

## **ADMINISTRATIVE PANEL DECISION**

Egis Gyógyszergyár Zrt. v. Domain Admin

Case No. D2025-0475

### **1. The Parties**

The Complainant is Egis Gyógyszergyár Zrt., Hungary, internally represented.

The Respondent is Domain Admin, United States of America.

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

The disputed domain names <fenocty.com>, <octezy.com>, and <octizy.com> are registered with Dynadot Inc (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 6, 2025. On February 7, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On February 7, 2025, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names 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 February 10, 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 11, 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 Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 13, 2025.

The Center appointed Marilena Comanescu 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.

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

The Complainant is a pharmaceutical company organized and existing under the laws of Hungary.

The Complainant owns the following European Union ("EU") trademark registrations:

- the EU trademark number 019084526 for FENOCTY (word), filed on September 26, 2024, registered on January 18, 2025, covering goods in International class 5;
- the EU trademark number 019080794 for OCTEZY (word), filed on September 18, 2024, registered on January 18, 2025, covering goods in International class 5; and
- the EU trademark number 019075224 for OCTIZY (word), filed on September 5, 2024, registered on January 18, 2025, covering goods in International class 5.

The disputed domain names were registered as follows:

- the disputed domain name <fenocty.com> was registered on September 26, 2024;
- the disputed domain name <octezy.com> was registered on September 18, 2024; and
- the disputed domain name <octizy.com> was registered on September 5, 2024.

At the time of filing the Complaint, none of the disputed domain names was actively used, but they were offered for public sale both on the Registrar's website, respectively for the amount of USD 2,759.81 (the disputed domain names <fenocty.com> and <octezy.com>), and USD 2,711.82 (the disputed domain name <octizy.com>); as well as on third parties' websites, such as on GoDaddy's website, all offered for the amount of USD 2850.18.

#### **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 names.

Notably, the Complainant contends that the disputed domain names are identical to its trademarks; the Respondent has no rights or legitimate interests in the disputed domain names; the Respondent has registered and is using the disputed domain names in bad faith, since the disputed domain names were registered on the exact same dates when the Complainant, as the trademark owner, filed the relevant EU trademark applications with the European Union Intellectual Property Office ("EUIPO"); the trademark names are fantasy names, results of creative name creations of the Complainant, which were not made public until the trademark applications were filed, therefore, it is inconceivable and impossible that the Respondent created exactly the same terms in order to register them as domain names, exactly at the same time as the trademark applications were filed; the registration of the disputed domain names was made without any intention to use, as they were immediately listed for sale on domain trading sites for more than the out-of-pocket costs, with a premium markup; it can be established that the Respondent's sole purpose in registering the disputed domain names is to obtain unfair income, with cybersquatting intent; and the pattern of bad faith conduct also comes up as the Respondent registered more than one trademark-abusive domain name, directed at the same trademark owner, - the Complainant, on separate occasions.

## **B. Respondent**

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

## **6. Discussion and Findings**

Under the Policy, the Complainant is required to prove on the balance of probabilities that:

- (i) the disputed domain names are 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 the disputed domain names; and
- (iii) the disputed domain names have been registered and are 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 respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the Complainant's marks is reproduced within the disputed domain names, respectively the FENOCTY mark is reproduced in the disputed domain name <fenocty.com>, the OCTEZY mark is reproduced in the disputed domain name <octezy.com>, and the OCTIZY mark is reproduced in the disputed domain name <octizy.com>. Accordingly, the disputed domain names are identical to the marks for the 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**

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

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

The Panel notes the composition of the disputed domain names which reproduces the Complainant's trademarks exactly. UDRP panels have found that domain names identical to a complainant's trademark carry a high risk of implied affiliation. [WIPO Overview 3.0](#), section 2.5.1.

Further, the disputed domain names were offered for public sale on third parties' websites and the Respondent has registered at least three disputed domain names comprising the Complainant's marks. These facts, together with the other circumstances in this case, including a lack of any explanation for the choice of the disputed domain names by the Respondent (identical to the Complainant's fanciful trademarks), do not amount to a bona fide offering or legitimate noncommercial or fair use.

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

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

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

In the present case, the Panel notes that each of the disputed domain names was registered on the same date when the corresponding trademark was filed for registration (which are three different dates), and that, per the evidence provided by the Complainant, it is more likely than not that this is not a mere coincidence but rather an evidence that the Respondent has registered the disputed domain names in bad faith, monitoring the EUIPO website and targeting the EU trademark applications, in this case, the Complainant's trademarks. While no trademark registration had been granted at the date the disputed domain names were registered, it is clearly recognized in jurisprudence under the UDRP that a registrant may be found to have acted in bad faith when taking unfair advantage of nascent trademark rights in this way. [WIPO Overview 3.0](#), section 3.8.2.

Paragraph 4(b)(i) of the Policy provides the circumstance when the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the disputed domain name to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name. The Panel finds that, registering at least three domain names identical to the Complainant's trademarks, and offering them for sale to the public at large, for valuable consideration in excess of its out-of-pocket expenses (absent any evidence from the Respondent to the contrary), is evidence of bad faith behavior in the circumstances of this case. [WIPO Overview 3.0](#), section 3.1.1.

Paragraph 4(b)(ii) of the Policy provides another circumstance of bad faith registration and use when the respondent registered the disputed domain name in order to prevent the owner of the trademark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct. This includes a scenario where a respondent, on separate occasions, has registered trademark-abusive domain names, even where directed at the same brand owner. The Respondent's registration of at least three disputed domain names reproducing exactly the Complainant's distinctive trademarks, enforces such finding. [WIPO Overview 3.0](#), section 3.1.2.

The Panel finds that the Complainant has established the third element 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 names <fenocty.com>, <octezy.com>, and <octizy.com> be transferred to the Complainant.

*/Marilena Comanescu /*

**Marilena Comanescu**

Sole Panelist

Date: March 31, 2025