

## **ADMINISTRATIVE PANEL DECISION**

ICIM International S.r.l. v. Agrinooon (Hong Kong) Limited  
Case No. D2025-0251

### **1. The Parties**

The Complainant is ICIM International S.r.l., Italy, represented by Orsingher Ortu, Italy.

The Respondent is Agrinooon (Hong Kong) Limited, Hong Kong, China, represented by Archer Softech, India.

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

The disputed domain name <bionike.com> is registered with Paimi Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 22, 2025. On January 23, 2025, the Center transmitted by email to the Registrar requests for registrar verification in connection with the disputed domain name. On February 6, 2025, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name that differed from the named Respondent (REDACTED FOR PRIVACY, Privacy service provided by Paimi Inc.) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 7, 2025, 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 February 14, 2025.

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 February 17, 2025. In accordance with the Rules, paragraph 5, the due date for Response was March 9, 2025. The Response was filed with the Center on March 7, 2025.

The Center appointed Matthew Kennedy as the sole panelist in this matter on March 17, 2025. 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.

On March 17, 2025, the Complainant made an unsolicited supplemental filing with the Center. On March 24, 2025, the Respondent made an unsolicited supplemental filing with the Center.

#### **4. Factual Background**

The Complainant is an Italian pharmaceutical company founded in the 1930s that became part of the Sodalis Group in 2019. The Complainant owns an Italian cosmetic brand called “BioNike” (formed from the Greek “Bio” meaning “life” and “Nike” meaning “victory”). The Complainant holds several trademarks, including the following:

- Italian trademark registration number 186089 for BIONIKE in a fancy script, registered on November 8, 1966, specifying goods in classes 3 and 5, most recently renewed under number 362022000155409 from March 10, 2023; and
- Italian trademark registration number 302016000046939 for BIONIKE SALUTE E BELLESSERE and device, registered on July 6, 2017, specifying goods in classes 3 and 5.

The Complainant also uses the domain name <bionike.it>, registered on October 17, 2000, in connection with a website that prominently displays the BIONIKE SALUTE E BELLESSERE and device mark and provides information about the Complainant and its products. The Complainant appointed a Hong Kong, China company as its online distributor in China on April 28, 2020.

The Respondent is a Hong Kong, China agricultural company formed in 1996 that specializes in the manufacture of agrochemicals and fertilizers. It holds several trademarks, including Chinese trademark registration number 59740499 for BIONIKE, registered on May 28, 2022, specifying goods in class 1, such as agricultural chemicals other than fungicides, herbicides, insecticides, and parasiticides.

The disputed domain name was registered on January 31, 2019. It formerly resolved to a “coming soon” webpage but was transferred to the nameservers of a hosting provider on August 21, 2023. On September 30, 2024, the Complainant sent a takedown notice to the hosting provider, who determined that the disputed domain name was infringing the intellectual property rights of the Complainant and proceeded to disable parking-related services for it. The hosting provider later confirmed that it parked domain names with basic Pay-Per-Click (“PPC”) style advertisements to monetize unused or undeveloped domain names, such as the disputed domain name. Subsequently, the disputed domain name has been passively held.

#### **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 to its BIONIKE mark and confusingly similar to other marks that it holds containing the term “BioNike”.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent does not use the disputed domain name in connection with an offering of goods or services. The disputed domain name resolved to a landing page displaying PPC links related to cosmetics and dietary

supplements and redirecting to several links of pharmacies and manufacturers and/or distributors of such products, including seven competitors of the Complainant. A legitimate interest cannot reasonably be based on the Respondent's Chinese trademark registration for BIONIKE, which was only registered in 2022 in respect of goods in class 1, not cosmetics in classes 3 and 5 that were the subject of the PPC links. The hosting provider confirmed that the Respondent infringed the Complainant's rights. The Respondent has not been commonly known by the disputed domain name. There is no evidence that the Respondent is currently making a legitimate non-commercial or fair use of the disputed domain name. The Complainant submits that the evidence in the Response is in no way sufficient to show preparations to use the disputed domain name. There is no trace anywhere online of the Respondent's BIONIKE chemical. The only proof consists of a single, non-publicly available photograph and an invoice dated June 4, 2024. The disputed domain name has resolved to an "under construction" page for 5 years. Further, the Complainant's brand is also known in Africa, where a client of the Respondent is located. According to evidence presented by the Complainant, during the period 2019 to 2024 the Respondent registered eight different trademarks in China, four of which correspond to third-party brands, *i.e.*, BIONIKE, FLY TOP, TOP CHEF, and UBALL. There is no evidence on the Internet that the Respondent has ever used these marks. Meanwhile, the corresponding domain names <flytop.com> and <uball.com> are used in the same way as the disputed domain name to resolve to PPC links landing pages hosted by the same provider and formatted in the same way. The registrant information is privacy-protected.

The disputed domain name has been registered and is being used in bad faith. It was registered long after the Complainant obtained its first BIONIKE trademark registration. Given that the BIONIKE trademarks and domain name were widely used in connection with the Complainant's business long before 2019, it is very likely that the Respondent was aware of both distinctive signs at the time of registration of the disputed domain name. The Complainant holds a well-established and recognized position internationally, as it distributes its products in 46 foreign countries also through e-commerce platforms. It issued two invoices for product to a client in Hong Kong, China in 2012. The Complainant is active in Asia by promoting and selling BIONIKE-branded products by means of various local social media channels and e-commerce platforms as managed by local distributors, including the RedNote social media platform in China. The disputed domain name resolved to a landing page displaying PPC links to sites for products in competition with those of the Complainant, diverting traffic from the Complainant's website and unlawfully exploiting the Complainant's reputation and goodwill in its BIONIKE trademarks. The Complainant did not take any screenshots before starting the takedown procedure, as it relied in good faith on the sufficiency of the positive response from the hosting provider. There is no evidence that the change of nameservers was accidental. All responsibility for the content hosted on the webpage lies with the user. Further, the Respondent has tried to mask its identity during the registration procedure. The Respondent has engaged in a practice of registering Chinese trademarks corresponding to domain names with parking pages. The Complainant's BIONIKE products were offered for sale in China via e-commerce platforms long before 2019 and entered the Chinese market through a local distribution network before the Respondent registered its Chinese trademark for BIONIKE.

The request for a finding of Reverse Domain Name Hijacking is unfounded. The Complainant believes it can succeed and has always given a clear and fair interpretation of all facts available. The Complainant's good intentions were also shown by its attempt to contact the Respondent in order to avoid unnecessary costs.

## **B. Respondent**

The Respondent contends that the Complainant has not satisfied the elements required under the Policy for a transfer of the disputed domain name and that this dispute falls outside the scope of the Policy.

The Respondent replies to the Complainant's allegations as follows: the Complainant owns rights to stylized marks, not a word mark, and overall the Complainant argues that it is known and has registered trademark rights in the region of Italy only. If the Complainant started operating in China in 2020, the supporting evidence only shows that it has used the BIONIKE SALUTE E BELLESSERE and device mark that that it appointed its Chinese distributor after the registration of the disputed domain name, which was in any case an internal matter not within the knowledge of the Respondent. The Complainant did not make its first post on RedNote until 2024. The Respondent denies ownership of any domain names corresponding to the

trademarks FLYTOP, TOP CHEF, or UBALL. The domain name <topchef.com> did not resolve to PPC links in 2024 but to an Indian restaurant. Even if the other two domain names used the same hosting provider, that does not confirm ownership by the same registrant. The Chinese registered trademarks are combinations of common English words with numerous trademark owners, any of whom could own the corresponding domain names. The Respondent is an investment company with multiple subsidiaries and investments across various industries, so it is unsurprising that the Respondent owns several trademarks. The Respondent does not admit ownership of the domain names corresponding to these trademarks. The disputed domain name has never been put on sale but pointed to a “coming soon” page until August 2023. The nameservers were changed by the hosting company in August 2023 by accident without the knowledge of the Respondent, who does not know exactly what appeared on the landing page from that point, as there is no evidence on record of infringing links.

The Respondent acknowledges that the Complainant holds registered trademark rights in Italy only, which afford standing, but submits that the Complaint fails on the other elements of the Policy.

The Respondent does have rights and a legitimate interest in the disputed domain name. The Respondent was first in time to register the disputed domain name, as it is comprised of common words. The Respondent owns a matching trademark in China. The disputed domain name reflects the Respondent’s corporate objectives related to bio-based agrochemicals. The Respondent has used the trademark to export a chemical to an African company. This all goes to show demonstrable preparations to use the disputed domain name before notice of the dispute. The Respondent was subject to a three-year COVID lockdown that significantly affected its business plans. The Respondent’s BIONIKE chemical product is typically supplied to specialized agrochemical companies rather than directly to end consumers. Therefore, the Respondent does not rely on social media or Internet promotions for this product. The UDRP process is not a court or forum to decide civil disputes or any kind of trademark rights between the Parties. The UDRP is designed to deal with cases of pure cybersquatting, not disputes between parties with competing rights acting in good faith. The Complainant did not place in evidence any screenshot of a PPC parking page associated with the disputed domain name. There is no such page in the Internet archive. The Respondent did not infringe the Complainant’s rights. In any case, PPC links are dynamic and reflect an Internet user’s previous searches results.

The disputed domain name was neither registered nor used in bad faith. There is simply no evidence whatsoever to support the Complainant’s limited contention that the disputed domain name was registered in 2019 because of the Complainant. The evidence convincingly demonstrates that BIONIKE is being used in the Respondent’s business of biochemicals. There is no evidence that the Respondent was aware or ought to have been aware of the Complainant’s mark at the time of registration of the disputed domain name. The Respondent registered the disputed domain name as a combination of widely-used terms: “bio” is about biochemistry and sounds like “拜” while “nike” is a transliteration of “你克”. The combination means “I entrust you to control pests” (拜你克). Similar terms are used in the chemical industry. The same domain name is available in different country code Top-Level Domains (“ccTLDs”). The United States military has used “NIKE M Magnesium Chloride” where “NIKE” refers to missile systems. There is no place to find that the Respondent had constructive knowledge of the Complainant’s Italian trademark registrations. The Respondent declares that it did not know of the Complainant or its brand when it registered the disputed domain name in 2019. There is no evidence of any infringing PPC links or bad faith use. Use of a privacy service is not ipso facto evidence of bad faith.

The Respondent asks the Panel to declare that the Complaint constitutes an attempt at Reverse Domain Name Hijacking. Initiation of the proceeding has put the Parties to considerable time and cost. The claim is baseless. The Complainant has taken no action against “bionike” domain names in other TLDs but is attempting to upgrade to the “.com” TLD via a UDRP proceeding. The Complainant concealed the date of its first post on the RedNote social media platform.

## 6. Discussion and Findings

### 6.1. Unsolicited Supplemental Filings

The Complainant made an unsolicited supplemental filing on the day on which the Panel was appointed, March 17, 2025. The Respondent made an unsolicited supplemental filing a week later, on March 24, 2025.

Paragraph 10(b) of the Rules provides that “[i]n all cases, the Panel shall ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case” while paragraph 10(d) provides that “[t]he Panel shall determine the admissibility, relevance, materiality and weight of the evidence”. Although paragraph 12 of the Rules empowers the Panel, in its sole discretion, to request further statements or documents from either of the Parties, this does not preclude the Panel from accepting unsolicited filings. See *Delikomat Betriebsverpflegung Gesellschaft m.b.H. v. Alexander Lehner*, WIPO Case No. [D2001-1447](#).

In the present case, the Complainant seeks to justify admission of its supplemental filing on the basis of (i) exceptional circumstances regarding certain evidence in the Response; (ii) the alleged unfoundedness of certain allegations in the Response; and (iii) the request for a finding of Reverse Domain Name Hijacking. The Respondent objects to admission of the Complainant’s supplemental filing on the grounds that there are no exceptional circumstances that would warrant its acceptance.

The Panel observes that parts of the Complainant’s supplemental filing do merely reiterate arguments or seek to provide further evidence that could have been filed earlier. However, the Panel also notes that it provides comments on evidence in the Response regarding use of the Respondent’s BIONIKE mark, that could not have been anticipated at the time when the Complaint was filed. In these exceptional circumstances, the Panel will accept the supplemental filing so that the Complainant has a fair opportunity to present its case. Given that the Respondent has taken the opportunity to reply to the supplemental filing, this will not cause unfairness to either Party.

Therefore, the Panel exercises its discretion to admit both Parties’ supplemental filings and will take them into account according to their relevance, materiality, and weight.

### 6.2. Substantive Issues

Paragraph 4(a) of the Policy provides that a complainant must demonstrate each of the following elements:

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

The burden of proof of each element is borne by the Complainant. Failure to prove any one element will result in denial of the Complaint.

#### 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. See 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 respect of a BIONIKE trademark for the purposes of the Policy. As the figurative elements of the mark cannot be reflected in a domain name for technical reasons, the Panel will not take them into account in the comparison with the disputed domain name. See [WIPO Overview 3.0](#), sections 1.2.1 and 1.10.

The mark is reproduced within the disputed domain name. The only additional element is a generic TLD extension (".com") which, as a standard requirement of domain name registration, may be disregarded in the assessment of confusing similarity for the purposes of the Policy. See [WIPO Overview 3.0](#), sections 1.7 and 1.11.1.

Therefore, the Panel finds the first element of the Policy has been established.

## **B. Rights or Legitimate Interests, Bad Faith, and the Scope of the Policy**

The disputed domain name was evidently used in connection with a PPC links landing page until the Complainant initiated a takedown procedure with the hosting provider. As the registrant, the Respondent was responsible for the use made of the disputed domain name. However, while the Complainant alleges that the PPC links related to certain types of products and linked to the websites of its competitors, this allegation is not substantiated. The disputed domain name is now passively held.

The Respondent holds a trademark registration for BIONIKE, which is identical to the disputed domain name. The Panel considers that a respondent's trademark rights would ordinarily support a finding that it has rights or legitimate interests in the disputed domain name. See [WIPO Overview 3.0](#), section 2.12.1. At the same time, trademark rights do not automatically confer rights or legitimate interests on a respondent for the purposes of the Policy where, for example, the overall circumstances demonstrate that the trademark was obtained primarily to circumvent the application of the Policy or otherwise to prevent the Complainant's exercise of its rights, even if only in China. See [WIPO Overview 3.0](#), section 2.12.2.

In the present case, the Respondent's trademark registration is valid in the jurisdiction where the Respondent is based (i.e., China) and the registration specifies products related to the Respondent's business in general (i.e., agricultural chemicals in class 1). The Respondent did not apply for the trademark until two years after it registered the disputed domain name and it provides no evidence that it has used the BIONIKE mark with respect to the goods specified in the registration even now, three years after it obtained the trademark registration. The evidence of use of the mark refers to a fungicide, which is excluded from the goods specification in the Respondent's trademark registration. That evidence consists of a photograph and a computer printout of a bill of lading. The photograph shows part of a bottle label marked with a generic chemical description in large font and, on the side, a small BIONIKE logo above the mark of an Egyptian chemical company. The bill of lading is dated June 4, 2024, and refers to BIONIKE Difen-Azoxy, which may correspond to the chemical description on the label. The shipment of 900 cartons was sent by the Respondent to a logistics company in Djibouti. There is no online or other evidence on the record of the existence of this BIONIKE fungicide. It is difficult for the Panel to verify this limited evidence.

The Complainant presents evidence intended to show that the Respondent's BIONIKE trademark forms part of a pattern of trademark registrations to circumvent the application of the Policy. It found three others identical to third party trademarks and no evidence of their use by the Respondent. Two of them correspond to domain names (<flytop.com> and <uball.com>) that resolve to PPC links landing pages hosted by the same provider as was the disputed domain name in 2023-24. However, there is no evidence that these other domain names are registered by the Respondent nor that the PPC links capitalize on the third-party trademarks.

The disputed domain name was registered in 2019, years after the Complainant's earliest BIONIKE trademark registration. The Complainant used its mark online in its domain name for many years before the registration of the disputed domain name, although it did not appoint a distributor in China until 2020. The disputed domain name is identical to the textual elements of the Complainant's BIONIKE mark while the Respondent's BIONIKE product (a fungicide) is in one of the same classes of goods as the Complainant's

trademark registration (class 5). In the Panel's view, the Respondent's explanation that he devised the BIONIKE mark from the characters “拜你克” to refer to pest control is implausible.

The Panel recalls that it is not a general domain name court, and that the Policy is not designed to adjudicate all disputes of any kind that relate in any way to domain names. Rather, the Policy establishes a streamlined, inexpensive administrative dispute resolution procedure intended only for the relatively narrow class of cases of “abusive cybersquatting”. The UDRP is not an appropriate procedure to adjudicate a trademark dispute such as this one with complex evidentiary issues, where the Panel does not have the benefit of witness testimony, disclosure of documents, or the other appropriate instruments that are typically available to assist a court to resolve a dispute between the Parties.

Therefore, the Panel has decided to deny the Complaint, not on the merits, but on the broader ground that the case regarding the disputed domain name is part of a wider, more complex trademark dispute between the Parties that exceeds the scope of the UDRP. The wider dispute can be addressed by a court of competent jurisdiction. See [WIPO Overview 3.0](#), section 4.14.6.

### **C. 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 Reverse Domain Name Hijacking 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 Reverse Domain Name Hijacking. See [WIPO Overview 3.0](#), section 4.16.

The Respondent requests that the Panel declare that the Complaint was brought in an attempt at Reverse Domain Name Hijacking. The Complainant submits that the request is unfounded.

In the Panel's view, the Complainant had a good faith belief that it could succeed. Although the Complainant was on notice of the Respondent's trademark rights when it filed the Complaint, it provided an explanation as to why it did not believe that this undermined its claim regarding the second element of the Policy. As for the Complainant's failure to take action against identical domain names in other TLDs, this is irrelevant and, in any event, the other domain names in question are not yet registered. The Complainant provided a link to its RedNote account which was not misleading as it clearly showed the very small number of followers.

Accordingly, the Panel declines to find that the Complainant was brought in an attempt at Reverse Domain Name Hijacking.

### **7. Decision**

For the foregoing reasons, the Complaint is denied.

*/Matthew Kennedy/*

**Matthew Kennedy**

Sole Panelist

Date: March 27, 2025