain, and that the Complainant's two founders themselves bear that surname. This is a material non-disclosure, particularly given that the Complainant is a Spanish company represented by Spanish counsel. The Respondent characterizes this as an improper use of the Policy and an attempt to pressure a legitimate domain name holder into relinquishing a lawfully held domain name.

The Respondent further submits that the Complainant failed to properly assess the PPC evidence. While the June 2026 PPC content may have provided legitimate grounds for investigation, it did not establish that the disputed domain name was registered in bad faith on May 6, 2001, given the random nature of the links prior to that. The Respondent contends that the Complainant, represented by specialist IP counsel, was under an obligation to conduct at least minimal due diligence before filing and should be held to a higher standard – an obligation it failed to meet. In particular, the Respondent notes that the Complainant did not disclose that Cinco Días has a circulation of approximately 28,000 copies directed at the Spanish business community and would not have been accessible to a Cayman Islands-based domain name investor.

6. Discussion and Findings

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 trade mark and the disputed domain name. WIPO Overview of WIPO Panel Views on Select UDRP Questions ("[WIPO Overview 3.1](#)"), section 1.7.

The Complainant has shown rights in respect of a trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.1](#), section 1.2.1.

The Panel finds the mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the Complainant's C CLINICA OFTALMOLOGICA BAVIERA and C CLINICA BAVIERA marks and identical to the Complainant's BAVIERA mark for the purposes of the Policy. [WIPO Overview 3.1](#), section 1.7.

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

B. Rights or Legitimate Interests

The requirements of paragraph 4(a) of the Policy are conjunctive. A consequence of this is that failure on the part of a complainant to demonstrate one element of the Policy will result in failure of the complaint in its entirety. Accordingly, in light of the Panel's findings in connection with the third element assessment under the Policy, it is not necessary for the Panel to address the issue of the Respondent's rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

The Policy requires the Complainant to establish both that the disputed domain name was registered in bad faith and that it has been used in bad faith. The Panel addresses registration first, since a finding that the disputed domain name was not registered in bad faith, or a finding that it has not been sufficiently proved that it was registered in bad faith, with the Complainant bearing the burden, is sufficient to defeat the Complaint under this element, regardless of the Panel's findings on subsequent use.

The disputed domain name was registered on May 6, 2001. The Panel notes that news of a substantial investment in the Complainant's business by Dresdner Kleinwort Capital was announced on or about May 1, 2001, days before registration, and that this investment received coverage not only in the Spanish financial publication *Cinco Días*, which the Panel notes has international distribution through wire services and a global reach over the Internet, but also in *Private Equity International*, an article the Panel has independently verified as genuine and dated May 1, 2001.¹

Notwithstanding this coincidence in timing, the Panel does not find the evidence sufficient to establish that the disputed domain name was registered in bad faith, for the following reasons:

First, the Complainant's trade mark rights at the time of registration of the disputed domain name consisted only of a composite figurative mark, which appear to have corresponded to the Complainant's business name or descriptive elements of its clinics at that time. The Complainant did not apply for a standalone word mark for BAVIERA with a device until September 17, 2010.

Second, the term "Baviera" is the Spanish, Italian, and Portuguese term for Bavaria, a well-known German region, and is independently a rare surname, including that of the Complainant's own founders. The record does not establish that "Baviera" had acquired secondary meaning exclusively associated with the Complainant or that the mark was internationally well-known as of May 2001. To the contrary, the Panel's own review of contemporaneous search results localised to the United States for that period returned results concerning the German state of Bavaria and Italian and German language sites, with no reference to the Complainant.

Third, the Respondent is based in the Cayman Islands, with its principal in the United States, and the record does not establish that coverage of this kind would probably have come to the attention of a United States-based domain name investor in May 2001. The *Cinco Días* coverage was published in a Spanish-language financial title aimed principally at the Spanish business community, and the *Private Equity International* article, while genuine, was directed at a specialist private equity readership rather than a general audience. The Panel's own review of contemporaneous search results localised to the United States for that period returned results concerning the German state of Bavaria and Italian- and German-language sites, with no reference to the Complainant. On this record, the Panel is not satisfied that this narrow specialist coverage would probably have reached, or been noticed by, a domain name investor in the Respondent's position.

Fourth, the PPC advertising evidence submitted by the Complainant does not establish that the Respondent had the Complainant in mind at the time of registration of the disputed domain name. The historical PPC content, and particularly the initial content right after the registration of the disputed domain name, was non-targeted and unrelated to the Complainant's field of activity.

Fifth, there is no evidence that the Respondent ignored the Complainant's cease-and-desist correspondence. That letter was addressed to the Registrar rather than to the Respondent, and the Respondent denies having received it and there is no record that the Registrar has acknowledged or forwarded it.

¹ Noting in particular the general powers of a panel articulated inter alia in paragraphs 10 and 12 of the UDRP Rules, it has been accepted that a panel may undertake limited factual research into matters of public record if it would consider such information useful to assessing the case merits and reaching a decision, in particular to affirm or corroborate a party's contention. [WIPO Overview 3.1](#), section 4.8.

For these reasons, while the Panel acknowledges the proximity in timing between the Complainant's corporate expansion and developments and the registration of the disputed domain name, the Panel finds that the record does not contain sufficient evidence to establish, on the balance of probabilities, that the disputed domain name was registered in bad faith. Given this finding, it is unnecessary for the Panel to determine whether the disputed domain name has subsequently been used in bad faith. The Complaint accordingly fails under the third element.

D. Reverse Domain Name Hijacking

Paragraph 15(e) of the Rules provides that, if after considering the submissions, the Panel finds that the Complaint was brought in bad faith, for example in an attempt at RDNH or to harass the domain-name holder, the Panel shall declare in its decision that the Complaint was brought in bad faith and constitutes an abuse of the administrative proceeding. The mere lack of success of the complaint is not, on its own, sufficient to constitute RDNH. [WIPO Overview 3.1](#), section 4.16.

The Panel declines to make such a finding.

The record does not establish that the Complainant was aware of the Respondent's identity, its status as a long-standing domain name investor, or its portfolio of geographic and surname-based domain names, at the time the Complaint was filed. The Panel notes that the nature and history of the Respondent's business, including whether it has held the disputed domain name since its original registration in 2001, is not readily ascertainable from public records, as the Respondent used a privacy service for the disputed domain name, and the Complainant's knowledge of such matters postdates the filing of the Complaint.

Furthermore, the Complainant's decision to bring this proceeding was not without foundation: the disputed domain name was, at and around the time the Complaint was prepared, resolving to PPC advertising links directed at the Complainant's field of activity, providing a legitimate basis for investigation and Complaint, even if that evidence ultimately proved insufficient to establish bad faith registration. Bringing a complaint that is later found to be unsuccessful, where the complainant reasonably believed in its claims on the basis of the evidence available to it, does not amount to an abuse of the proceeding.

Accordingly, the Panel declines to find that the Complaint was brought in bad faith and makes no finding of RDNH.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Karen Fong/

Karen Fong

Presiding Panelist

/Reyes Campello Estebarez/

Reyes Campello Estebarez

Panelist

/W. Scott Blackmer/

W. Scott Blackmer

Panelist

Date: September 18, 2026